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federal register

Thursday
June 24, 1982

Selected Subjects

Administrative Practice and Procedure
Federal Energy Regulatory Commission

Air Pollution Control
Environmental Protection Agency

Airspace
Federal Aviation Administration

Aviation Safety
Federal Aviation Administration

Banks, Banking
Federal Reserve System

Bridges
Coast Guard

Coal Mining
Surface Mining Reclamation and Enforcement Office

Endangered and Threatened Wildlife
Fish and Wildlife Service

Exports
International Trade Commission

Government Procurement
National Aeronautics and Space Administration

Marine Safety
Coast Guard

Marketing Agreements
Agricultural Marketing Service

Milk Marketing Orders
Agricultural Marketing Service

Selected Subjects

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Navigation (Water)
Coast Guard

Nuclear Power Plants and Reactors
Nuclear Regulatory Commission

Organization and Functions (Government Agencies)
Animal and Plant Health Inspection Service

Privacy
Army Department

Radio
Federal Communications Commission

Railroad Safety
Federal Railroad Administration

Trade Agreements
Customs Service

Truth in Lending
Farmers Home Administration

Vessels
Coast Guard

Waste Treatment and Disposal
Environmental Protection Agency

Water Pollution Control
Coast Guard
Environmental Protection Agency

Contents

Federal Register
Vol. 47, No. 122
Thursday, June 24, 1982

Agricultural Marketing Service
RULES
27243 Oranges (Valencia) grown in Ariz. and Calif.
PROPOSED RULES
Milk marketing orders:
27299, 27342 Eastern Colorado et al. (2 documents)
NOTICES
27387 Peanut Administrative Committee; 1982 crop year, expenses and rate of assessment

Agriculture Department
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Farmers Home Administration.

Air Force Department
NOTICES
Meetings:
27402 Scientific Advisory Board

Animal and Plant Health Inspection Service
RULES
Organization, functions, and authority delegations:
27243 Plant Protection and Quarantine Deputy Administrator; functional responsibilities under Federal Plant Pest Act
NOTICES
Environmental statements; availability, etc.;
27387 Khapra Beetle Methods Development Laboratory, Hoboken, N.J.; construction and operation
27388 Miami International Airport, Fla.; bird quarantine facility

Army Department
RULES
27262 Privacy Act; implementation

Arts and Humanities, National Foundation
NOTICES
Meetings:
27424 Humanities National Council Advisory Committee

Bonneville Power Administration
NOTICES
27402 Power rates, wholesale; intent to revise; closing of comment period

Civil Aeronautics Board
NOTICES
Hearings, etc.:
27388 Altair Airlines, Inc.
27388 Mail rates; domestic and international service

Coast Guard
RULES
Dangerous cargoes:
27293 Self-propelled vessels carrying hazardous liquids; safety requirements; correction
Districts, marine inspection zones, and captain of port zones:
27263 Los Angeles-Long Beach, and San Diego, Calif.; boundary clarification
Drawbridge operations:
27265 Louisiana
Inland waterways navigation regulations:
27265 Nautical charts; removal of obsolete citations from CFR
Pollution:
27478 Deepwater port liability fund, interim rule and request for comments
Regattas and marine parades; safety of life:
27264 Lake Macatawa, Mich.; Queen Beatrix Regatta
27490 Vessel documentation
NOTICES
27430 Port access routes; study results
27434 Small vessel towing and salvage policy study; inquiry

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration.

Customs Service
RULES
27260 Carnets; conforming amendments

Defense Department
See also Air Force Department; Army Department.
NOTICES
Meetings
27402 DIA Advisory Committee

Depository Institutions Deregulation Committee
NOTICES
27446 Meetings; Sunshine Act

Drug Enforcement Administration
NOTICES
Schedules of controlled substances; production quotas:
27423 Schedules I and II, 1982 aggregate

Economic Regulatory Administration
NOTICES
Natural gas; fuel oil displacement certification applications:
27403 Public Service Electric & Gas Co.

Energy Department
See Bonneville Power Administration; Economic Regulatory Administration; Federal Energy Regulatory Commission.

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
27267 Tennessee
Hazardous waste:
27520 Incinerators; standards for owners and operators and consolidated permit regulations; interim and final rules and request for comments

Water pollution control; State underground injection control programs:
27273 Oklahoma
PROPOSED RULES
Hazardous waste:
27516 Treatment, storage, and disposal facilities; standards for owners and operators; permitting standards for incinerators and storage surface impoundments; temporary suspension of effective date; proposed rule withdrawn
NOTICES
27405 Agency forms submitted to OMB for review

Farmers Home Administration
PROPOSED RULES
27366 Truth in lending disclosure requirements and real estate settlement procedures

Federal Aviation Administration
RULES
Airworthiness directives:
27245 Beech
27246 Bendix; final rule and request for comments
27247 Detroit Diesel Allison
27248 Hiller
27244 Societe Nationale Industrielle Aerospatiale
27253 IFR altitudes
27253 Jet routes
27252 Jet routes; correction
27249 Transition areas (2 documents)
PROPOSED RULES
Administrative regulations:
27472 Designated airworthiness representatives
27373, 27374 Transition areas (3 documents)
NOTICES
27435 Aircraft simulator and visual system evaluation and approval; advisory circular; inquiry
27475 Airworthiness representatives, designated; advisory circular; inquiry

Federal Communications Commission
RULES
Common carrier services:
27293 Recoding devices, use in connection with telephone service; extension of time for filing revised tariff regulations
PROPOSED RULES
27384 National Environmental Policy Act; implementation; extension of time
Radio stations; table of assignments:
27385 Texas
NOTICES
Meetings:
27406 Radio Advisory Committee
27406 Telecommunications Industry Advisory Group
27405 Rulemaking proceedings filed, granted, denied, etc.; petitions by various companies

Federal Deposit Insurance Corporation
NOTICES
27446, 27447 Meetings; Sunshine Act (4 documents)

Federal Election Commission
NOTICES
27447 Meetings; Sunshine Act

Federal Energy Regulatory Commission
PROPOSED RULES
27375 Fees for services and benefits
NOTICES
Hearings, etc.:
27404 Boulder City, Colo.

Federal Highway Administration
NOTICES
Environmental statements; availability, etc.:
27435 San Jose, Calif.; intent to prepare

Federal Home Loan Bank Board
NOTICES
Senior Executive Service:
27406 Bonus awards schedule

Federal Maritime Commission
NOTICES
27447 Meetings; Sunshine Act

Federal Railroad Administration
RULES
27293 Freight car safety standards, final rule and request for comments
NOTICES
Petitions for exemptions, etc.:
27435 Consolidated Rail Corp.

Federal Reserve System
RULES
27244 Interest on deposits (Regulation Q); early withdrawal penalty; temporary suspensions: Connecticut
NOTICES
Applications, etc.:
27406 Community Banks, Inc., et al.
27407 First Farmers & Merchants Corp. et al.
27447, 27448 Meetings; Sunshine Act (2 documents)

Fish and Wildlife Service
RULES
Endangered and threatened species:
27295 Hawksbill Sea Turtle

Health and Human Services Department
See Public Health Service.

Interior Department
See Fish and Wildlife Service; Land Management Bureau; National Park Service; Surface Mining Reclamation and Enforcement Office.

International Trade Administration
RULES
27250 Oil and gas goods and technology, U.S. and non-U.S. origin; export restrictions to U.S.S.R.; interim rule and request for comments
NOTICES
Antidumping:
27392 Steel wire nails from Korea
Countervailing duties:
27397 Steel wire nails from Korea
Scientific articles; duty free entry:
27388 Colorado State University et al.
27391 Howard University et al.
27396 Yale University; correction

Trade adjustment assistance determination petitions:
27392 Fair Lawn Fashions, Inc., et al.

Interstate Commerce Commission
NOTICES
Motor carriers:
27415 Permanent authority applications
27421, 27422 Permanent authority applications; operating rights republication (2 documents)
27421 Permanent authority applications; restriction removals
Rail carriers; contract tariff exemptions:
27422 Baltimore & Ohio Railroad Co.
27423 Texas Mexican Railway Co.
27423 Railroad services abandonment:
Chicago & Northwestern Transportation Co.

Justice Department
See Drug Enforcement Administration

Land Management Bureau
RULES
Public land orders:
27288 Arizona; correction
27285 California
27287 Colorado
27283 Idaho
27283–27285 Montana (3 documents)
27290 New Mexico
27285, 27289–27292 Oregon (5 documents)
27286, 27287 Utah (2 documents)
27285, 27290 Washington (3 documents)
NOTICES
Airport leases:
27410 Nevada (3 documents)
Classification of public lands:
27410 California
Coal leases, exploration licenses, etc.:
27411 Montana
Environmental statements; availability, etc.
27413 Bodie-Coleville Planning Units, Calif.
27409 Rio Blanco County, Colo.; sodium preference right lease applications
27413 Roseburg District draft timber management plan, Oreg.
Meetings:
27407 Safford District Grazing Advisory Board
Motor vehicles, off-road, etc.; area closures and openings:
27407 California
Resource management plans:
27410 Hollister Resource Area, Bakersfield District, Calif.; planning criteria availability
Sale of public lands:
27411 Montana
27409, 27412 Nevada (2 documents)
Survey plat filings:
27410, 27411 California (3 documents)
Withdrawal and reservation of lands, proposed, etc.:
27409 Idaho; correction
27412 New Mexico

National Aeronautics and Space Administration
RULES
Procurement:
27274 Directive 82–1
27283 Uniform Contract Format regulatory coverage; correction

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
27436 Electric Auto Corp.

National Oceanic and Atmospheric Administration
NOTICES
Marine mammal permit applications, etc.:
27400 Alaska Department of Fish and Game
27400 Zapol, Dr. Warren M., et al.

National Park Service
NOTICES
Historic Places National Register; pending nominations:
27414 South Carolina
Natural Landmarks National Registry; proposed additions, deletions, etc.:
27414 California et al.

National Transportation Safety Board
NOTICES
27448 Meetings; Sunshine Act

Nuclear Regulatory Commission
PROPOSED RULES
Production and utilization facilities; domestic licensing:
27371 Nuclear reactors, decontamination; mandatory property insurance; advance notice
Rulemaking petitions:
27371 Ohio Citizens for Responsible Energy
NOTICES
Applications, etc.:
27424, 27425 Commmonwealth Edison Co. (2 documents)
27425 Duke Power Co.
27425 Iowa Electirc Light & Power Co. et al.
27426 Southern California Edison Co. et al.
27426 Regulatory guides; issuance and availability

Postal Service
RULES
Domestic Mail Manual:
27266 Miscellaneous amendments

Public Health Service
NOTICES
Organization, functions, and authority delegations:
27407 National Institutes of Health; correction

Research and Special Programs Administration, Transportation Department
NOTICES
Hazardous materials:
27437 Applications; exemptions, renewals, etc.

Pipeline safety:
27443 Tennessee Gas Pipeline Co.; maximum allowable operating pressure of transmission line segments; waiver petition

Securities and Exchange Commission
NOTICES
Hearings, etc.:
27426 Avatar Holdings Inc. et al.
27427 Columbia Gas System, Inc., et al.
27428 Jersey Central Power & Light Co., et al.
Self-regulatory organizations; proposed rule changes:
27429 Municipal Securities Rulemaking Board
27429 Options Clearing Corp.
Self-regulatory organizations; unlisted trading privileges:
27427 Boston Stock Exchange, Inc.

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program submission; various States;
27383 Oklahoma

Textile Agreements Implementation Committee
NOTICES
Export visa requirements; certification, etc.:
27401 Brazil
27400 Singapore

Transportation Department
See also Coast Guard; Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration, Transportation Department.
NOTICES
27444 Agency forms submitted to OMB for review
27444 Deepwater port license extension; Texas Offshore Port Inc.; inquiry

Treasury Department
See also Customs Service.
NOTICES
Notes, Treasury:
27445 T–1984

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.

3 CFR

Executive Orders:

January 29, 1867 (Revoked in part by PLO 6287)....27292
July 2, 1875 (Revoked by PLO 6270)....27285
July 27, 1875 (Revoked by PLO 6271)....27285
August 16, 1911 (Revoked in part by PLO 6280)....27287
February 5, 1912 (Revoked in part by PLO 6283)....27290
July 3, 1913 (Revoked in part by PLO 6280)....27287
December 11, 1914 (Revoked in part by PLO 6280)....27287
February 25, 1919 (Revoked in part by PLO 6282)....27289
November 26, 1921 (Revoked in part by PLO 6274)....27286
April 17, 1926 (Revoked in part by PLO 6284)....27290
699 (See PLO 6287)....27292
4082 (Revoked by PLO 6287)....27292
4364 (Revoked by PLO 6287)....27292
4774 (Revoked by PLO 6287)....27292
5339 (Revoked in part by PLO 6281)....27288
5702 (Revoked by PLO 6287)....27292
6205 (Revoked in part by PLO 6286)....27291
7035 (See PLO 6287)....27292

7 CFR

371....27234
908....27234

Proposed Rules:

1006....27342
1012....27342
1013....27342
1033....27342
1036....27342
1040....27342
1124....27342
1125....27342
1133....27342
1134 (2 documents)....27299, 27342
1135....27342
1136 (2 documents)....27299, 27342
1137 (2 documents)....27299, 27342
1139....27342
1807....27366
1872....27366
1901....27366
1910....27366
1940....27366
1941....27366
1943....27366
1944....27366
1945....27366
1962....27366
1990....27366

10 CFR

Proposed Rules:

50 (2 documents)....27371

12 CFR

217....27244

14 CFR

39 (5 documents)....27244–27248
71 (3 documents)....27249, 27252
75 (2 documents)....27252, 27253
95....27253

Proposed Rules:

71 (3 documents)....27373, 27374
183....27472

15 CFR

376....27250
379....27250
385....27250

18 CFR

Proposed Rules:

1....27375
3....27375
375....27375
381....27375

19 CFR

10....27260
18....27260
114....27260
143....27260

30 CFR

Proposed Rules:

936....27383

32 CFR

505....27262

33 CFR

3....27263
100....27264
117....27265
137....27478
150....27478
162....27265

39 CFR

111....27266

40 CFR

52....27267
81....27267
122....27520
123....27273
264....27520
265....27520

Proposed Rules:

122....27516
264....27516

41 CFR

Ch. 18 (2 documents)....27274, 27283

43 CFR

Public Land Orders:

648 (Revoked in part by PLO 6272)....27285
651 (Revoked in part by PLO 6275)....27286
4395 (See PLO 6287)....27292
4913 (Revoked by PLO 6276)....27287
5976 (Corrected by PLO 6281)....27288
6267....27283
6268....27283
6269....27284
6270....27285
6271....27285
6272....27285
6273....27285
6274....27286
6275....27286
6276....27287
6280....27287
6281....27288
6282....27289
6283....27290
6284....27290
6285....27290
6286....27291
6287....27292

46 CFR

66....27490
67....27490
68....27490
69....27490
153....27293

47 CFR

64....27293

Proposed Rules:

1....27384
73....27385

49 CFR

215....27293

50 CFR

17....27295

Rules and Regulations

Federal Register
Vol. 47, No. 122
Thursday, June 24, 1982

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 371

Organization, Functions and Delegations of Authority; Deputy Administrator; Plant Protection and Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document revises the statement of functions of the Animal and Plant Health Inspection Service (APHIS) as it relates to the Deputy Administrator, Plant Protection and Quarantine, to specifically assign functional responsibilities under the Federal Plant Pest Act, as amended by Section 1119 of Public Law 97–98, dated December 22, 1981.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: John C. Frey, Animal and Plant Health Inspection Service, Hyattsville, MD 20782 (301–436–5591).

SUPPLEMENTARY INFORMATION: The statement of organization, functions and delegations of authority of the Animal and Plant Health Inspection Service is being amended to delegate to the Deputy Administrator, Plant Protection and Quarantine, the functional responsibility for administering the provisions of the Federal Plant Pest Act, as amended December 22, 1981 (Pub. L. 97–98).

The Act provides for protecting against the introduction and dissemination of certain plant pests through enforcement of its many provisions. The amendments of December 22, 1981, provide for the seizure, quarantine, treatment, and application of other remedial measures to destroy or otherwise dispose of any product or article or means of conveyance which there is reason to believe is infested or to quarantine, treat or apply other remedial measures to any premises, including articles on such premises which there is reason to believe are infested or infected by a plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States. Such actions may be taken after the Secretary determines that an extraordinary emergency exists because of the presence of such plant pest on any premises and that such presence threatens the crops, other plant life, or plant products of the United States. Actions can be taken under this amendment only after the Secretary finds, after a review of measures being taken by the State or other jurisdiction and after consultation with the Governor of such State, that the measures being taken are inadequate. Determination that an extraordinary emergency exists that threatens the crops, other plant life or plant products of the United States due to the existence of a plant pest is reserved to the Secretary of Agriculture.

The Secretary has deletgated the responsibility for administration of the Federal Plant Pest Act, as amended, to the Assistant Secretary for Marketing and Inspection Services, who in turn has delegated such authority to the Administrator, Animal and Plant Health Inspection Service (47 FR 22936).

This rule relates to internal agency management and, therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register.** Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by Pub. L. 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 371

Organization and functions (Government agencies).

PART 371—ORGANIZATION, FUNCTIONS AND DELEGATIONS OF AUTHORITY

Accordingly, 7 CFR Part 371 is amended as follows:

1. The authority citation for Part 371 reads as follows:

Authority: 5 U.S.C. 301.

2. Section 371.2 is amended by revising paragraph (c) (2) (iv) to read as follows:

§ 371.2 The Office of the Administrator.

* * * * *

(c) * * *

(2) * * *

(iv) The Federal Plant Pest Act, as amended (7 U.S.C. 150aa–150jj)

* * * * *

Issued at Washington, D.C., this 17th day of June, 1982.

Harry C. Mussman,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 82–17075 Filed 6–23–82; 8:45 am]

BILLING CODE 3410–34–M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 696]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period June 25–July 1, 1982. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: June 25, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This

regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1981–82 which was recommended by the committee following discussion at a public meeting on February 5, 1982. The committee met again publicly on June 22, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencias deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges is steady.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared policy of the Act to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges (Valencia).

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

1. Section 908.996 is added as follows:

§ 908.996 Valencia orange regulation 696.

The quantities of Valencia oranges grown in Arizona and California which may be handled during the period June 25, 1982, through July 1, 1982, are established as follows:

(1) District 1: 235,000 cartons;
(2) District 2: 265,000 cartons;
(3) District 3: Unlimited cartons.

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

Dated: June 23, 1982.

D. S. Kuryloski,

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

[FR Doc. 82-17332 Filed 6-23-82; 11:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Docket No. R-0409]

Interest on Deposits; Temporary Suspension of Early Withdrawal Penalty

AGENCY: Federal Reserve System.

ACTION: Temporary suspension of the Regulation Q early withdrawal penalty.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by severe storms and flooding in the Connecticut counties of Fairfield, New Haven, Middlesex, New London, Hartford, Windham, Tolland and Litchfield.

EFFECTIVE DATE: June 14, 1982.

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, Attorney (202/452–3711) or Beverly A. Belcamino, Attorney (202/452–3623).

SUPPLEMENTARY INFORMATION: On June 14, 1982, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 12148 of July 15, 1979, the President, acting through the Director of the Federal Emergency Management Agency, designated the Connecticut counties of Fairfield, New Haven, Middlesex, New London, Hartford, Windham, Tolland and Litchfield, major disaster areas. The Board regards the President's action as recognition by the Federal government that a disaster of major proportions had occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty (12 CFR 217.4(d)). The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster area as a result of the severe storms and flooding beginning on or about June 4, 1982. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to June 14, 1982, and will remain in effect until 12 midnight, December 14, 1982.

List of Subjects in 12 CFR Part 217

Advertising, Banks, Banking, Federal Reserve System, Foreign banking.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons in the designated counties of Connecticut, directly affected by the severe storms and flooding, good cause exists for dispensing with the notice and public participation provisions in section 553(b) of Title 5 of the United States Code with respect to this action. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make this action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority, June 18, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-17048 Filed 6-23-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Airworthiness Docket No. 81-ASW-62; Amdt. 39-4401]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale (SNIAS) Models AS350 and AS355 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document adopts a new Airworthiness Directive (AD) which supersedes AD 82-02-02. After issuing AD 82-02-02, the FAA determined from service experience that compliance with the AD did not eliminate occurrence of cracks in the upper vertical fin support fitting on certain Aerospatiale Model AS350 and AS355 series helicopters. This new AD requires repetitive inspections for cracks in the upper vertical fin support fitting on all Aerospatiale Model AS350 and AS355

series helicopters to prevent possible failure of the fitting and loss of the vertical fin which could result in loss of helicopter control.

DATES: Effective June 28, 1982.

Compliance scheduled as required by the AD.

ADDRESSES: A copy of the service information may be examined at the Office of Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas. A copy of the service information may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support.

FOR FURTHER INFORMATION CONTACT: Chris Christie, Chief, Aircraft Certification Staff, FAA Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, or James H. Major, Helicopter Policy and Procedures Staff, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 624-4911, extension 502.

SUPPLEMENTARY INFORMATION: Amendment 39-4294, (47 FR 1113), Airworthiness Directive (AD) 82-02-02, required frequent visual inspections for cracks in the flanges of the upper vertical fin support fitting on certain Aerospatiale Model AS350 and AS355 series helicopters. After incorporating a modification noted in the AD and described in Aerospatiale Service Bulletin No. 55.01 or 55.02, the inspections were no longer required. After compliance with AD 82-02-02 and incorporating the modification, two additional reports of seriously cracked vertical fin support fittings were received. Failure of the support fitting due to possible cracks may result in loss of the upper vertical fin and loss of helicopter control. New Aerospatiale Modification No. AMS071047 adds two thin steel plates to reinforce the fin support fitting flanges. At this time, the agency is also requiring repetitive inspections of fins with this new modification and of fins on new aircraft that have an equivalent design feature.

Since this condition is likely to occur on other helicopters of the same type design, a superseding AD is being issued that requires daily visual check of the flanges of the upper fin support fitting and a dye penetrant inspection of the upper fin support every 50 hours' time in service on Aerospatiale Models AS350 and AS355 series helicopters.

Since a situation exists that requries immediate adoption of the amendment, it is found that notice and public procedure hereon are impracticable and good cause exists for making the amendment effective in less than 30 days. Approximately 350 aircraft will be affected by the inspections specified in this AD. The estimated cost impact of this AD is $4,000 per aircraft.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by rescinding Amendment 39-4294 (47 FR 1113), AD 82-02-02 and adding the following new AD:

Societe Nationale Industrielle Aerospatiale (SNIAS). Applies to Model AS350 series helicopters equipped with upper tail fin, P/N 350A.14.0020, and Model AS355 series helicopters equipped with upper tail fin, P/N 350A.14.0522, including fins modified per AMS 071047, certificated in all categories (Airworthiness Docket No. 81-ASW-62).

Compliance required as indicated:

To detect possible cracks in the flanges of the upper vertical fin support fitting and prevent failure of this fitting and loss of the fin, accomplish the following:

(a) Before the first flight of each day after the effective date of this AD, visually check for cracks in the flanges of the upper vertical fin support using a light. If a crack is found, the vertical fin must be removed before further flight as prescribed in subparagraph (b)(3) of this AD. The check may be performed by the pilot.

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

(b) Within the next 10 hours' time in service after the effective date of the AD and thereafter at intervals not to exceed 50 hours' time in service from the last inspection, accomplish the following:

(1) Remove the tail cone fairing, P/N 350A.23.0014.

(2) Inspect the flanges of the upper vertical fin support fitting for cracks using a dye penetrant or equivalent inspection method.

(3) If a flange of the fitting is cracked, the upper vertical fin must be removed and a serviceable upper fin installed before further flight in accordance with Chapter 55 of the Model AS350 and AS355 Maintenance Manual or FAA approved equivalent.

(4) Install tail cone fairing.

(c) Equivalent means of compliance with this AD must be approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium.

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations to fly aircraft to a base where compliance with paragraph (b) of this AD may be accomplished.

This supersedes Amendment 39-4294 (47 FR 1113), AD 82-02-02.

This amendment becomes effective June 28, 1982.

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

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas, on June 10, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 82-17032 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-CE-30-AD; Amendment 39-4404]

Beech Model 76 Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; revision of existing Airworthiness Directive.

SUMMARY: This amendment revises Airworthiness Directive (AD) 80-19-12 (Amendment 39-3916), applicable to Beech Model 76 airplanes, Serial Numbers ME-1 and up, that have 100 hours or more time-in-service. AD 80-19-12 requires repetitive visual and dye-penetrant inspections of the lower engine mount members for cracks. This revision allows discontinuance of the repetitive inspections, without compromising safety, when improved engine mount assemblies are installed per Beechcraft Service Instructions No. 1147, Revision 1. It also closes the serial number effectivity at ME-415 because

Serial Numbers ME-416 and up incorporate the improved engine mounts during manufacture.

DATES: Effective date: June 14, 1982. Compliance: As prescribed in the body of the AD.

ADDRESSES: Beechcraft Service Instructions Number 1147, Revision 1, applicable to this AD, may be obtained from Beech Aircraft Corporation, Liberal Division, Liberal, Kansas 67901; Telephone number (316) 624-1613. A copy of the Service Instructions is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Don L. Williams, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269-7005.

SUPPLEMENTARY INFORMATION: AD 80-19-12, Amendment 39-3916, published in the **Federal Register** on September 22, 1980 (45 FR 62790), was issued as a result of several reports of cracked engine mounts on Beech Model 76 airplanes. Failure of this structure may result in separation of the engine from the airplane. This AD, applicable to all Beech Model 76 airplanes that have 100 hours or more time-in-service, requires repetitive visual and dye-penetrant inspections of the lower engine mount members for cracks. Subsequent to the issuance of AD 80-19-12, the airplane manufacturer developed an improved engine mount, P/N 105-910019-1 and installed it on airplanes, Serial Numbers ME-416 and up. This improved mount is made available to owners of affected aircraft under the manufacturer's warranty provisions per Beechcraft Service Instructions No. 1147, Revision 1. The FAA has determined that AD 80-19-12 should be revised to provide installation of the new mount in accordance with the Service Instructions as an acceptable alternate means of compliance with the AD and to close the AD applicability at Serial Number ME-415.

Since this amendment is, in part, relieving in nature and provides an alternate means of compliance, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedure hereon are unnecessary, and the amendment may be made effective in less than thirty (30) days after its publication in the **Federal Register.**

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending AD 80-19-12, Amendment 39-3916 (45 FR 62790), as follows:

(1) Change the Applicability Statement to read as follows:

Beech: Applies to Model 76 (Serial Numbers ME-1 through ME-415) airplanes certificated in any category, that have 100 hours or more time-in-service.

(2) Redesignate existing Paragraph "E)" as Paragraph "F)."

(3) Add a new Paragraph E which reads as follows:

(E) The repetitive inspections required by paragraphs A) and B) of this AD may be discontinued when engine mount assemblies are replaced with P/N 105-910019-1 engine mount assemblies in accordance with Beechcraft Service Instructions No. 1147, Revision 1.

This amendment becomes effective on June 14, 1982.

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

Note.—The FAA has determined that this regulation involves a revision which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and certifies that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves inspection and modification on only a few aircraft owned by small entities. If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket; otherwise, an evaluation is not required. A copy of it, when filed, may be obtained by contacting the rules docket at the location identified under the caption "ADDRESSES."

This is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the Courts of Appeals of the United States, or the United States Court of Appeals of the District of Columbia.

Issued in Kansas City, Missouri, on June 14, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-17030 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 82-ANE-20; Amdt. 39-4405]

Bendix Engine Products Division Model S-1200 Series Magnetos; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comment.

SUMMARY: This amendment issues a new airworthiness directive (AD) applicable to Bendix S-1200 magnetos incorporating green distributor blocks. The AD requires inspection of distributor block bushings for looseness and if loose, replacement prior to further flight.

DATES: Effective June 28, 1982. Comments related to this amendment must be received on or before July 28, 1982. Compliance is required as set forth in the AD.

ADDRESSES: Bendix Service Bulletin No. 613 may be acquired from the manufacturer at the Engine Products Division, Sidney, New York 13838.

A copy of the service bulletin is contained in the Rules Docket, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Mr. A.T. Farrar, Propulsion Section, ANE-174, New York Aircraft Certification Office, Federal Building, JFK International Airport, Jamaica, New York 11430; tel. (212) 995-2894.

SUPPLEMENTARY INFORMATION: Engine malfunctions have been attributed to loosening of the distributor block bushing. Looseness of the bushing has caused short circuits within the distributor, resulting in power loss and engine damage. The manufacturer has made a new design, "Gripper" oilite bushing to insure bushing retention by the distributor block. This AD requires periodic inspections of the distributor block for bushing looseness and ultimate replacement of the block with "Gripper" bushing type.

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

Request for Comments on the Rule

Although this action is in the form of a final rule which involves requirements affecting immediate flight safety and thus, was not preceded by notice and

public procedures, comments are invited on the rule.

When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations, 14 CFR 39.13 is amended, by issuing a new AD as follows:

Bendix.—Applies to Bendix Engine Products Division's S–1200 series magnetos which have *green* distributor blocks and do not have the letter "R", metal stamped on the identification plate as described under "Identification," in Bendix Service Bulletin No. 613. Compliance required as indicated unless already accomplished. To reduce the possibility of magneto and engine malfunction resulting from loose distributor block bushings, accomplish the following:

(a) Comply with the inspection, replacement, and identification procedures outlined under "Detailed Instructions" shown in Bendix Service Bulletin No. 613, dated April 1981, or later approved revisions in accordance with the following schedule:

Magneto time in service since new or overhaul	Accomplish
Less than 1,000 hours.....	Inspect within the next 25 hours in service and every 25 hours in service thereafter, unless replaced with new "Gripper Bushing" distributor block.
1,000 hours or more but less service than 1,900 hours.	Inspect within the next 100 hours in service unless replaced with new "Gripper Bushing" distributor block.
1,900 hours or more	Replace the distributor block with new "Gripper Bushing" distributor block within the next 100 hours in service.

Any distributor block discovered having a loose bushing must be replaced before further flight.

(b) If compliance with Paragraph (a) reveals the distributor block to be contaminated with brass filings or bronze colored dust, inspect the engine as follows:

(1) Observe engine pistons through spark plug holes for evidence of burning.

(2) Check valve dry tappet clearance per engine manufacturer's instructions.

If piston damage or lower than specified dry tappet clearance is present, the engine must be inspected and maintained in accordance with the engine manufacturer's instructions, for continued airworthiness.

Make an engine log entry of each compliance with Paragraph (a) including the magneto serial number.

Equivalent means of compliance may be approved by the Chief of the New York Aircraft Certification Office, ANE–170, Federal Aviation Administration (FAA), New England Aircraft Certification Division, Federal Building, JFK International Airport, Jamaica, New York 11430. As permitted by FAR 21.197, aircraft may be flown to a base where maintenance required by this AD can be accomplished.

This AD is effective June 28, 1982.

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

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT".

Issued in Burlington, Massachusetts, on June 14, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82–17028 Filed 6–23–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 82–ANE–05; Amdt. 39–4403]

Detroit Diesel Allison Models 250–C20, –C20B Engines; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires modifying the high pressure fuel filter assembly installed in Detroit Diesel Allison (DDA) Models 250–C20 and –C20B engines equipped with the Chandler Evans Company (CECO) Model MC–40 fuel control system. The AD is needed to prevent possible metal contamination of the CECO Model MC–40 fuel control system power turbine governor which can result in power turbine rotor overspeed.

DATE: Effective July 1, 1982.

ADDRESS: The applicable service bulletin may be obtained from Detroit Diesel Allison, Division of General Motors Corporation, Indianapolis, Indiana 46206. Copies of the service bulletin are contained in the Rules Docket, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Mr. Royace Prather, Chicago Aircraft Certification Office, ACE–140C, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018; telephone (312) 694–7132.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring modification of the high pressure fuel filter assembly installed in Allison Models 250–C20 and –C20B engines equipped with the Chandler Evans Company (CECO) Model MC–40 fuel control system was published in the **Federal Register** on March 22, 1982, Vol. 47, No. 55, page 12190. The proposal was prompted by the FAA and the National Transportation Safety Board (NTSB) determination that metal contamination of the fuel control system power turbine governor can result in power turbine overspeed of Detroit Diesel Allison Models 250–C20 and –C20B turboshaft engines. Detroit Diesel Allison issued Commercial Engine Service Bulletin CEB–1144 on November 14, 1979, warning that the high pressure fuel filter assembly bypass valve, DDA P/N 6895173, was subject to wear. The CEB recommended modifying the high pressure fuel filter assembly with a new design assembly kit. As of January 29, 1982, approximately 70% of affected high pressure filter assemblies were modified. The proposed amendment would require modification of engine high pressure fuel control filter assembly, P/N 6895173 or P/N 6896727 into P/N 689927 in accordance with Detroit Diesel Allison Commercial Engine Alert Bulletin CEB–A–1144, Revision 3, dated March 1, 1982, at the next engine or CECO fuel control/power turbine governor overhaul, but not later than October 1, 1982.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

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

Detroit Diesel Allison. Applies to all Models 250–C20 and –C20B engines equipped with the Chandler Evans Company (CECO) Model MC–40 fuel control system.

Compliance required as indicated unless already accomplished.

To prevent possible power turbine overspeed, accomplish the following at the next engine or CECO fuel control/power turbine governor overhaul, but not later than October 1, 1982:

Modify the engine high pressure fuel control filter assembly, P/N 6895173 or P/N 6896727, into P/N 6899279 in accordance with the detailed instructions provided in Detroit Diesel Allison Commercial Engine Alert Bulletin CEB–A–1144, Revision 3, dated March 1, 1982, or later FAA approved revision.

Upon request of the operator, an equivalent means of compliance with the requirements of this AD may be approved by the Chief, Chicago Aircraft Certification Office, Federal Aviation Administration, Central Region. The manufacturer's specifications and procedures identified and described in this directive are available upon request to Detroit Diesel Allison, Division of General Motors Corporation, Indianapolis, Indiana 46206.

These documents may also be examined at the New England Regional Office, 12 New England Executive Park, Burlington, Massachusetts 01803. A historical file on this AD is maintained by the FAA at the New England Regional Office.

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

Note.—The FAA has determined that this document involves a regulation which is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified that the rule will not have a significant economic impact on a substantial number of small entities because of the nominal cost of compliance. A final regulatory evaluation prepared for this document is contained in the public docket, and a copy may be obtained by writing to Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket No. 82–ANE–05, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Mass., on June 14, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82-17029 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Airworthiness Docket No. 82–ASW–22; Amdt. 39–4400]

Hiller Model UH–12 Series Helicopter; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document supersedes a currently effective airworthiness directive (AD) which requires repetitive inspections of the rotor drive torsional couplings on Hiller Model UH–12 series helicopters and adopts a new AD. This superseding AD is required because of additional failures which have occurred prior to the initial inspection required by the original AD. This AD requires earlier inspection and identifies specific serial numbers of affected couplings.

DATES: Effective July 1, 1982. Initial compliance required within 50 hours' time in service after the effective date of this AD.

ADDRESSES: The applicable service information may be obtained from Hiller Aviation, 2075 West Scranton Avenue, Porterville, California 93257.

These documents may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas, or in the Rules Docket in Room 916, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Harold Ferris, Aerospace Engineer, Propulsion Section, ANM–174W, Western Aircraft Certification Field Office, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, telephone: (213) 536–6381.

SUPPLEMENTARY INFORMATION: Amendment 39–3907 (45 FR 59138), AD 80–18–13 requires inspection and replacement, if necessary, of rotor drive system torsional couplings on Hiller UH–12 series helicopters. After issuing Amendment 39–3907, the FAA determined from service experience that the exposure interval of the initial 300-hour inspection threshold was contributing to an unsafe condition. That is, coupling failures were encountered on helicopters affected by Amendment 39–3907 with less than 300 hours' additional time in service since the effective date of Amendment 39–3907.

Additionally, the FAA has received information subsequent to the issuance of Amendment 39–3907 enabling specific serial number identification of suspect coupling assemblies. The serial number identification results in a cost impact reduction of the AD.

Therefore, the AD is being superseded by a new AD that establishes an initial 50-hour inspection on those helicopters not yet inspected by the original AD, and which limits the effectivity of the inspections (both initial and recurring) to helicopters equipped with certain serial numbered torsional couplings.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by removing Amendment 39–3907, AD 80–18–13, and by adding the following new airworthiness directive:

Hiller Aviation. Applies to Model UH–12E and UH–12L series helicopters certificated in all categories (including military Models OH23F and OH–23G) equipped with torsional couplings P/N 21047–9 and –11 and coupling serial numbers 497 through 766.

Compliance required within the next 50 hours' time in service after the effective date of this AD or within 300 hours' time in service since September 8, 1980, whichever occurs earlier, unless already accomplished, and thereafter at intervals not to exceed 300 hours' time in service since the last inspection.

To prevent possible loss of driving torque to the helicopter rotor system, accomplish this following:

(a) Inspect the P/N 21047–9 and 21047–11 torsional couplings as specified in paragraph 2 of Hiller Aviation Service Bulletin UH–12–21–1, Revision 2, dated April 2, 1982 (after this referred to as SB UH–12–21–1), or FAA approved equivalent.

(b) If torsional coupling is found to be serviceable, reinstall per paragraph 2 of SB UH–12–21–1 or FAA approved equivalent and revert to the repetitive inspection schedule of this AD.

(c) If torsional coupling installation does not meet the inspection requirements of paragraph (a) of this AD, replace with like serviceable part(s) and revert to the repetitive inspection schedule of this AD.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate helicopters to a base for the accomplishment of inspections required by this AD.

(e) Alternative inspections, modifications, or other actions which provide an equivalent level of safety may be used when approved by the Chief, Western Aircraft Certification Field Office, FAA Northwest Mountain Region.

Note.—Hiller Model UH-12 series helicopters converted to turbine power by STC SH178WE or SH177WE do not incorporate the subject parts and therefore are not affected by this AD unless restored to the original configuration.

This supersedes Amendment 39-3907 (45 FR 59138), AD 80-18-13.

This amendment becomes effective July 1, 1982.

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

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it may be obtained by contacting the person identified above under the caption

"FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Tex., on June 10, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 81-17031 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-NE-01]

Designation of Federal Airways, Area Low Routes, Controlled Airspace and Reporting Points; Amendment to Description of the Bennington, Vt., Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the effective hours of the Bennington Vermont transition area so as to provide full-time airspace for aircraft executing the VOR-A, Amendment 5, Standard Instrument Approach Procedure (SIAP) to Bennington State Airport, Bennington, Vermont.

EFFECTIVE DATE: July 8, 1982.

FOR FURTHER INFORMATION CONTACT: David Hurley, Operations Procedures and Airspace Branch, ANE-536, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7285.

SUPPLEMENTARY INFORMATION:

History

On Thursday, March 4, 1982, a notice of proposed rulemaking was published in the **Federal Register** (47 FR 9222) stating that the FAA proposed to amend the effective hours of the Bennington, Vermont transition area so as to provide full-time airspace for aircraft executing the VOR-A, Amendment 5, SIAP to Bennington State Airport, Bennington, Vermont. Interested persons were invited to participate in this rulemaking process by submitting written comments on the proposal to the FAA. No objections were received.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) by revising the Bennington, Vermont 700-foot transition area as follows:

Bennington, Vermont

Delete:

"This transition area is effective from sunrise to sunset, daily."

(Section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c) and 14 CFR 11.69))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) is certified that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Mass., on June 8, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82-17035 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ASO-12]

Alteration of Transition Area, Greenwood, South Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Greenwood, South Carolina, Transition Area by lowering the base of controlled airspace from 1,200 feet to 700 feet above the surface east of the Greenwood County Airport. A new instrument approach procedure has been developed to serve the airport and additional controlled airspace is required to protect Instrument Flight Rules (IFR) operations.

EFFECTIVE DATE: 0901 G.m.t., September 2, 1982.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

History

On Monday, April 19, 1982, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by lowering the base of controlled airspace from 1,200 feet to 700 feet above the surface east of the Greenwood County Airport, Greenwood, South Carolina (47 FR 16643). This action will provide controlled airspace protection for aircraft executing the NDB Runway 27 instrument approach procedures at the Greenwood County Airport. A nondirectional radio beacon, which will support the approach procedure, will be established in

conjunction with this alteration of the transition area. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections to the proposal were received in response to publication. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the Greenwood, South Carolina, Transition Area. This action will provide controlled airspace for aircraft executing the new instrument approach procedure which is being established to serve Greenwood County Airport.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 GMT, September 2, 1982, as follows:

Greenwood, South Carolina [Amended]

By deleting the words "* * * (latitude 34°15'00"N., longitude 82°09'35"W.) * * *" and substituting for them the words "* * * (Lat. 34°15'00"N., Long. 82°09'35"W.); within 3 miles each side of the 085° bearing from the Coronaca RBN (Lat. 34°15'13"N., Long. 82°05'11"W.); extending from the 8.5-mile radius area to 8.5 miles east of the RBN * * *"

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

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

Issued in East Point, Georgia, on June 11, 1982.

J. Stiglin,

Acting Director, Southern Region.

[FR Doc. 82-17034 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 376, 379 and 385

Amendment of Oil and Gas Controls to the U.S.S.R.

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

ACTION: Interim rule with request for comments.

SUMMARY: At the direction of the President, export controls on oil and gas goods and technology to the USSR are amended to include exports of non-U.S. origin goods and technical data by U.S. owned or controlled companies wherever organized or doing business, as well as certain foreign produced products of U.S. technical data not previously subject to controls. The regulations are also revised to state that certain policy guidance is inapplicable to exports to the U.S.S.R. and Poland.

DATES: These rules are effective 5:00 p.m. (e.d.t.), June 22, 1982. Comments must be received by August 21, 1982. However, these regulations may be revised before the close of the comment period.

ADDRESSES: Written comments (six copies when possible) should be sent to: Richard J. Isadore, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Mr. Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377-5247 or 377-4811).

SUPPLEMENTARY INFORMATION:

Regulatory Changes

At the direction of the President and pursuant to section 6 of the Export Administration Act of 1979, as amended, the Department of Commerce is amending the existing oil and gas controls applicable to the U.S.S.R. Current controls restrict exports and reexports of U.S. origin oil and gas goods and technical data. This rule expands these controls to restrict exports to the U.S.S.R. of non-U.S. origin goods or technical data by U.S. owned or controlled foreign firms. The current controls also restrict the export of foreign produced products of U.S. technical data if the export of the data from the United States was subject to the receipt of a written assurance from the foreign importer against the transfer of the data or its products to proscribed destinations.

This rule amends controls on foreign produced products of U.S. technical data to include products of U.S. data in cases where the right to the use of the data abroad is subject to a licensing agreement with persons subject to the jurisdiction of the U.S. or requires the payment of royalties or other compensation to any such persons or in cases where the recipient of the technical data has agreed to abide by U.S. export control regulations.

As stated by the President, the objective of the United States in imposing sanctions has been and continues to be to advance reconciliation in Poland. There has been no movement by the U.S.S.R. toward this objective.

Pursuant to section 6 of the Export Administration Act of 1979 and at the direction of the President, it has been determined that the expansion of oil and gas controls is necessary to further significantly the foreign policy of the United States. As required by section 6(g), attempts to obtain cooperation of countries that produce comparable items have been made, but have been unsuccessful.

Pursuant to section 4(c), it has been determined that, notwithstanding availability of some of these goods and data from foreign sources, failure to take this action would be detrimental to the foreign policy of the United States. It also has been determined under section 6(d) that there are no feasible alternative means of achieving the purpose of this action.

Appropriate persons in industry and the Congress have been consulted, and the criteria set forth in section 6(b) of the Act have been considered.

These regulations also explain that the policy guidance contained in § 385.2 of the Export Administration Regulations concerning exports to Country Groups Q, W, and Y does not apply to the U.S.S.R. or Poland. A General Order issued on December 30, 1981 (15 CFR 390.8) suspended the processing of validated licenses and other authorizations for export to the U.S.S.R. Furthermore, because the situation in Poland creates the unacceptable risk of diversion to unauthorized end-uses and/or end-

users, export licenses and other authorizations for export of national security or nuclear non-proliferation controlled items destined for Poland will not be issued.

Rulemaking Requirements

The Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (50 U.S.C. app. 2401 et seq. (Supp. III 1979) ("the Act")), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act.

However, because of the importance of the issues raised by these regulations and the intent of Congress set forth in section 13(b) of the Act, these regulations are issued in interim form and comments will be considered in developing any final regulations. These regulations may be revised before the end of the comment period. Accordingly, interested persons who desire to comment are encouraged to do so at the earliest possible time to permit the fullest consideration of their views.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq.

4. This rule is exempt from the requirements of Executive Order 12291 (46 FR 13193), February 19, 1981), "Federal Regulation" because it relates to a foreign affairs function of the United States.

The period for submission of comments will close on August 21, 1982. Comments received after the close of the comment period cannot be assured consideration in the development of the final regulations. Public comments that are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature, or for any other reason, will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of the final regulations. All public comments to be considered in any revision to these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda that will also be a matter of public record and will be available for public review.

List of Subjects

15 CFR Part 376

Exports.

15 CFR Part 379

Exports, Science and technology.

15 CFR Part 385

Communist countries, Exports.

Accordingly, the Export Administration Regulations (15 CFR Part 368, et seq.) are amended as follows:

PART 376—SPECIAL COMMODITIES POLICIES AND PROVISIONS

1. Section 376.12 is amended by revising the introductory paragraph of the "Note" to read:

§ 376.12 Parts, components, and materials in foreign-made end products.

* * * * *

Note.—In order to determine whether the prior written approval of the Office of Export Administration is required for the export from a foreign country of a foreign made end product containing U.S.-origin parts or components, answer the following questions (as of the time of export to the new destination of the foreign-made end product):

PART 379—TECHNICAL DATA

2. Paragraphs (a) (2) and (3) of § 379.8 are revised, and a paragraph (a)(4) is added as follows:

§ 379.8 Reexport of technical data and exports of the product manufactured abroad by use of U.S. technical data.

(a) Prohibited Exports and Reexports.

* * * * *

(2) Export any technical data from the United States with the knowledge that it is to be reexported, directly or indirectly, in whole or in part, from the authorized country(ies) of ultimate destination;

(3) Export or reexport to Country Group P, Q, W, Y, or Z or Afghanistan any foreign produced direct product of U.S. technical data, or any commodity produced by any plant or major component thereof that is a direct product of U.S. technical data, if such direct product or commodity is covered by the provisions of § 379.4(f) (excluding paragraph (1)(i)(*p*)) or § 379.5(e) (1) or (2); or

(4) Export or reexport to the U.S.S.R., Latvia, Lithuania, Estonia or Afghanistan any foreign produced direct products of U.S. technical data, or any commodity produced by any plant or major component thereof that is a direct product of U.S. technical data, described in § 379.4(f)(1)(i)(*p*) if:

(i) A written assurance was required under these regulations when the data were exported from the U.S.; or

(ii) The U.S. technical data are the subject of a licensing agreement with, or the use of the data is contingent upon royalty payments or other compensation to, any person subject to the jurisdiction of the United States as defined in § 385.2(c), regardless of when the data were exported from the U.S.; or

(iii) The U.S. technical data are the subject of a licensing agreement, or other contract, whereby the recipient of the technical data has agreed to abide by U.S. export control regulations.

PART 385—SPECIAL COUNTRY POLICIES AND PROVISIONS

3. Section 385.2 is amended as follows:

a. Section 385.2(a) is revised to read:

§ 385.2 Country groups, Q, W, and Y [1]; U.S.S.R., other Warsaw pact countries, Albania, Mongolian People's Republic, and Laos.

(a)(1) The Export Administration Act of 1979 states that it is the policy of the United States "to encourage trade with all countries with which we have diplomatic or trading relations, except those countries with which such trade has been determined by the President to be against the national interest." The Act also states that it is the policy of the United States "to restrict the export of goods and technology which would make a significant contribution to the military potential of any other country or combination of countries which would prove detrimental to the national security of the United States." Accordingly, and in compliance with the other sections of the Export Administration Act of 1979, the Department conducts a continuing review of commodities and technology to assure that prior approval is required for the export or reexport of U.S.-origin commodities and technical data to the U.S.S.R., Albania, Bulgaria, Czechoslovakia, Estonia, German Democratic Republic, Hungary, Laos, Latvia, Lithuania, Mongolian People's Republic, Poland, and Romania only if the commodities or technical data have a potential for being used in a manner that would prove detrimental to the national security of the United States. The general policy of the Department, however, is to approve applications or requests to export or reexport such commodities and technical data to these destinations (other than the U.S.S.R. and Poland) when the Department

[1] See Supplement No. 1 to Part 370 for listing of Country Groups.

determines, on a case-by-case basis, that the commodities or technical data are for a civilian use or would otherwise not make a significant contribution to the military potential of the country of destination that would prove detrimental to the national security of the United States.

(2) To permit such policy judgments to be made, each export application and reexport request is reviewed in the light of prevailing policies with full consideration of all relevant aspects of the proposed transaction. The review generally includes an analysis of the kinds and quantities of commodities or technologies to be shipped; their military or civilian uses; the unrestricted availability abroad of the same or comparable items; the country of destination; the ultimate end-users in the country of destination; and the intended end-use.

(3) Applications covering certain commodities and technical data that are controlled by the United States and certain other nations that cooperate in an international export control system and are proposed for export or reexport to Country Group Q, W, or Y may have to be forwarded to the Coordinating Committee (COCOM) of this international export control system for consideration in accordance with established COCOM procedures.

(4) Although each proposed transaction is considered individually, certain goods on the Commodity Control List are more likely to be approved than others. See Supplement No. 1 to this Part 385 for an identification of such goods.

(5) The preceding policy guidance cannot be applied to exports to the U.S.S.R. or Poland. Pursuant to the General Order contained in § 390.8, license applications or other authorizations for the U.S.S.R. will be returned without action. Further, because of the risk that items destined for Poland that are controlled for national security or nuclear non-proliferation reasons will be diverted to unapproved users or to the U.S.S.R. contrary to U.S. national security interests, applications for export to Poland of such items will not be authorized.

* * * * *

b. Section 385.2(c) is revised to read:

* * * * *

(c)(1) As authorized by Section 6 of the Export Administration Act of 1979, prior written authorization by the Office of Export Administration is required for foreign policy reasons for the export or reexport to the U.S.S.R. of oil and gas exploration, production, transmission or refinement goods of U.S. origin as defined in CCL entries 6098F, 6191F, 6388F, 6389F, 6390F, 6391F, 6431F, 6491F, 6598F, 6685F, 6779F, and 6780F. Also included in the scope of this control are technical data of U.S. origin (other than that authorized under General License GTDA) related to oil and gas exploration, production, transmission and refinement and other goods that require a validated export license for shipment to the Soviet Union and that are intended for use in oil or gas exploration, production, transmission or refinement. The foreign product of such data is also controlled (§ 379.8). The term "refinement" includes refinery operations directed to energy usage, but excludes petrochemical feedstock processes. In addition, prior written authorization is required for the export to the U.S.S.R. of non-U.S. origin goods and technical data by any person subject to the jurisdiction of the United States.

(2) For the purposes of this § 385.2(c) only, the term "person subject to the jurisdiction of the United States" includes

(i) Any person, wherever located, who is a citizen or resident of the United States;

(ii) Any person actually within the United States;

(iii) Any corporation organized under the laws of the United States or of any state, territory, possession, or district of the United States; or

(iv) Any partnership, association, corporation, or other organization, wherever organized or doing business, that is owned or controlled by persons specified in paragraphs (i), (ii), or (iii) of this section.

(Secs. 4, 5, 6, 13, 15, 16, and 21, Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended; E.O. No. 12002 (42 FR 35623, July 11, 1977); and E.O. No. 12214 (45 FR 29783, May 6, 1980))

Dated: June 22, 1982.

Bohdan Denysyk,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 82-17240 Filed 6-23-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 71 and 75

[Airspace Docket No. 82-ANM-4]

Designation of VOR Federal Airway and Establishment of Jet Route; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: A final rule was published in the **Federal Register** on April 15, 1982 (47 FR 16171), effective July 8, 1982, that designated an airway/jet route from Bellingham, WA, to Kelowna, BC, Canada, in response to a request from the Canadian Government. The Canadian Government has now requested that VOR Federal Airway V-509 portion be canceled due to inadequate signal coverage. This action withdraws V-509.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

List of Subjects in 14 CFR Part 71

VOR Federal Airways.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document 82-10263 as published in the **Federal Register** on April 15, 1982, is corrected by deleting the following:

"§ 71.123 By adding:

V-509 [New]

V-509 From Bellingham, WA; to Kelowna, BC, Canada. The segment within Canada is excluded."

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

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

Issued in Washington, D.C., on June 16, 1982.

John W. Baier,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-17026 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 82-ASW-14]

Alteration of Jet Routes J-15 and J-180

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters Jet Routes J-15 and J-180 between Humble, TX, and Junction, TX. This action improves air traffic control (ATC) efficiency and flight plan filing procedures for pilots by realigning the jet routes to coincide with noncoded routes now being used to meet operational considerations.

EFFECTIVE DATE: September 2, 1982.

FOR FURTHER INFORMATION CONTACT: Robert Maxey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On April 8, 1982, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign Jet Routes J-15 and J-180 between Humble, TX, and Junction, TX (47 FR 15143). The routes are not being used in their current alignment because of ATC considerations. This action would improve ATC efficiency and flight plan filing procedures for pilots by realigning the jet routes to coincide with routes now being used. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations realigns Jet Routes J-15 and J-180 between Humble, TX, and Junction, TX, to coincide with noncoded routes now being used by ATC to meet operational needs.

List of Subjects in 14 CFR Part 75

Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as amended (46 FR 57892) is further amended, effective 0901 G.m.t., September 2, 1982, as follows:

J-15 [Amended]

By deleting the words "From Humble, TX, via INT Humble 275° and Junction, TX, 106° radials; Junction;" and substituting for them the words "From Humble, TX, via INT Humble 269° and Junction, TX, 112° radials; Junction;"

J-180 [Amended]

By deleting the words "From Junction, TX, via INT Junction 112° and Humble, TX 264° radials; Humble; Daisetta, TX;" and substituting for them the words "From Humble, TX, via Daisetta, TX;"

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

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

Issued in Washington, D.C., on June 17, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-17027 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 95

[Docket No. 23137; Amdt. No. 95-305]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: July 8, 1982.

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

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 95

Aircraft, Airspace.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 G.m.t. July 8, 1982.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); sec. 6(c),

Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

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

Issued in Washington, D.C. on June 15, 1982.

John M. Howard,

Acting Chief, Aircraft Programs Division.

BILLING CODE 4910-13-M

§95.47 GREEN FEDERAL AIRWAY 7
is amended by adding:

FROM	TO	MEA
Gambell, AK NDB	Ft Davis AK NDB	3000

§95.1001 DIRECT ROUTES - U.S.
is amended to read in part:

FROM	TO	MEA
Bagby INT, CA	Fresno, CA VOR	*7000
*5800-MOCA		
*Bakersfield, CA VOR	**Wring INT, CA	5000
*3300-MCA Bakersfield VOR, NE-bound		
**5400-MCA Wring INT, SE-bound		
Battle Mountain, NV VOR	Twin Falls, ID VOR	#18000
#MEA is established with a gap in navigation signal coverage.		
Brilo INT, CA	Yager INT, CA	*7000
6500-MOCA		
Coaldale, NV VOR	Woodside, CA VOR (COP 68 OAL)	*18000
*15100-MOCA		
Colom INT, CA	Mina, NV VOR	28000
Farallon Island, CA NDB	Sausalito, CA VOR	4000
		MAA-23000

§95.1001 DIRECT ROUTES-U.S.
is amended to read in part:

FROM	TO	MEA
Fellows, CA VOR	Santa Barbara, CA VOR	9000
Fillmore, CA VOR	Fresno, CA VOR (COP 60 FIM)	18000
Frany INT, CA	Oakland, CA VOR	*7000
*3500-MOCA		MAA-39000
Honez INT, CA	Modesto, CA VOR	2200
INT 331 M rad Ukiah VOR & SE CRS Arcata ILS	Brilo INT, CA	*11000
*7900-MOCA		
Lake Hughes, CA VOR	Fillmore, CA VOR	8000
Ogden, UT VOR	Daton INT, WY (VIA OGD 008 Rad & JAC 186 Rad) COP 70 OGD	#22000
		MAA-30000
#MEA is established with a gap in navigation signal coverage.		

§95.1001 DIRECT ROUTES-U.S.
is amended to read in part:

FROM	TO	MEA
Pacif INT, CA	Seal Beach, CA VOR	3000
Peach Springs, AZ VOR	Dove Creek, CO VOR (COP 100 PGS)	18000
		MAA-41000
Red Bluff, CA VOR	Scaggs Island, CA VOR	*6000
*5000-MOCA	(COP 60 RBL)	
Red Bluff, CA VOR	Redding, CA VOR	3000
Reno, NV VOR	Trose INT, CA	22000
Rebas INT, CA	Farallon Island, CA-NDB	4600
Sacramento, CA VOR	Klamath Falls, OR VOR (COP 130 SAC)	18000
Salinas, CA VOR	Gilro INT, CA	5000
Salinas, CA VOR	Licke INT, CA	6000
		MAA-17500

§95.1001 DIRECT ROUTES - U.S.
is amended to read in part:

FROM	TO	MEA
San Simon, AZ VOR	Albuquerque, NM (COP 90 SSO)	18000
		MAA-35000
San Jose, CA VOR	Colli INT, CA	4000
Santa Barbara, CA VOR	Santa Maria, CA VOR	6700
Santa Catalina, CA VOR	Gaviota, CA VOR	6400
Seal Beach, CA VOR	Elmoo INT, CA	*5000
*2400-MOCA		
Stockton, CA VOR	San Jose, CA VOR (COP 30 SCK)	6000
		MAA-30000
Tonopah, NV VOR	Bryce Canyon, UT VOR	23000
Via TPH 077 BCE 262		MAA-45000
*Trose INT, CA	Modesto, CA VOR	
	NE-bound	22000
	SW-bound	5000
*22000-MRA		MAA-39000

§95.1001 DIRECT ROUTES-U.S.
is amended to read in part:

FROM	TO	MEA
Twenty-nine Palms, CA VOR	Goffs, CA VOR	18000
Via TNP 028 & GFS 185	(COP TNP 17)	
		MAA-45000
Ukiah, CA VOR	INT 331 M rad Ukiah VOR And 134 M rad Arcata VOR	*11000
*6500-MOCA		MAA-24000
Woodside, CA VOR	*Eugen INT, CA	**6000
*7000-MRA		
**4400-MOCA		

§95.1001 DIRECT ROUTES-U.S.
is added to read:

FROM	TO	MEA
Fellows, CA VOR	Fillmore, CA VOR (COP 42 FLW)	9500
Waker INT, CA	Fillmore, CA VOR	4800

§95.1001 DIRECT ROUTES - U.S.
is added to read:

FROM	TO	MEA
Santa Maria, CA VOR	Paso Robles, CA VOR	5000

§95.6002 VOR FEDERAL AIRWAY 2
is amended to read in part:

FROM	TO	MEA
Madison, WI VOR	Badger, WI VOR	2800

§95.6004 VOR FEDERAL AIRWAY 4
is amended to read in part:

FROM	TO	MEA
Yakima, WA VOR	Ample INT, WA	6000

§95.6004 VOR FEDERAL AIRWAY 4
is amended to delete:

FROM	TO	MEA
Hill City, Kans. VOR	Hays, Kans. VOR	
Via S alter.	Via S. alter.	*4500
*3900–MOCA		
Hays, Kans VOR	*Glide INT, Kans.	
Via S alter.	Via S alter.	3900
*4000–MRA		
Glide INT, Kans.	Salina, Kans. VOR	
Via S alter.	Via S alter.	*3600
*2800–MOCA		
Chari INT, Kans.	Manhattan, Kans. VOR	
Via N alter.	Via N alter.	3000
Manhattan, Kans. VOR	Topeka, Kans. VOR	
Via N alter.	Via N alter.	3000
Topeka, Kans. VOR	Lawrence INT, Kans.	
Via S alter.	Via S alter.	2700
Lawrence INT, Kans.	Desot INT, Kans.	
Via S alter.	Via S alter.	*2700
*2200–MOCA		
Desot INT, Kans.	Pains INT, Mo.	
Via S alter.	Via S alter.	2800
Pains INT, MO	Kansas City, MO VOR	
Via S alter.	Via S alter.	2800

§95.6006 VOR FEDERAL AIRWAY 6
is amended to delete:

FROM	TO	MEA
Des Moines, Iowa VOR	Bussy INT, Iowa	
Via S alter.	Via S alter.	2700
Bussy INT, Iowa	Iowa City, Iowa VOR	
Via S alter.	Via S alter	*4000
*2100 – MOCA		

§95.6010 VOR FEDERAL AIRWAY 10
is amended to delete:

FROM	TO	MEA
Dodge City, Kans. VOR	Disks INT, Kans.	
Via N alter.	Via N alter.	*4500
*3600–MOCA		
Disks INT, Kans.	*Steal INT, Kans.	
Via N alter.	Via N alter.	**4500
*4000–MRA		
**3300–MOCA		
*Steal INT, Kans.	Hutchinson, Kans VOR	
Via N alter.	Via N alter	**3200
*4000–MRA		
**3000–MOCA		
Emporia, Kans VOR	Desot INT, Kans.	3000
Via N alter.	Via N alter.	
Desot INT, Kans.	Napoleon, Mo. VOR	
Via N alter.	Via N alter.	3000
Napoleon, Mo. VOR	Lasso INT, Mo.	
Via N alter.	Via N alter.	2800
Lasso INT, Mo.	Kirksville, Mo. VOR	
Via N alter.	Via N alter.	*3000
*2400–MOCA		

§95.6012 VOR FEDERAL AIRWAY 12
is amended to delete:

FROM	TO	MEA
Franc INT, Mo.	Hypoe INT, Mo.	
Via S. Alter.	Via S alter.	4000
Hypoe INT, Mo.	Jefferson City, Mo. VOR	
Via S alter.	Via S alter.	2600
Jefferson City, Mo. VOR	Guths INT, Mo.	
Via S alter.	Via S alter.	3000
Guths INT, Mo.	Rappe INT, Mo.	
Via S alter.	Via S alter.	4000

§95.6013 VOR FEDERAL AIRWAY 13
is amended to delete:

FROM	TO	MEA
Des Moines, Iowa VOR	Grimes INT, Iowa	
Via W alter.	Via W alter.	2700
		MAA–9000
Grimes INT, Iowa	Ft. Dodge, Iowa VOR	
Via W alter.	Via W alter.	3000
		MAA–9000
Fort Dodge, Iowa VOR	Mason City, Iowa VOR	
Via W alter.	Via W alter.	3000
Mason City, Iowa VOR	Freed INT, Minn.	
Via W alter.	Via W alter.	3000
Freed INT, Minn.	*Almay INT, Minn.	
Via W alter.	Via W alter	**4600
*4600–MRA		
**2600–MOCA		
Almay INT, Minn.	Prags INT, Minn.	
Via W alter.	Via W alter.	*4600
*2400–MOCA		
Prags INT, MN	Gopher, MN VOR	
Via W alter.	Via W alter.	3000
Gopher, MN VOR	Grantsburg, WI VOR	
Via W alter.	Via W alter.	3000

§95.6014 VOR FEDERAL AIRWAY 14
is amended to delete:

FROM	TO	MEA
Tulsa, Okla VOR	Vinta INT, Okla.	
Via N alter	Via N alter	2600
Vinta INT, Okla.	Neosho, Mo. VOR	
Via N alter	Via N alter	2900
Neosho, Mo. VOR	Bilie INT, Mo.	
Via S alter	Via S alter	3000
Bilie INT, Mo.	Springfield, Mo. VOR	
Via S alter.	Via S alter.	3000
Springfield, Mo. VOR	Vichy, Mo. VOR	
Via N alter.	Via N alter.	3000

§95.6014 VOR FEDERAL AIRWAY 14
is amended to delete:

FROM	TO	MEA
Tulsa, Okla. VOR	*Pryor INT, Okla.	
Via S alter.	Via S alter.	2700
*2900–MRA		
Pryor INT, Okla	Neosho, Mo. VOR	
Via S alter.	Via S alter.	2900

§95.6015 VOR FEDERAL AIRWAY 15
is amended to delete:

FROM	TO	MEA
Sioux City, Iowa VOR	Sioux Falls, S.D. VOR	
Via E alter.	Via E alter.	3700

§95.6017 VOR FEDERAL AIRWAY 17
is amended to delete:

FROM	TO	MEA
Gage, Okla. VOR	Liberal, Kans. VOR	
Via W alter.	Via W alter.	4700
Liberal, Kans. VOR	Garden City, Kans. VOR	
Via W alter.	Via W alter.	4700

§95.6027 VOR FEDERAL AIRWAY 27
is amended to read in part:

FROM	TO	MEA
Newport, OR VORTAC	Astoria, OR VOR	8000

§95.6035 VOR FEDERAL AIRWAY 35
is amended to read in part:

FROM	TO	MEA
Coote INT, FL	Biscayne Bay, FL VOR	2000

§95.6051 VOR FEDERAL AIRWAY 51
is amended to read in part:

FROM	TO	MEA
Ft. Lauderdale, FL VOR	Arkes INT, FL	
Via E alter.	Via E alter.	2000

§95.6063 VOR FEDERAL AIRWAY 63
is amended to read in part:

FROM	TO	MEA
Stevens Point, WI VOR	Wausau, WI VOR	3100

§95.6159 VOR FEDERAL AIRWAY 159
is amended to read in part:

FROM	TO	MEA
Ft. Lauderdale, FL VOR	Arkes INT, FL	2000

§95.6177 VOR FEDERAL AIRWAY 177
is amended to read in part:

FROM	TO	MEA
Madison, WI VOR	Stevens Point, WI VOR	2800
Stevens Point, WI VOR	Wausau, WI VOR	3100

§95.6177 VOR FEDERAL AIRWAY 177
is amended to read in part:

FROM	TO	MEA
Madison, WI VOR	Dells, WI VOR	
Via W alter.	Via W alter.	3200

§95.6185 VOR FEDERAL AIRWAY 185
is amended to read in part:

FROM	TO	MEA
Augusta, GA VOR	Greenwood, SC VOR	2400

§95.6190 VOR FEDERAL AIRWAY 190
is amended to delete:

FROM	TO	MEA
Phoenix, Ariz. VOR	*Jodpr INT, Ariz.	
Via N alter.	Via N alter.	**11000
*13000–MCA Jodpr INT, E-bound		
** 8700–MOCA		
Jodpr INT, Ariz.	St. Johns, Ariz. VOR	
Via N alter.	Via N alter.	*14500
*9700–MOCA		

§95.6198 VOR FEDERAL AIRWAY 198
is amended to read in part:

FROM	TO	MEA
Taylor, FL VOR	*Monia INT, FL	**2000
*6000–MCA Monia INT, E-bound		
**1400–MOCA		
Monia INT, FL	Jacksonville, FL VOR	6000

§95.6243 VOR FEDERAL AIRWAY 243
is amended to read in part:

FROM	TO	MEA
Bowling Green, KY VOR	Renro INT, KY	2500
Renro INT, KY	Clopo INT, KY	3500
Clopo INT, KY	*Apalo INT, IN	**4000
*4000–MRA		
**2000–MOCA		
Apalo INT, IN	*Codey INT, IN	**4000
*4000–MRA		
**2000–MOCA		
Codey INT, IN	*Wegee INT, IN	**4000
*3500–MRA		
**2000–MOCA		
Wegee INT, IN	Lewis, IN VOR	2400

§95.6264 VOR FEDERAL AIRWAY 264
is amended to read in part:

FROM	TO	MEA
Los Angeles, CA VOR	Stabo INT, CA	2500
Stabo INT, CA	Amtra INT, CA	3000
Amtra INT, CA	*Pomona, CA VOR	4500
*5600–MCA Pomona VOR E-bound		
Pomona, CA VOR	*Ravon INT, CA	6000
*11400–MCA Ravon INT E-bound		
Ravon INT, CA	Reans INT, CA	
	W-bound	9000
	E-bound	12800
Reans INT, CA	*Yucca INT, CA	13500
*12000–MCA Yucca INT, W-bound		
*9000–MCA Yucca INT, SE-bound		
Yucca INT, CA	Twenty-nine Palms, CA	*8500
*7700–MOCA		

§95.6267 VOR FEDERAL AIRWAY 267
is amended to read in part:

FROM	TO	MEA
Gremm INT, FL	Jenks INT, FL	
Via E alter.	Via E alter.	2000
Jenks INT, FL	Palm Beach, FL VOR	
Via E alter.	Via E alter.	2500

§95.6293 VOR FEDERAL AIRWAY 293
is amended to read in part:

FROM	TO	MEA
Elko, NV VOR	*Saman INT, ID	10600
*8600–MCA, Saman INT, S-bound		
Saman INT, ID	*Twin Falls, ID VOR	
	N-bound	7200
	S-bound	10600
*6200–MCA Twin Falls VOR, S-bound		

§95.6298 VOR FEDERAL AIRWAY 298
is amended to delete:

FROM	TO	MEA
Yakima, WA VOR	*Paids INT, WA	6000
*5200–MCA Paids INT, W-bound		
Paids INT, WA	Pasco, WA VOR	4000

§95.6298 VOR FEDERAL AIRWAY 298
is amended by adding:

FROM	TO	MEA
Yakima, WA VOR	Suned INT, WA	6000
Suned INT, WA	Benty INT, WA	5000
Benty INT, WA	Pasco, WA VOR	4000

§95.6330 VOR FEDERAL AIRWAY 330
is amended to read in part:

FROM	TO	MEA
Alkal INT, ID	*Kinze INT, ID	8000
*8000 MCA Kinze INT W-bound.		

§95.6345 VOR FEDERAL AIRWAY 345
is amended to read in part:

FROM	TO	MEA
Falen INT, WI	Eau Claire, WI VOR	3000
Eau Claire, WI VOR	Hayward, WI VOR	3500
Hayward, WI VOR	Ashland, WI VOR	*3400
*2700-MOCA		

§95.6386 VOR FEDERAL AIRWAY 386
is amended by adding:

FROM	TO	MEA
Soggi INT, CA	Yucca INT, CA	*11000
*9400-MOCA		
Yucca INT, CA	*Palm Springs, CA VOR	**9000
*7600-MCA Palm Springs VOR NW-bound		
**8200-MOCA		

§95.6484 VOR FEDERAL AIRWAY 484
is amended to read in part:

FROM	TO	MEA
Kinze INT, ID	Twin Falls, ID VOR	7000

§95.6493 VOR FEDERAL AIRWAY 493
is amended to read in part:

FROM	TO	MEA
Menominee, MI VOR	Rhinelander, WI VOR	3400

§95.6495 VOR FEDERAL AIRWAY 495
is amended by adding:

FROM	TO	MEA
Corvallis, OR VOR	*Aldow INT, OR	4000
*5000-MRA		
Aldow INT, OR	Newberg, OR VOR	4000

§95.6502 VOR FEDERAL AIRWAY 502
is added to read:

FROM	TO	MEA
Dodge City, KS VOR	Disk INT, KS	*4500
3600-MOCA		
Disk INT, KS	*Steal INT, KS	**4500
*4000-MRA		
**3300-MOCA		
Steal INT, KS	*Hutchinson, KS VOR	**3200
*4000-MRA		
**3000-MOCA		
Hutchinson, KS VOR	Waive INT, KS	4000
Waive INT, KS	*Floss INT, KS	3300
*5000-MRA		
Floss INT, KS	Emporia, KS VOR	*3300
*2700-MOCA		
Emporia, KS VOR	Desot INT, KS	3000
Desot INT, KS	Napoleon, MO VOR	3000
Napoleon, MO VOR	Lasso INT, MO	2800
Lasso INT, MO	Kirksville, MO VOR	*3000
*2400-MOCA		

§95.6504 VOR FEDERAL AIRWAY 504
is amended by adding:

FROM	TO	MEA
Franc INT, MO	Hypoe INT, MO	4000
Hypoe INT, MO	Jefferson City, MO VOR	2600
Jefferson City, MO VOR	Guths INT, MO	3000
Guths INT, MO	Rappe INT, MO	4000

§95.6505 VOR FEDERAL AIRWAY 505
is added to read:

FROM	TO	MEA
Des Moines, IA VOR	Gumbo INT, IA	2700
		MAA-9000
Gumbo INT, IA	Fort Dodge, IA VOR	3000
		MAA-9000
Fort Dodge, IA VOR	Mason City, IA VOR	3000
Mason City, IA VOR	Freed INT, MN	3000
Freed INT, MN	*Almay INT, MN	**4600
*4600-MRA		
**2600-MOCA		
Almay INT, MN	Prags INT, MN	*4600
*2400-MOCA		
Prags INT, MN	Gopher, MN VOR	3000
Gopher, MN VOR	Grantsburg, WI VOR	3000

§95.6506 VOR FEDERAL AIRWAY 506
is amended by adding:

FROM	TO	MEA
Tulsa, OK VOR	Vinta INT, OK	2600
Vinta INT, OK	Neosho, MO VOR	2900
Neosho, MO VOR	Springfield, MO VOR	3000
Springfield, MO VOR	Vichy, MO VOR	3000

§95.6507 VOR FEDERAL AIRWAY 507
is added to read:

FROM	TO	MEA
Gage, OK VOR	Liberal, KS VOR	4700
Liberal, KS VOR	Garden City, KS VOR	4700

§95.6508 VOR FEDERAL AIRWAY 508
is amended by adding:

FROM	TO	MEA
Hill City, KS VOR	Hays, KS VOR	*4500
*3900-MOCA		
Hays, KS VOR	Glide INT, KS	3900
Glide INT, KS	Salina, KS VOR	*3600
*2800-MOCA		
Salina, KS VOR	*Vasco INT, KS	3000
*5000-MRA		
Vasco INT, KS	Chari INT, KS	3000
Chari INT, KS	Manhattan, KS VOR	3000
Manhattan, KS VOR	Topeka, KS VOR	3000
Topeka, KS VOR	Lawrence, KS VOR	2700
Lawrence, KS VOR	Desot INT, KS	*2700
*2200-MOCA		
Desot INT, KS	Kansas City, KS VOR	2800

§95.6528 VOR FEDERAL AIRWAY 528
is added to read:

FROM	TO	MEA
Phoenix, AZ VORTAC	*Tents INT, AZ	**11000
*13000-MCA Tents INT, E-bound		
**9100-MOCA		
Tents INT, AZ	Payso INT, AZ	*16000
*10000-MOCA		
Payso INT, AZ	St Johns, AZ VORTAC	*13000
*10000-MOCA		

§95.7120 JET ROUTE NO. 120 is amended to delete:

FROM	TO	MEA	MAA
Bethel, AK R215/50	Bethel, AK VORTAC	24000	45000

§95.7120 JET ROUTE NO. 120 is amended by adding:

FROM	TO	MEA	MAA
St Paul Island, AK NDB	Bethel, AK VORTAC	28000	45000

§95.7127 JET ROUTE NO.127 is amended to delete:

FROM	TO	MEA	MAA
Cape Newenham, AK NDB	King Salmon, AK VORTAC	18000	45000

§95.7127 JET ROUTE NO. 127 is amended by adding:

FROM	TO	MEA	MAA
Augin INT, AK	King Salmon, AK VORTAC	18000	45000

§95.7136 JET ROUTE NO. 136 is amended to delete:

FROM	TO	MEA	MAA
Mullen Pass, MT VORTAC	Billings, MT VORTAC	31000	45000

§95.7136 JET ROUTE NO. 136 is amended by adding:

FROM	TO	MEA	MAA
Mullan Pass, ID VORTAC	Helena, MT VORTAC	18000	45000

§95.7591 JET ROUTE NO. 591 is added to read:

FROM	TO	MEA	MAA
Bellingham, WA VORTAC	U.S. Canadian Border	18000	45000

2. By amending Sub-part D as follows:

§95.8005 JET ROUTES CHANGEOVER POINTS

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINTS DISTANCE FROM	
J-4 is added to read:			
Malad City, ID VORTAC	Ft. Bridger, WY VORTAC	32	Malad City
J-120 is amended by adding:			
St. Paul Island, AK NDB	Bethel, AK VORTAC	190	St. Paul Island
J-136 is added to read:			
Mullan Pass, ID VORTAC	Helena, MT. VORTAC	100	Mullan Pass

[FR Doc. 82-17037 Filed 6-23-82; 8:45 am]
BILLING CODE 4910-13-C

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 18, 114 and 143

[T.D. 82-116]

General Provisions; Amendments Relating to Carnets

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document makes conforming amendments to the Customs Regulations relating to the use of carnets. Carnets are international customs documents, backed by an internationally valid guarantee, that may be used for the entry of articles into a country in place of the usual customs documents required. The amendments: (1) Implement an optional provision of the Customs Convention on the A.T.A. Carnet for the Temporary Admission of Goods; (2) reflect the withdrawal of the United States from the Customs Convention on the E.C.S. Carnets for Commercial Samples; (3) clarify the circumstances in which certain merchandise may be taken abroad and returned without formal entry and payment of duty; and (4) correct typographical errors in the regulations relating to carnets.

EFFECTIVE DATE: July 26, 1982.

FOR FURTHER INFORMATION CONTACT: Jerrold O. Worley, Office of Commercial Operations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8607).

SUPPLEMENTARY INFORMATION:

Background

Carnets are international customs documents, backed by an internationally valid guarantee, which may be used for the entry of articles under various customs procedures such as temporary importation and transportation in bond (transit). The carnet is used in place of the usual national customs documentation and guarantees the payment of duties (including taxes and associated penalties) which may become due if the requirements under a particular customs procedure are not satisfied. The existence of a single international document rather than numerous national documents facilitates international commerce.

The carnet guarantee is based on international chains of national guaranteeing associations established in the countries accepting the carnets. The guaranteeing association is jointly and severally liable with the carnet holder for the payment of the sums due in the event of non-compliance with the conditions of the procedures for which the carnet is used.

A notice setting forth the proposed changes was published in the **Federal Register** on October 1, 1981 (46 FR 48235). No comments were received in response to the notice.

Types of Carnets Commonly Used

A.T.A. Carnets. The A.T.A. ("Admission Temporaire-Temporary Admission") carnet is used for the temporary duty-free entry of professional equipment, commercial samples, and advertising material. The use of the A.T.A. carnet allows the traveler or businessman to make customs arrangements in advance and to use a single document for goods which will pass through several different countries. A.T.A. carnets are valid for a period of one year. In the United States, the U.S. Council of the Intenational Chamber of Commerce has been designated by the Customs Service as the United States issuing and guaranteeing organization for A.T.A. carnets.

E.C.S. Carnets. Before the United States withdrew from the Customs Convention on the E.C.S. Carnets for Commercial Samples, effective August 11, 1977, the E.C.S. ("Echantillons Commerciaux-Commercial Samples") carnet was used in the same manner as the A.T.A. carnet, but only for the temporary duty-free entry of commercial samples. E.C.S. carnets were valid for one year. The U.S. Council of the International Chamber of Commerce also had been designated by the Customs Service as the United States issuing and guaranteeing organization for E.C.S. carnets.

T.I.R. Carnets. T.I.R. ("Transport International Routier-International Road Transport") carnets authorize road vehicles, containers, and their contents to transit one or more frontiers without customs inspection at intermediate points and with a minimum of other formalities. Road vehicles and containers transit the country or move from port of entry to final destination with their contents under customs seal. Inspection is accomplished at the final destination. T.I.R. carnets are valid until the end of the transit operation. The Equipment Interchange Association has been designated by the Customs Service as the issuing and guaranteeing association for T.I.R. carnets in the United States.

As a result of certain actions regarding the acceptance and use of carnets within the United States, and to correct typographical errors found in previous amendments to the regulations relating to carnets, Customs is making certain conforming amendments to the Customs Regulations. The following is a list of the changes and the reasons for them:

1. The United States withdrew from the Customs Convention on the E.C.S. Carnets for Commercial Samples effective August 11, 1977. In a General Notice published in the **Federal Register** on August 25, 1977 (42 FR 42851), Customs announced that it would not accept E.C.S. carnets issued after August 10, 1977, for the temporary duty-free admission of commercial samples into the United States. The A.T.A. carnet was designated to replace the E.C.S. carnet for this purpose. Accordingly, modifications to various sections of Part 114, Customs Regulations (19 CFR Part 114), are necessary.

2. At the request of the Secretary General of the Customs Cooperation Council, the United States has elected to exercise the option, under article 3, paragraph 3, of the Customs Convention on the A.T.A. Carnet for the Temporary Admission of Goods, to accept A.T.A. carnets for transit operations, permitting articles covered by A.T.A. carnets to be transported in bond. Therefore, modifications to various sections of Parts 18 and 114, Customs Regulations (19 CFR Parts 18, 114), are necessary.

3. By T.D. 75-41, published in the **Federal Register** on February 13, 1975 (40 FR 6646), section 10.68, Customs Regulations (19 CFR 10.68), was amended to include professional books, implements, instruments, and tools of trade, occupation, or employment, among the types of articles which are permitted to be returned, after having been temporarily taken abroad under cover of an A.T.A. carnet, without formal entry or payment of duty. However, the word "formal" was inadvertently omitted before the word "entry" and this made it appear that all the types of articles listed in section 10.68 could be returned without entry and without payment of duty if either an exportation voucher from an A.T.A. carnet or an application on Customs Form 4455 was filed prior to exportation. It is necessary to amend § 10.68 to: (1) Clarify that in every case either an informal entry or a declaration is still required, and (2) state when each procedure is necessary. Other aspects of § 10.68 were recently amended by T.D. 82-49, published in the **Federal Register** on March 22, 1982 (47 FR 12159).

4. A minor typographical error in § 114.26(c), Customs Regulations (19 CFR 114.26(c)), also requires correction. The typographical error in § 114.12(b), Customs Regulations (19 CFR 114.12(b)),

described in the proposed rule, has already been corrected.

5. Section 114.22(a)(3), Customs Regulations (19 CFR 114.22(a)(3)), as proposed in the notice, is not adopted because the substance of this proposed section is incorporated in redesignated § 114.22(d). Additional minor, nonsubstantive changes are being made to § 114.22(c)(3), Customs Regulations (19 CFR § 114.22(c)(3)), which is being redesignated as § 114.22(d), Customs Regulations (19 CFR 114.22(d)).

Executive Order 12291

Because this document will not result in a regulation which would be a "major rule" as defined in section 1(b) of E.O. 12291, the regulatory impact analysis and review prescribed by section 3 of the E.O. is not required.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to these regulations. For the reasons set forth in the notice of proposed rulemaking, it is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that these regulations will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal authors of this document were Lawrence P. Dunham and Gerard J. O'Brien, Jr., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Federal Register Thesaurus

On January 22, 1981, the Office of the Federal Register published a final rule (47 FR 7162) which requires agencies to identify major topics and categories of persons affected in their regulations by using standard terms established in the Federal Register Thesaurus of Indexing Terms.

Accordingly, the index terms listed below are applicable to this regulatory project:

List of Subjects

19 CFR Part 10

Exports.

19 CFR Part 18

Common carriers, Surety bond, Exports.

19 CFR Part 114

Exports, Trade agreements.

19 CFR Part 143

Imports.

Amendments to the Regulations

Part 10, 18, 114, and 143, Customs Regulations (19 CFR Parts 10, 18, 114, 143), are amended as set forth below.

Approved: June 4, 1982.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

William von Raab,

Commissioner of Customs.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Section 10.68(a) is amended by inserting "formal" between "without" and "entry" in the first sentence and by adding the following between the first and second sentences:

§ 10.68 Procedure.

(a) * * * Articles exported under cover of an A.T.A. carnet (where the carnet serves as the control document) may, in accordance with this paragraph, be returned without entry or the payment of duty. If Customs Form 4455 is utilized, commercial travelers' samples, professional books, implements, instruments, and tools of trade, occupation, or employment may be returned with either an informal entry or a declaration on Customs Form 3299; theatrical scenery, properties, and effects and motion-picture films may be returned only with an informal entry.* * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759, 77A Stat. 14 (19 U.S.C. 66, 1202 (Gen. Hdnte. 11, Tariff Schedules of the United States), 1624))

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

Section 18.1(a) is amended by adding a new paragraph (3) to read as follows:

§ 18.1 Carriers; application to bond.

(a) * * *

(3) Merchandise to be transported from one port to another in the United States under cover of an A.T.A. carnet (see Part 114 of this chapter) shall be delivered to a common carrier or contract carrier bonded for that purpose, but the merchandise thereafter may be transported with the use of other bonded or nonbonded common or contract carriers. The A.T.A. carnet shall be responsible for liability incurred in the carriage of merchandise under the carnet, and the carrier's bond shall be responsible as provided in § 114.22(d) of this chapter.

* * * * *

2. Section 18.2(a) is amended by adding "or A.T.A." after "TIR" in the second sentence and by removing "TIR" from the third sentence.

3. Sections 18.2(c) and 18.4(c)(2) are amended by removing "TIR" from the first sentence of each.

4. Sections 18.5 (c) and (d) are amended by removing "TIR."

5. Section 18.6(d) is amended by removing "TIR" and by inserting "appropriate" between "the" and "guaranteeing" in the first sentence.

6. Section 18.8(e) is amended by substituting "114.22(d)" for "114.22(c)(3)" in the first sentence of subparagraph (2) and by adding a new subparagraph (3) to read as follows:

§ 18.8 Liability for shortage, irregular delivery, on nondelivery; penalties.

* * * * *

(e) * * *

(3) The domestic guaranteeing association shall be jointly and severally liable with the initial bonded carrier for pecuniary penalties, liquidated damages, duties, and taxes accruing to the United States and any other charges imposed as the result of any shortage, irregular delivery, or nondelivery at the port of destination or port of exit of merchandise covered by an A.T.A. carnet. However, the liability of the guaranteeing association shall not exceed the amount of the import duties by more than 10 percent. If an A.T.A. carnet is unconditionally discharged with respect to certain goods, the guaranteeing association will no longer be liable on the carnet with respect to those goods unless it is subsequently discovered that the discharged of the carnet was obtained fraudulently or improperly or that there has been a breach of the conditions of temporary admission or of transit. No claim for payment shall be made more than one year following the date of expiration of the validity of the carnet. The guaranteeing association shall be allowed a period of six months from the date of any claim by the district director in which to furnish proof of the reexportation of the goods or of any other proper discharge of the A.T.A. carnet. If such proof is not furnished within the time specified, the guranteeing association shall either deposit or provisionally pay the sums. The deposit or payment shall become final three months after the date of the deposit or payment, during which time the guaranteeing association may still furnish proof of the reexportation of the

goods to recover the sums deposited or paid.

7. Sections 18.11 (b), (c), (f), and (g), are amended by removing "TIR."

8. Section 18.11(h) is amended by removing "TIR" from the first sentence and by substituting "114.22(d)" for "114.22(c)(3)" in the last sentence.

9. Section 18.12(d) is amended by removing "TIR."

10. Section 18.12(e) is amended by substituting "carnets" for "a TIR carnet."

11. Sections 18.20 (a) and (b) are amended by removing "TIR."

12. Section 18.20(b) is further amended by substituting "see §§18.1(a) (2) and (3))," for "(see §18.1(a)(2),".

13. Sections 18.24 (a) and (b) are amended by removing "TIR."

14. Section 18.25(a) is amended by adding the following at the end of the section:

§ 18.25 Direct exportation.

(a) * * * If an A.T.A. carnet covers the merchandise which is to be exported directly without transportation, the carnet shall be discharged by the certification of the appropriate transportation and reexportation vouchers by Customs officers as necessary.

* * * * *

15. Section 18.26(a) is amended by adding the following at the end of the section:

§ 18.26 Indirect exportation.

(a) * * * If merchandise has been imported under cover of an A.T.A. carnet to be transported in bond to another port for exportation, the appropriate transit voucher shall be accepted in lieu of Customs Forms 7512. One transit voucher shall be certified by Customs officers at the port of importation and a second transit voucher, together with the reexportation voucher, shall be certified at the port of exportation.

* * * * *

(R.S. 251, as amended, secs. 551, 553, 623, 624, 46 Stat. 742, as amended, 759, as amended (19 U.S.C. 66, 1551, 1553, 1623, 1624))

PART 114—CARNETS

1. Part 114 is amended by removing §§ 114.1(e) and 114.2(b) and marking those paragraphs "Reserved."

2. Section 114.22(a) is amended to read as follows:

§ 114.22 Coverage of carnets.

(a) *A.T.A. carnet.* The A.T.A. carnet is acceptable for goods to be temporarily entered, or temporarily entered and transported, under:

(1) The Customs Convention on the Temporary Importation of Professional Equipment, or

(2) The International Convention to Facilitate the Importation of Commercial Samples and Advertising Material, which includes:

(i) Commercial samples, or

(ii) Motion picture advertising films not exceeding 16 mm., consisting essentially of photographs (with or without sound track) showing the nature or operation of products or equipment whose qualities cannot be adequately demonstrated by samples or catalogs. There shall be presented with each carnet covering motion picture advertising films a statement showing how each of the following requirements is met. The films must:

(A) Relate to products or equipment offered for sale or for hire by a person established in the territory of another contracting party;

(B) Be of a kind suitable for exhibition to the public; and

(C) Be imported in a packet which contains not more than one copy of each film and which does not form part of a larger consignment of films.

3. Section 114.22 paragraph (b) is removed and marked "Reserved."

4. Section 114.22(c)(3) is redesignated as § 114.22(d) and is amended to read as follows:

§ 114.22 Coverage of carnets.

* * * * *

(b) [Reserved]

* * * * *

(d) *Excess liability.* When the total of duties and taxes on any shipment covered by a carnet exceeds the amount for which the guaranteeing association is liable, the excess constitutes a charge against the carrier's bond.

5. Section 114.23(a) and the section heading are amended by removing *"and E.C.S."* and "or E.C.S."

6. Sections 114.24, 114.25, 114.26 (a) and (b), 114.34(b) are amended by removing "or E.C.S." wherever it appears.

7. Section 114.26(c) is amended by revising the first sentence to read as follows:

§ 114.26 Discharge, nonacceptance, or cancellation of carnets.

* * * * *

(c) *Nonacceptance or cancellation of TIR carnets.* If a TIR carnet presented to Customs is not accepted, it shall be stamped "Not Taken on Charge" (see § 114.22(c)(2)). * * *

§ 114.32 [Amended]

8. Section 114.32 is amended by substituting "A.T.A." for "E.C.S." in both places.

(R.S. 251, as amended, secs. 484, 553, 624, 46 Stat. 742, as amended, 759 (19 U.S.C. 66, 1484, 1553, 1624))

PART 143—CONSUMPTION, APPRAISEMENT, AND INFORMAL ENTRIES

1. Section 143.21 is amended by removing "and" after the semicolon in paragraph (g), by substituting a semicolon for the period at the end of paragraph (h), by redesignating § 143.21(i) as § 143.21(j), and adding a new § 143.21(i) to read as follows:

§ 143.21 Merchandise eligible for informal entry.

* * * * *

(i) Theatrical scenery, properties, and effects, motion-picture films, commercial travelers' samples and professional books, implements, instruments, and tools of trade, occupation, or employment, as set forth in § 10.68 of this chapter; and

* * * * *

2. Section 143.21 is further amended by substituting the following in chronological order in the citation of authority:

T.D. 75–41, 40 FR 6646, February 13, 1975.

(R.S. 251, as amended, secs. 484, 498, 624, 46 Stat. 722, as amended, 728, as amended, 729 (19 U.S.C. 66, 1484, 1498, 1624))

[FR Doc. 82–17118 Filed 6–23–82; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 505

[Army Reg. 340–21]

Privacy Act of 1974; Personal Privacy and Rights of Individuals Regarding Personal Records

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: The Army hereby adopts exemption rules for Army systems of records A0404.02DAJA, entitled "Courts-Martial Files" and A1012.01DAPE, entitled "Applicants/Students, US Military Academy Prep School".

EFFECTIVE DATE: July 6, 1982.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of The Adjutant General, Headquarters, Department of the Army (DAAG–AMR-

R), Hoffman Building 1, 2461 Eisenhower Avenue, Alexandria, VA 22331; telephone (703) 325–6163.

SUPPLEMENTARY INFORMATION: In FR 14925, April 7, 1982, the Army proposed to delete exemptions pertaining to systems of records A1012.01DAPE, entitled "USMAPS Admissions Files" and A1012.04aDAPE, entitled "USMAPS Training Files" because information was consolidated into system of records A1012.01DAPE, entitled "Applicants/Students, US Military Academy Prep School". Portions of the consolidated system which fall within 5 U.S.C. 552a(k) (5) and (7) were proposed to be exempted from subsection (d) of the Privacy Act.

In 47 FR 20632, May 13, 1982, the Army proposed to add an exemption rule for proposed system of records A0404.02DAJA, entitled "Courts-Martial Files" published on May 13, 1982 at 47 FR 20654.

List of Subjects in 32 CFR Part 505

Privacy.

In that no comments were received concerning these proposed amendments, the rules are adopted as proposed and § 505.9 of 32 CFR is amended by removing Exempted Record Systems A1012bDAPE and A1012.04aDAPE and by adding the following Exempted Record Systems:

PART 505—PERSONAL PRIVACY AND RIGHTS OF INDIVIDUALS REGARDING THEIR PERSONAL RECORDS

§ 505.9 Exemption rules for Army systems of records.

* * * * *

Exempted Record System

(General Exemptions)

ID—A0404.02DAJA

SYSNAME—Courts-Martial Files.

EXEMPTION—All portions of this system which fall under Title 5 U.S.C. 552a(j)(2) are exempt from the following provisions of Title 5 U.S.C. 552a: (d)(2), (d)(3), (d)(4), (e)(2), (e)(3), (e)(4)(H), and (g).

AUTHORITY: Title 5 U.S.C. 552a(j)(2).

REASONS—Courts-martial files are exempt because a large body of existing criminal law governs trials by court-martial to the exclusion of the Privacy Act. The Congress recognized the judicial nature of court-martial proceedings and exempted them from the Administrative Procedures Act by specifically excluding them from the definition of the term "agency" (Title 5 U.S.C. 551(1)(F)). This definition is applicable to the Privacy Act (Title 5 U.S.C. 552a(1)). Substantive and procedural law applicable in trials by court-martial is set forth in the Constitution, the Uniform Code of Military Justice (UCMJ), Manual for Courts-Martial, United States, 1969 (Revised edition), and the decisions of the U.S. Court of Military Appeals and Courts of Military Review. The right of the accused not to be compelled to be a witness against himself and the need to obtain accurate and reliable information with regard to criminal misconduct necessitate the collection of information from sources other than the individual accused.

Advising the accused or any other witness of the authority for collection of the information, the purpose for which it is to be used, whether disclosure is voluntary or mandatory, and the efforts on the individual of not providing the information would unnecessarily disrupt and confuse court-martial proceedings. It is the responsibility of the investigating officer or military judge to determine what information will be considered as evidence. In making the determination, the individual's rights are weighed against the accused's right to a fair trial. The determination is final for the moment and the witness' failure to comply with the decision would delay the proceeding and may result in prosecution of the witness for wrongful refusal to testify.

In a trial by court-martial, the accused has a unique opportunity to assure that his record is accurate, relevant, timely, and complete as it is made. He has the right to be present at the trial, to be represented by counsel at general and special courts-martial, and to consult with counsel in summary courts-martial, to review and challenge all information before it is introduced into evidence, to cross-examine all witnesses against him, to present evidence in his behalf and in general and special courts-martial, to review and comment upon the record of trial before it is authenticated. Procedures for correction of the record are controlled by paragraphs 82, 86, and 95, Manual for Courts-Martial, 1969 (Revised edition). After completion of appellate review, the record may not be amended. Article 76 of the Uniform Code of Military Justice (10 U.S.C. 876) provides that the proceedings, findings, and sentences of courts-martial as approved, reviewed or affirmed are final and conclusive and binding upon all departments, courts, agencies, and officers of the United States subject only to action upon a petition for new trial (Article 73, UCMJ), action by the Secretary concerned (Article 74, UCMJ), and the authority of the President.

* * * * *

Exempted Record System

(Specific Exemption)

ID—A1012.01DAPE

SYSNAME—Applicants/Students, US Military Academy Prep School.

EXEMPTION—Parts of this system which fall within 5 U.S.C. 552a(k) (5) and (7) are exempted from subsection (d) of Title 5 U.S.C., section 552a.

AUTHORITY—5 U.S.C. 552a(k) (5) and (7).

REASONS—It is imperative that the confidential nature of evaluation material on individuals, furnished to the US Military Academy Preparatory School under an express promise of confidentiality, be maintained to insure the candid presentation of information necessary in determinations involving admission to or retention at the US Military Academy Preparatory School and subsequent admission to the United States Military Academy and suitability for commissioned military service.

* * * * *

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

June 21, 1982.

[FR Doc. 82-17126 Filed 6-23-82; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 3

[CGD 82-038]

Coast Guard Areas, Districts, Marine Inspection Zones, and Captain of the Port Zones.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This document amends the latitude coordinates codified in 33 CFR Part 3, which establish a boundary separating the Los Angeles-Long Beach Marine Inspection Zone and Captain of the Port Zone from the San Diego Marine Inspection Zone and Captain of the Port Zone. The present latitude coordinates are incorrect. This document amends 33 CFR Part 3 to reflect the proper latitude coordinates.

EFFECTIVE DATE: This rule becomes effective on June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Ens. R. B. Strobridge, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, 2100 2nd Street S.W., Washington, D.C. 20593, (202) 426–4958.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are Ensign R. B. Strobridge, Project Manager, and Lieutenant Mark Hanlon, Project Attorney, Office of Chief Counsel.

SUPPLEMENTARY INFORMATION: Notice of proposed rulemaking has been omitted for good cause. This amendment to 33 CFR Part 3 corrects an inadvertent error made in the publication of latitude coordinates. Notice of proposed rulemaking is unnecessary since the effects of this document are purely editorial.

In the **Federal Register** dated Monday, December 30, 1974, on page 44980, amendments were published to revise the description in 33 CFR Part 3 of the two Captain of the Port Zones and the two Marine Inspection Zones of the Eleventh Coast Guard District. However, when these amendments were published in the **Federal Register** (and subsequently in 33 CFR Part 3), one of the latitude coordinates describing the boundary between the two Captain of the Port Zones and the two Marine Inspection Zones was incorrect. The latitude coordinate for San Mateo Point of 32°22.5'N. referred to in Parts 3.55–10(b) and 3.55–15(b) should read 33°22.5'N. The present error in latitude results in a charted error for San Mateo Point of sixty (60) nautical miles south of its actual position.

This action corrects the latitude coordinate identifying San Mateo Point, California in 33 CFR 3.55–10(b) and 3.55–15(b).

Regulatory Evaluation: This amendment has been reviewed under the provision of Executive Order 12291, and under DOT Order 2100.5, dated May 5, 1980, and has been determined to be non-major and non-significant since this change is purely editorial and will have no economic impact.

In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this rule will not have a significant economic impact on a substantial number of small entities since this change is purely editorial and will have no economic impact.

List of subjects in 33 CFR Part 3

Marine safety.

PART 3—COAST GUARD AREAS, DISTRICTS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT ZONES

In consideration of the foregoing, Part 3 of Title 33, Code of Federal Regulations is amended as follows:

§ 3.55–10 [Amended]

1. In 33 CFR 3.55–10(b), the latitude coordinate for San Mateo Point is amended by changing the reference in the last sentence from "32°22.5'N." to "33°22.5'N.".

§ 3.55–15 [Amended]

2. In 33 CFR 3.55–15(b), the latitude coordinate for San Mateo Point is amended by changing the reference from "32°22.5'N." to "33°22.5'N.".

(5 U.S.C. 552; 14 U.S.C. 93; 14 U.S.C. 633; 49 U.S.C. 1655(b); 49 CFR 1.45, 1.46)

Dated: June 11, 1982.

B. F. Hollingsworth,

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

[FR Doc. 82–16792 Filed 6–23–82; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD 09–82–18]

Queen Beatrix Regatta, Special Local Regulation

June 14, 1982.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard will establish a regulated area in Lake Macatawa on June 26, 1982. This action is required to permit the conducting of an approved marine event. It is intended to restrict vessel navigation in the Lake Macatawa area for the safety of the spectators and participants in the event.

EFFECTIVE DATE: This amendment will be effective only on June 26, 1982.

FOR FURTHER INFORMATION CONTACT: MSTC Bruce Graham, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522–4420.

SUPPLEMENTARY INFORMATION: Since there is insufficient time to publish a proposed rule before the date of the event this regulation is published as a final rule and will become effective in less than 30 days.

Drafting Information: The principal persons involved in drafting this rule are MSTC Bruce Graham, Project Officer, Office of Search and Rescue, and LCDR Michael Gentile, Project Attorney, Legal Office, Ninth Coast Guard District.

Discussion of Comments: None was received due to the previously mentioned lack of time for a proposed rule.

Summary of Final Evaluation: The Queen Beatrix Regatta will be conducted on Lake Macatawa on 26 June 1982. This event will have an estimated 1400 vessels which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (Officer-in-Charge, U.S. Coast Guard Station, Holland, MI).

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the duration of the regulated area is short. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 USC 601 et. seq.), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to insure the protection of life and property in the area during the event.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

In consideration of the foregoing, Part 100 of Title 33 Code of Federal Regulations, is amended by adding the following section:

§ 100.35–0918 Lake Michigan/Lake Macatawa, Holland, MI.

(a) The following area will be closed to commercial vessel navigation or anchorage from 10:00 a.m. (local time) until 7:00 p.m. on 26 June 1982.

(1) The Lake Macatawa Channel Entrance and Lake Macatawa.

(b) No vessel may close to within 100 yards of the U.S. Coast Guard Cutter ACACIA while she is underway in Lake Macatawa and Lake Macatawa Channel Entrance.

(c) The Lake Macatawa Channel Entrance will be closed to all vessel traffic while the U.S. Coast Guard Cutter ACACIA is in the channel maneuvering to moor.

(d) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the patrol, in the performance of their assigned duties.

(e) A sucession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(f) This § 100.35–0918 will become effective at 10:00 a.m. (local time) on 26 June 1982 and will no longer be effective after 7:00 p.m. on 26 June 1982.

(Sec. 1, 35 Stat. 69 as amended, Sec. 6(b)(1), 80 Stat. 937; 46 USC 454; 49 USC 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b))

Dated: June 9, 1982.

J. R. Kirkland,

Captain, U.S. Coast Guard, Acting Commander, Ninth Coast Guard District.

[FR Doc. 82-16790 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD 08-82-01]

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, Algiers Alternate Route, Louisiana

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Plaquemines Parish Commission Council and the Louisiana Department of Transportation and Development, the Coast Guard is changing the regulations governing the State Route 23 lift span bridge across the Gulf Intracoastal Waterway (GIWW), Algiers Alternate Route, mile 3.8, Belle Chasse, Plaquemines Parish, Louisiana. The bridge is a semi-high rise, with a vertical clearance of 40 feet in the closed position, and now is required to open on signal at any time. The change will require that, Monday through Friday except holidays, the draw need not open for the passage of vessels from 3:30 P.M. to 5:30 P.M. This action is being taken to relieve overland traffic congestion during the peak afternoon vehicular traffic period, while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment is effective on July 26, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph Irico, Chief, Bridge Administration Branch, Eighth Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130—(504) 589–2965.

SUPPLEMENTARY INFORMATION: On 8 April 1982, the Coast Guard published a proposed rule (47 FR 15146) concerning this amendment. The Eighth Coast Guard District also published this proposal as a Public Notice dated 8 April 1982. Interested persons were given until 23 May 1982 to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Joseph Irico, Project Manager, District Operations Division, and Steve Crawford, General Attorney, District Legal Office.

Discussion of Comments

No comments were received from navigational interests. Two comments were received from non-navigational interests, offering no objections.

The regulatory change (closing the bridge to navigation 3:30 P.M. to 5:30 P.M., Monday through Friday excluding holidays) has been in effect on a trial basis since 27 March 1981. Data obtained during the trial period show that the change provides relief to overland peak traffic, while still meeting the reasonable needs of navigation.

These final regulations have been reviewed under provisions of Executive Order 12291 and have been determined not to be a major rule. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 22 May 1980). An economic evaluation has not been conducted since the impact is expected to be minimal for the reasons discussed above. In accordance with section 605(d) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 33—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new § 117.536 to read as follows:

§ 117.536 GIWW, Algiers Alternate Route, mile 3.8, Belle Chasse, Louisiana.

The draw shall open on signal except that from 3:30 P.M. to 5:30 P.M., Monday through Friday excluding holidays, the draw need not open for the passage of vessels.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: June 10, 1982.

W. H. Stewart,

Rear Admiral, Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 82-17117 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 162

[CGD 82-039]

Inland Waterways Navigation Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This document amends portions of Part 162 of Title 33, Code of Federal Regulations, which cite obsolete nautical charts. These citations of specific charts have, in the past, served to identify certain bodies of navigable water in Alaska; however, subsequent to their citation in 33 CFR Part 162 the charts have become obsolete. This action amends Part 162 by deleting references to specific nautical charts, thereby avoiding any possible confusion, and eliminating the need for future amendment should the charts again be changed.

EFFECTIVE DATE: This amendment becomes effective on June 24, 1982.

FOR FURTHER INFORMATION CONTACT: ENS R. B. Strobridge, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, 2100 2nd Street SW., Washington, D.C. 20593, (202) 426–4958.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are Ensign R. B. Strobridge, Project Manager and Lieutenant Mark Hanlon, Project Attorney, Office of Chief Counsel.

SUPPLEMENTARY INFORMATION: Notice of proposed rulemaking has been omitted for good cause. This amendment to 33 CFR Part 162 is editorial in nature and does not effect any substantive change in the regulations. Therefore, a notice of proposed rulemaking is unnecessary.

The paragraphs in Part 162 of Title 33, Code of Federal Regulations, which contain the citations of obsolete charts are §§ 162.240(a), 162.250(a), and 162.255(a)(1). These paragraphs serve to aid in identifying three bodies of navigable water located in Alaska known as "Tongass Narrows", "Port Alexander", and "Wrangell Narrows", respectively. However, these charts are no longer available due to cancellation, replacement, or assignment of new chart numbers.

This action deletes references to specific nautical charts found in 33 CFR

162.240(a), 162.250(a), and 162.255(a)(1). The amendment affects only chart references. The geographic reference to "Port Alexander" has been modified to eliminate the need for a specific chart reference.

REGULATORY EVALUATION: This amendment has been reviewed under the provision of Executive Order 12291, and under DOT Order 2100.5, dated May 5, 1980, and has been determined to be non-major and non-significant since the amendment is editorial with no substantive effect.

In accordance with § 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this rule will not have a significant economic impact on a substantial number of small entities since the change is only editorial in nature.

List of Subjects in 33 CFR Part 162

Navigation (water), Waterways (inland).

PART 162—INLAND WATERWAYS NAVIGATION REGULATIONS

In consideration of the foregoing, Part 162 of Title 33, Code of Federal Regulations, is amended as follows:

1. By amending § 162.240(a) as follows:

§ 162.240 Tongass Narrows, Alaska; navigation.

(a) Definitions. The term "Tongass Narrows" includes the body of water lying between Revillagigedo Channel and Guard Island in Clarence Strait.

* * * * *

2. By amending § 162.250(a) as follows:

§ 162.250 Port Alexander, Alaska; speed of vessels.

(a) Definition. The term "Port Alexander" includes the entire inlet from its head to its entrance from Chatham Strait.

* * * * *

3. By amending § 162.255(a)(1) as follows:

§ 162.255 Wrangell Narrows, Alaska; use, administration, and navigation.

(a) Definitions. (1) The term "Wrangell Narrows" includes the entire body of water between Wrangell Narrows North Entrance Lighted Bell Buoy 63 and Midway Rock Light.

* * * * *

[(33 U.S.C. 1223); 46 CFR 1.46(n)(4)]

Dated: June 14, 1982.

B. F. Hollingsworth,

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

[FR Doc. 82-16791 Filed 6-23-82, 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual; Miscellaneous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby describes the numerous miscellaneous revisions consolidated in the Transmittal Letter for Issue 9 of the Domestic Mail Manual (DMM), which is incorporated by reference in the Federal Register, 39 CFR 111.1.

Some of the revisions are minor, editorial, or clarifying. Substantive changes, such as the acceptance times for Express Mail Next Day Service or the new procedures for refusing or terminating lockbox or caller service, have previously been published in the Federal Register both in the proposed rule and the final rule stages.

EFFECTIVE DATE: May 1, 1982.

FOR FURTHER INFORMATION CONTACT: Paul J. Kemp, (202) 245-4638.

SUPPLEMENTARY INFORMATION: The Domestic Mail Manual, which is incorporated by reference in the Federal Register (see 39 CFR 111.1), has been amended by the publication of a transmittal letter for Issue 9, dated May 1, 1982. The text of all published changes is filed with the Director of the Federal Register. Subscribers to the Domestic Mail Manual receive these amendments automatically from the Government Printing Office.

The following excerpt from the Summary of Changes section of the transmittal letter for Issue 9 covers the minor changes not previously described in interim or final rules published in the Federal Register.

Summary of Changes

Note.—Issue 9 contains all DMM revisions published between January 28, 1982, and April 29, 1982.

1. Exhibit 113.66 is revised to clarify language and to conform to current revisions in Postal Operations Manual, chapter 3.

2. * * *

3. Section 122.442 is revised to allow members of the U.S. Senate to use the simplified form of address on franked mail (PB 21340, 2-25-82).

4. Exhibit 125.2 is revised to update conditions of mailing to military post offices.

5. * * *

6. Section 137.231 is revised to update the list of U.S. Government offices authorized to use federal government mailing privileges.

7. * * *

8. Section 144.13 is revised to correct the name of an authorized meter manufacturer (PB 21343, 3-18-82).

9. Sections 144.342*d* and 144.92*d* are revised to apply to electronic postage meters used in the Computerized Remote Postage Meter Resetting System (PB 21340, 2-25-82).

10. Sections 145.5*g* and 145.93 are added to explain the use of the permit imprint on Western Union Mailgram envelopes (PB 21349, 4-29-82).

11. Section 159.442 is revised and 159.443 is added to provide instructions for handling unidentified money orders found loose in the mail (PB 21337, 2-4-82).

12. Section 159.49 is added to require that Federal government property found loose in the mail be returned to the Federal supply system, under specified conditions (PB 21341, 3-4-82).

13. Sections 222.2, 223.3, and 224.4, and subchapter 230 are revised to clarify service guarantees for Express Mail (PB 21344, 3-25-82).

14. * * *

15. Sections 411.1*b* and 467.111 are revised to specify that only one piece rate is applicable to firm packages of second-class mail, regardless of whether individually addressed copies or unaddressed copies are in the package (PB 21346, 4-8-82).

16. * * *

17. * * *

18. Sections 448.4 and 448.5 are revised to include new reporting requirements for publishers mailing at second-class rates (PB 21336, 1-28-82).

19. Section 621.3 is revised to clarify conditions under which computer printed material may be mailed as third-class mail (PB 21341, 3-4-82).

20. Section 651.211*b*(2) is revised to conform to maximum size standards for third-class carrier route presort level rate mail as stated in 622.11*c* (PB 21340, 2-25-82).

21. Part 911 is revised as follows (PB 21342, 3-11-82):

(a) Section 911.12 is revised to emphasize that items mailed in business reply envelopes may not be registered (PB 21342, 3-11-82).

(b) Sections 911.254, 911.261, and 911.262 are deleted and replaced by new sections 911.254, 911.261, and 911.262 to provide instructions on handling articles

presented for registration with underdeclared values, to clarify procedures for handling materials presented for registration, and to clarify indemnity provisions on registered mail sent by authorized government agencies.

(c) Section 911.5 is added to provide instructions for filing inquiries regarding uninsured registered mail.

22. Part 951 is revised as follows (PB 21343, 3–18–82):

(a) Sections 951.121, 951.4 and 951.5 are revised to clarify the meanings of the terms *boxholder* and *customer*.

(b) Section 951.131 is revised to modify procedures for accepting applications for lockbox service.

(c) Sections 951.132 and 951.133 are combined and new section 951.133 is added to permit service for boxholders to be transferred between stations or branches of the same post office.

(d) Section 951.152*b* is revised to correct a typographical error and to clarify that Form 1532, *Semiannual Check of Overflow Mail*, is used only for boxes which have an overflow.

(e) Exhibit 951.152 is deleted.

23. Section 952.133 is renumbered, and sections 952.14, 952.15, and 952.16 are revised to modify procedures for accepting applications for caller service (PB 21343, 3–18–82).

24. * * *

25. Editorial revisions are made in the Table of Contents, to include E–COM service, and in sections 122.642, 144.348, 146.121, 152.75, 468.32, 667.132*e*, and 723.21 to correct printing errors.

26. Sections 141.1, 141.2, and 142.1 are revised to include current rates for precanceled stamped envelopes and other postage (PB 21350, 5–6–82).

27. Note: Phased rates which will be effective at 12:01 a.m., July 6, 1982, are included in section 411.322 and exhibit 711.4, along with current rates which are effective until that date.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

In consideration of the foregoing, 39 CFR 111.3 is amended by adding at the end thereof the following:

§ 111.3 Amendments to the Domestic Mail Manual.

* * * * *

Transmittal letter for issue	Dated	Federal Register publication
9	May 1, 1982	47 FR ———

(5 U.S.C. 552(a); 39 U.S.C. 401, 407, 408, 3001–3011, 3201–3218; 3403–3405, 3601, 3621; 42 U.S.C. 1973 cc–13, 1973 cc–14)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 82-17072 Filed 6-23-82; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[A-4-FRL 2079-1]

Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; Tennessee: Approval of Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today announcing approval of several State Implementation Plan (SIP) revisions submitted by the State of Tennessee. These revisions involve changes and additions to the regulatory and the non-regulatory parts of the Tennessee rules and include general alternate emission standards, review of new stationary sources, nonattainment redesignations, Standards of Performance for New Stationary Sources, control of Volatile Organic Compounds (VOC) and other miscellaneous changes.

EFFECTIVE DATE: This action will be effective on August 23, 1982, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to Raymond S. Gregory of EPA, Region IV's Air Programs Branch (see address below). Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Library Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005

Library, Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365

Tennessee Air Pollution Control, Metropolitan Health Department, Nashville-Davidson County, 311 23rd Avenue, North, Nashville, Tennessee 37203

FOR FURTHER INFORMATION CONTACT: Mr. Raymond S. Gregory, Air Programs Branch, EPA Region IV, at the above listed address and phone 404/881–3286 or FTS 257–3286.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to announce action on a series of revisions and additions to the Tennessee implementation plan dealing with various requirements of the Clean Air Act. EPA today approves these various revisions to the Rules of the Tennessee Department of Public Health as they were adopted by the Tennessee Air Pollution Control Board.

1200–3–1–.02, Severability, states that a judgment which invalidates any portion of 1200–3 will not affect any other part of 1200–3. (Submitted October 15, 1979).

1200–3–2–.01, Definitions were amended as follows:

1. Paragraph (z): Malfunction, was deleted and replaced by a definition which excludes failures caused by preventable upset condition or equipment breakdown; (aa), Modification, was deleted and replaced by a definition which added a stipulation that exceptions to the changes must be proven by the owner or operator, and verified by the Technical Secretary; and definition (hhh) for excess emissions was added. (Submitted June 13, 1979).

2. Paragraphs (kkk) and (lll) defining silicon carbide plant and magnetic processing plant, respectively, were added. (Submitted October 15, 1979).

3. Paragraph (nnn) defining RACT was added. (Submitted February 19, 1980).

4. Paragraph (g) defining best available control technology (BACT) was deleted and replaced by a rule which explains the BACT limitation criteria, which hold BACT emissions to standards set in Chapters 1200–3–11 (Hazardous Air Contaminants) and 1200–3–16 (New Source Performance Standards), and which describes the Technical Secretary's authority to prescribe alternate control application. (Further clarification of this definition as it applies to PSD will be made with approval of Tennessee's PSD Plan.) Paragraph (j) defining construction was amended to include the word "or modification." A sub-part (IV) was added to part 2 of subparagraph (aa) (modification) exempting required fuel changes. A part 4 was added to

subparagraph (aa) which stated that the definition of "major modification" under the Prevention of Significant Deterioration regulation (PSD) would take precedence in PSD issues. Paragraphs (iii), (jjj), and (mmm) were added, defining liquid sulfur dioxide plants, pellet plants and mine shaft heaters, respectively. (Submitted October 25, 1979).

5. Paragraph (ll) defining person was deleted and replaced. (Submitted December 9, 1981).

6. Paragraphs (ooo) through (uuu) were added giving definitions for recovery furnace stack, total reduced sulfur, lime kiln, smelt dissolving tank, digester system, black liquor solids and multiple effect evaporator system, respectively. (Submitted January 22, 1982).

1200–3–3–.05 on achievement of ambient air standards has been revised to specify new attainment dates for some pollutants. July 1, 1975, remains the attainment date for nitrogen dioxide, total suspended particulates (TSP) and sulfur dioxide (SO_2), except for TSP and SO_2 areas identified in Chapter 1200–3–19 which have until December 31, 1982. The new standard for lead is to be achieved by October 31, 1981. Standards for ozone and carbon monoxide have to be met by December 31, 1982, except for those areas given an extension to December 31, 1987. Table 1 of this rule was modified to reflect the revised ozone limit of 0.12 ppm and to include the lead standard. (Submitted October 25, 1979).

1200–3–4–.02, Open Burning Prohibited, has been rewritten to specifically prohibit open burning in areas within one-half mile of a TSP nonattainment area. (Submitted June 13, 1979).

1200–3–4–.04–(8) relating to permits for open burning has a sentence added which forbids permits for any burning within one-half mile of a TSP nonattainment area. (Submitted June 13, 1979).

1200–3–4–.04–(9) on permit requirements was renumbered to 1200–3–4–.04–(10). A new paragraph (9) was added which states that anyone seeking an open burning permit after March 1, 1978, will be subject to the applicable provisions of 1200–3–9–.01–(4) concerning construction permits and the prevention of significant air quality deterioration. (Submitted October 25, 1979).

Rule 1200–3–5–.01–(4) on general standards was added to require major stationary sources seeking construction permits, as identified in 1200–3–9–.01–(4), to comply with visible emissions standards set pursuant to 1200–3–9. (Submitted October 25, 1979).

1200–3–5–.07 which restricts visible emissions from certain wood fired fuel burning equipment to a reading of two on the Ringelmann Chart, or 40% opacity for five minutes in a one-hour period was added. (Submitted June 13, 1979).

1200–3–5–.08 was added to regulate visible emissions from titanium dioxide manufacturing sources constructed prior to July 1, 1975 to a limit of 80% opacity. The rule also sets requirements for compliance tests to show that such sources meet particulate emission limits. (Submitted January 22, 1982).

1200–3–5–.10 was amended to offer certain sources an opportunity to elect an alternative visible emission standard. The alternative standard allows a maximum of twenty (20) percent opacity (6 minute average) except for one six-minute period per one (1) hour but not more than twenty-four (24) minutes in any twenty-four (24) hour period. (Submitted August 26, 1981).

1200–3–6–.01 on general non-process emissions had added to paragraph (2) a new section on additional emission standards for certain sources in nonattainment areas, as designated in Chapter 1200–3–19. A new paragraph (7) has been added which allows setting an emission limit more restrictive than existing ones, by mutual agreement of the source operator and the Technical Secretary, as a special permit condition, violation of which would be grounds for revocation. (Submitted June 13, 1979).

1200–3–6–.01 was also modified by deleting the word "particulate" from its title and from paragraphs (1) and (3). (Submitted October 25, 1979).

1200–3–6–.01–(5) dealing with fuel modification was amended by deleting the words "particulate matter." Also, sentences were added which exempt sources described in 1200–3–9–.01–(4) covering construction permits, from the provisions of this paragraph, but which still holds sources to the allowable emissions unless BACT is required. (Submitted October 25, 1979).

1200–3–6–.01–(6), which stated that fuel switching ordered by the Department of Energy would not be considered a modification, was deleted. (Submitted October 25, 1979).

1200–3–6–.02–(c), which was added in the June 13, 1979, submittal and which obligates new or modified non-process sources located in or impacting a nonattainment area to comply with 1200–3–9–.01–(f) (growth policy) before receiving a permit, was renumbered to 1200–3–6–.01–(6). (Submitted October 25, 1979).

1200–3–6–.01–(8) is a new section which directs all sources identified in 1200–3–9–.01–(4) (major stationary source) to comply with standards set in Chapter 1200–3–9 on construction and operating permits. (Submitted October 25, 1979).

1200–3–6–.04 concerning nitrogen oxides and their emission standards for new air contaminant sources was repealed in its entirety. (Submitted February 6, 1979).

1200–3–6–05–(1), which lists emission standards for wood fired fuel burning equipment in operation before March 1, 1978, was amended by adding paragraph (d), which lists a limit of 0.56 grains of particulate matter per dry standard cubic foot of exhaust gases, corrected to 12% carbon dioxide for fuel burning equipment up to and including 50 million BTU per hour located in counties identified in paragraph 1200–3–6–.05–(8) on applicability, and by adding paragraph (e), which states that the allowable limit for wood fired fuel burning equipment between 50 million and 100 million BTU per hour heat input and located in these counties is that determined by linear interpolation between the emission values in paragraphs (d) (above) and existing paragraph (b) (which requires a limit of 0.300 grains of particulate matter per dry standard cubic foot of exhaust gases, corrected to 12% carbon dioxide for fuel burning equipment of 100 million BTU heat input or more). (Submitted June 13, 1979).

1200–3–6–.05–(8) which concerns applicability of the rule for wood fired fuel burning equipment was deleted and replaced in its entirety. Paragraph (8) specifies for which counties in Tennessee various particulate emission limitations apply for wood fired fuel burning equipment. (Submitted June 13, 1979).

1200–3–6–.05–(9)(d) which specifies applicability for the regulations concerning wood fired fuel burning equipment was amended by adding Bradley, Franklin, Henry, McMinn, Polk, Rutherford, Scott, Weakley and White (Submitted June 13, 1979), Loudon (Submitted November 23, 1979), and Sumner (Submitted October 25, 1979) Counties to the list of counties (subparagraph (d)) for which the emission limits in paragraphs (1)–(d) and (1)–(e) apply.

1200–3–7–.01 on general process particulate emission standards had an addition to paragraph (2), which concerns more stringent emission standards for sources in nonattainment areas. The addition states that the Tennessee Air Pollution Control Board has noted such violations in counties identified in Chapter 1200–3–19 as

nonattainment areas, and has set standards which are found in that chapter. (Submitted June 13, 1979).

1200–3–7–.01–(5) contains a new paragraph which allows the setting of more stringent emission limits as a condition for permitting. (Submitted June 13, 1979).

1200–3–7–.03 concerning new processes had a new paragraph (3) added which states that all sources located in or impacting a nonattainment area shall comply with the standards set in 1200–3–9–.01–(5), Growth Policy, prior to receiving a construction permit. (Submitted June 13, 1979).

1200–3–7–.03–(4) was added, which states that the major stationary sources identified in 1200–3–9–.01–(4) dealing with PSD shall comply with the standards set in Chapter 1200–3–9, superseding those in 1200–3–7. (Submitted October 25, 1979).

1200–3–7–.08 relating to specific process emission standards had several paragraphs deleted. The State repealed 1200–3–7–.08–(2)–(b) concerning new nitric acid plants, and 1200–3–7–.08–(4) concerning new portland cement plants. New source performance standards (NSPS) replaced the previous regulations for new plants. (Submitted January 22, 1982).

1200–3–7–.10 is a new rule on grain loading limit for certain existing sources. It establishes conditions for a certificate of validation to be issued by the Technical Secretary, as well as the procedures by which a certificate may be revoked. (Submitted June 13, 1979). One source applied for and received a certificate of validation allowing a higher emission limit. The related source operating permits were submitted by Tennessee. (Submitted November 5, 1981).

1200–3–7–.11 is a new rule governing carbon monoxide from electric furnaces in Knox County which sets a limit of 18.0 pounds of carbon monoxide per ton of metal produced. (Submitted October 15, 1979).

1200–3–8–.01 relating to fugitive dust had paragraph (2) modified changing the reference of Rule "1200–3–10–.03" to "1200–3–20." The requirements of 1200–3–10–.03 were moved to 1200–3–20 (Limits on Emission Due to Malfunctions, Startups, and Shutdowns). (Submitted January 22, 1982).

1200–3–8–.01, Fugitive Dust, was revised to include a new paragraph (4) which compels all sources identified in 1200–3–9–.01–(4) (PSD) to comply with standards in 1200–3–9 (Construction and Operating permits). (Submitted October 25, 1979).

1200–3–8–.02 is a new rule entitled Special Nonattainment Area Fugitive Dust Requirements. It specifies that fugitive dust sources in the Tennessee nonattainment areas identified in 1200–3–19–.03 are required to comply with the growth policy standards in 1200–3–9–.01–(5) before they may obtain a construction permit. (Submitted June 13, 1979).

1200–3–9–.01 covering construction permits was amended by adding a sentence to paragraph (2) which says that the major stationary sources identified in 1200–3–9–.01–(4) concerning PSD must apply for a permit at least 120 days prior to the start of construction. (Submitted October 25, 1979).

1200–3–9–.01–(3)–(a) dealing with waivers for construction permits was revised by deleting the last sentence and substituting: "The request for a waiver shall be accompanied by a request for a construction permit on forms available from the Technical Secretary". This insures that the source will receive the application forms as a result of requesting a waiver. (Submitted October 25, 1979).

1200–3–9–.01–(3)–(d) prohibiting waivers for sources emitting hazardous air contaminants was replaced with a new version which omitted a reference to exceptions for major stationary sources identified in 1200–3–9–.01–(4)–(b) which is the definition of "major stationary source" under PSD. (Submitted October 25, 1979).

1200–3–9–.01–(5)–(b)–11 was added which states "Regardless of the specific emission standards contained in this rule, all sources identified in rule 1200–3–9–.01–(4) of these regulations shall comply with the standards set pursuant to rule 1200–3–9–.01–(4) if more stringent." This requires more stringent PSD limits to apply. (Submitted October 25, 1979).

1200–3–9–.05 is a new rule on appeal of permit application denials and permit conditions. This rule sets procedures for filing an appeal and any resulting hearing. (Submitted November 23, 1979).

1200–3–9–.01–(5)–(b)–12 removes the construction restrictions for the Bristol and Jacksboro particulate nonattainment areas for which Part D plans have already been approved. (Submitted August 26, 1981).

1200–3–10–.02–(1) relating to monitoring of emissions was revised by amending subparagraph (c) to include provisions authorizing the Technical Secretary to approve alternate monitoring procedures or additional requirements, requiring the sampling point for continuous emission monitoring to be representative of the concentration of the parameter being monitored at the source emission point. (Submitted October 25, 1979).

1200–3–10–.02–(1)–(f) relating to continuous SO_2 monitoring of fossil fuel-fired steam generators has been amended by deleting parts 2, 3, 5 and 6 (essentially the provisions which were added to 1200–3–10–.02–(1)–(c) above) and renumbering part 4 to be part 2. Also, a new subparagraph (1)–(g) was added which requires the sources that must have a continuous SO_2 monitoring system per 1200–3–12–.04–(3), Monitoring Required for Large Existing Fuel Burning Installations, to have installation and performance testing completed and recordkeeping commenced within twelve months of the effective date of 1200–3–10–.02–(1)–(g). (Submitted October 25, 1979).

1200–3–10–.02–(2) relating to recording and reporting was revised by deleting the first sentence in subparagraph (c) and replacing it with one which referred to Rule 1200–3–12–.04 referenced above, rather than subparagraph 1200–3–14–.02–(1)–(e) under nonprocess emission standards. In 1200–3–10–.02–(2)–(c)–1–(i) concerning reports of continuous emission monitoring data for certain sources, a revision was made to include 3-hour averages. (Submitted October 25, 1979).

1200–3–11–.03–(4) relating to stack testing for beryllium was amended in subparagraph (h) by correcting a reference to **Federal Register**, Volume 38, Number 65 to read Number 66. (Submitted October 15, 1979).

1200–3–11–.05–(8)–(h) relating to measurement of vinyl chloride is amended by adding to parts 1 and 2 another **Federal Register** reference of Volume 41, Number 234, Friday, December 3, 1976, on corrections to standards for vinyl chloride. (Submitted October 15, 1979).

1200–3–12–.02 on procedures for ambient sampling and analysis was deleted and replaced with a new rule that updates the reference for sampling and analysis of nitrogen dioxide from the **Federal Register**, Volume 38, Number 110, dated June 8, 1973, to Volume 41, Number 232, dated December 1, 1976: National Ambient Air Quality Standards—Nitrogen Dioxide Measurement Principles and Calibration Procedures. This rule also establishes a reference for lead sampling and analysis procedures in **Federal Register**, Volume 43, Number 194, dated October 5, 1978: National Primary and Secondary Ambient Air Quality Standards for Lead, and an ozone procedure reference in **Federal Register**, Volume 44, Number 28, Part V, dated February 8, 1979: Revisions to the National Ambient Air Quality Standards for Photochemical Oxidants. The revised rule also omits

the procedure for measuring soiling index. (Submitted February 19, 1980).

1200–3–12–.03 was revised to specify methods of sampling and analysis (a) Sample and Velocity Traverses, (b) Stack Gas Velocity determination, (c) Gas Analysis, (d) Determination of Moisture Content in Stack Gases, (g) Determination of Sulfuric Acid in Stack Gases and (h) Determination of Nitrogen Oxides in Stack Gases. (Submitted November 23, 1979).

1200–3–12–.04 was renamed to "Monitoring Required for Determining Compliance of Certain Large Sources," and a new subparagraph (3) added which requires continuous in-stack sulfur dioxide monitoring subject to paragraph 1200–3–10–.02–(1), monitoring of emissions, for sulfuric acid plants, liquid sulfur dioxide plants, and pellet plants existing on January 1, 1979, in a SO_2 State classified Class I county. (Submitted October 25, 1979).

1200–3–14–.01 was revised in a previous revision concerning sulfur dioxide limitations. Paragraphs (3), (4), and (5) were inadvertently deleted in that revision and are now being added back. (Submitted August 26, 1981).

1200–3–14–.03 had paragraph (1) amended with the addition of a statement that: "different standards and averaging times may be met as an alternative, or as required, where they are specified in Chapter 1200–3–19" (concerning nonattainment areas). (Submitted October 25, 1979).

1200–3–15–.03–(2) was replaced with a new paragraph requiring submittal of an acceptable air pollution episode emissions reduction plan by major sources in or significantly impacting a nonattainment area. (Submitted August 26, 1981).

1200–3–16–.01–(6)–(a) concerning NSPS (General Provisions) had housekeeping changes made to clarify unclear language. (Submitted January 22, 1982).

1200–3–16–.02, Fossil Fuel Fired Generators, had paragraph (1) on applicability amended by adding a subparagraph (b) which exempted facilities covered under 1200–3–16–.02a (as described below) from this rule, and which renumbered the existing subparagraph to (a). (Submitted January 22, 1982).

1200–3–16–.02a was added, which covered all aspects of electric utility steam generating units (NSPS) for which construction commenced after September 18, 1978. (Submitted January 22, 1982).

1200–3–16–.03–(5) on test methods for incinerators had subparagraph (a) amended by adding the word "particulate" after "The sampling time for each". (Submitted September 30, 1981).

1200–3–16–.06–(3) concerning nitric acid plants was corrected by replacing "0.1–(5)" with "0.01–(5)". Also, subparagraph (5)–(a) concerning test methods and procedures was amended by adding "for nitrogen oxides" after "The sampling point" in the first sentence. (Submitted September 30, 1981).

1200–3–16–.08 concerning NSPS for petroleum refineries was amended as follows:

1. Applicability (.08–(1)–(a)) was extended to cover Claus sulfur recovery plants producing more than 20 long tons per day (LTD), while reference to fluid catalytic cracking unit incinerator-waste heat boilers was deleted. A subparagraph (b) was added which reaffirms the April 21, 1976, applicability date for all sources listed in subparagraph (a), with the exception that only Claus plants which begin construction or modification after the effective date of the rule are covered. (Submitted August 26, 1981).

2. Definitions were expanded to include (i) Claus sulfur recovery plant, (j) oxidation control system, (k) reduction control system, and (l) reduced sulfur compounds. (Submitted August 26, 1981).

3. Standards for particulate matter and opacity (.08–(3)–(a)) were changed to allow six (6) minutes of exceedance in any hour of the 30% opacity limit by exhaust gases, compared to three (3) minutes previously. Also, the reference for the incremental rate of particulate emission in subparagraph (3)–(b) was changed from 0.18 g/million calories (0.10 #/MBTU) to units of 43.0 g/MJ (also 0.10 #/MBTU). (Submitted August 26, 1981).

4. The Standard for sulfur dioxide (.08–(5)) had subparagraphs (a) and (b) combined into part (a) and (1), and gained part (a)–(2) which limited emissions to 0.025% SO_2 with incineration in the process, and 0.030% reduced sulfur compounds and 0.010% hydrogen sulfide with no incineration. Subparagraph (b) has been reserved. (Submitted August 26, 1981).

5. Emission monitoring (.08–(6)) had four parts added to subparagraph (a) on continuous monitoring systems to cover continuous monitoring (1) and recording of carbon monoxide (2), hydrogen sulfide from fuel gas combustion devices (3) & (4), sulfur dioxide from Claus plants (5), and hydrogen sulfide and reduced sulfur compounds from Claus plants (6).

The existing system for continuous monitoring of sulfur dioxide from combusted fuel gases had its exception for a continuous monitoring system for hydrogen sulfide changed from a reference to the Technical Secretary to a reference of 1200–3–16–.08–6–(a)–(4). Subparagraph (b) has been reserved, and the previous subparagraphs b, c, and d have been redesignated c, d, and e. Subparagraph (e) on reporting of periods of excess emissions was further modified by including provisions for carbon monoxide reporting (2), specifying the opacity limit of 30% for six minutes over one-hour periods (1), and expanding the criteria for sulfur dioxide (3) to include Claus plants and hydrogen sulfide from devices covered under 1200–3–18–.05–(a)–(1). (Submitted August 26, 1981).

6. Test methods and procedures (.08–(7)) were expanded in several areas. Under subparagraph (a), a new part (1) was added which, in reference to the procedures set in 1200–3–16–.0–(5)–(g), established Method 5 for determining concentration of particulate matter and moisture content, Method 1 for sample and velocity traverses, and Method 2 for velocity and volumetric flow rate. The existing parts (a)–(1) and (2) were renumbered to (2) and (3), and the appropriate reference method was included. Parts (3) to (7) were renumbered to (4) to (8) gaining a reference to Method 10 of 1200–3–16–.01–(5)–(g). In subparagraph, (b) on hydrogen sulfide concentrations at high pressure, a minimum sampling time of 10 minutes was added. In subparagraph (c), concerning compliance with Part 1200–3–16–.08–(5)–(a)–(1), Method 11 was established for determining hydrogen sulfide concentrations, and Method 6 set for determining sulfur dioxide levels, as detailed in Parts (c)–(1) and (c)–(2). A new subparagraph (d) was added, which, in reference to compliance with 1200–3–16–.08–(5)–(a)–(2), reiterated Method 6 for sulfur dioxide concentration and set Method 15 for determining hydrogen sulfide and reduced sulfur compound concentrations. Application of these test procedures was detailed in subparagraphs parts (d)–(1) and (d)–(2). (Submitted August 26, 1981).

7. Minor language changes were made which included in .08–(6)–(a)–7 substituting "paragraph (4) of this rule" for "part 4 above" and in .08–(7)–(a)–2 specifying "for determining the volume of exhaust gases from the" rather than "for exhaust gases from the". (Submitted September 30, 1981).

1200–3–16–.09 was changed to reflect changes to new source performance standard for storage vessels for petroleum liquids (constructed after 6/

11/73, and prior to 5/19/78). (Submitted August 26, 1981).

1200–3–16–.19 on primary aluminum production plants had subparagraph (6)(a) on test methods for fluoride emissions modified by changing the reference procedure from "that in the Federal Register, Volume 41, Number 17, January 26, 1976," to the method in "1200–3–16–.01–(5)–(g)–(15)". (Submitted September 30, 1981).

1200–3–16–.22 on primary zinc smelters was modified by having the word "particulate" added after "The sampling time for each" in subparagraph (7)–(b) for test methods and procedures. (Submitted September 30, 1981).

1200–3–16–.23 on primary lead smelters was modified by having the word "particulate" added after "The sampling time for each" in subparagraph (7)–(b) for test methods and procedures. (Submitted September 30, 1981).

1200–3–16–.24 on Steel Plants: Electric Arc Furnaces was modified by deleting the word "fun" in subparagraph (6)(a) of test methods and procedures and replacing it with "particulate run". In subparagraph (6)(b) the reference to "Part (2)–(a)–3" was corrected to "Part (3)–(a)–3". (Submitted September 30, 1981).

1200–3–16–.25 on ferroalloy production facilities had subparagraph (7)–(a) on test methods and procedures for determining particulate matter concentration and moisture content modified by changing the reference from the "Federal Register, Volume 36, Number 247, December 23, 1971," to "Method 5 in 1200–3–16–.01–(5)–(g)." Subparagraph (7)–(b) was amended by adding the word "particulate" between "each" and "run" in the first sentence (Submitted September 30, 1981).

1200–3–16, NSPS regulations were adopted using EPA guidance for the following source categories: .26 lime manufacturing plants (Submitted September 27, 1979), .27 grain elevators (Submitted November 23, 1979), .28 Kraft Pulp Mills (Submitted October 15, 1979 with minor housekeeping changes submitted on December 9, 1981), .29 Stationary Gas Turbines (Submitted August 26, 1981).

1200–3–18–.01 concerning Control of Volatile Organic Compounds (VOC) was retitled from "Purpose" to "Purpose and General Provisions". Paragraph (2) which allows for mutual agreement between the State and a source for a more restrictive emission limit than specified in Chapter 18 was added. This will enable the use of alternative emission standards or "bubbles". (Submitted January 22, 1982).

1200–3–18–.04–(2)–(a) was replaced with a new subparagraph which as a condition for a certificate of alternate control for volatile organic compound emissions specified that reduction credit would be based on the manufacturing process as it existed on the date the applicable regulation went into effect. The purpose of this change was to allow credit toward compliance by use of process changes. (Submitted August 26, 1981).

1200–3–18–.08 concerning bulk gasoline plants was replaced by a modified rule (Submitted December 9, 1981) which:

1. Deleted reference to " 'API Standard 650—Welded Steel Tanks for Oil Storage', Section 3.6.3. Shell Nozzles or the equivalent as approved by the Technical Secretary," from the definitions of "Bottom Filling" and "Submerged Filling".

2. Exempted Hamilton and Shelby Counties from this rule.

3. Added requirements for submerged filling or bottom filling equipment in paragraph (4).

4. Added requirements for a vapor balance system and a submerged filling system or its equivalent in paragraph (5).

5. Added conditions on transferring gasoline from tank truck or trailer to a stationary tank to include: a vapor balance system; closing of hatches; no leaks throughout the transfer system; and a pressure release limit of no less than 4.8 kPa (0.7 psia) or highest allowable pressure under the applicable fire regulations, for the pressure relief valves.

1200–3–18–.10, Gasoline Service Stations Stage 1, was modified in a new version of this rule. The definition for "Submerged Fill Pipe," subparagraph (1)(c), was altered slightly without changing the six inches from tank bottom requirement. In paragraph (3) in the provisions concerning exemptions, the 2000 gallon limit for storage containers was converted to 7570 liters. A provision was added requiring the containers to be equipped with submerged fill pipes (subparagraph (b)). Also in paragraph (3), Hamilton and Shelby Counties were exempted in subparagraph (c) of this rule, and a limit of 4200 gallons for tank truck servicing facilities was adopted in subparagraph (d). A lower limit of a 2000 gallon tank size was deleted from paragraph (4) which requires controls on the transfer of gasoline from a delivery vessel to a stationary storage tank. (Submitted August 26, 1981).

1200–3–18–.40, which concerns regulations required only in Metropolitan Davidson County, was adopted. Sources located there and emitting more than 1000 tons/year VOC are required to use reasonably available control technology (RACT) (Submitted November 23, 1979).

1200–3–18–.41 on compliance schedules had housekeeping changes made to (1)–(a), (2)–(a), and (3)–(a) specifying regulatory applicability. (Submitted January 22, 1982).

1200–3–18–.42 detailing individual compliance schedules for VOC sources was amended. Paragraph (1) was changed to allow source compliance schedules extending beyond those in 1200–18–3–.41 and "other rules of this Chapter" (1200–3–18). Paragraph (5) was expanded in applicability from categorical compliance schedules to "applicable compliance schedule". (Submitted January 22, 1982).

1200–3–18–.44, Determination of Volatile Content of Surface Coatings, was altered in subparagraph (5)–(a) by changing a reference to subparagraph (5)–(c) to read "paragraph (3) of this rule." In subpart (5)–(b)–1–(ii) the symbol C was changed to Cv. In subpart (5)–(b)–1–(iii) the term "grams/liters" was changed to "grams/liter". In subpart (5)–(b)–2–(ii), the word "convert" was changed to "content". In subpart (5)–(b)–3–(i), a reference to paragraph (e)–(2)–(i) was changed to paragraph (5)(b)1. In subpart (5)–(b)–3–(iv), the term "grams/liters" was changed to "grams/liter". (Submitted August 26, 1981).

1200–3–19–.03–(1) established specific boundaries for areas that had been classified as nonattainment for Total Suspended Particulates (TSP) in the March 3, 1978 Federal Register (43 FR 9035), and 1200–3–19–.03–(2) established specific boundaries for areas that were classified as nonattainment for sulfur dioxide in the March 3, 1978 Federal Register (43 FR 9035). (Submitted October 15, 1979).

Since the date of the original State submittal, the designation of a number of these areas has been revised. The original Rockwood TSP designation (1200–3–19–.03–(1)–(d)) was repealed. A new area in Rockwood was identified in revisions submitted to EPA on October 15, 1979. Tennessee has conducted an in-depth study of the nonattainment area and is giving consideration to reclassifying the second nonattainment area. Under these circumstances, no new designation is being made for the Rockwood area at this time. The existing particulate nonattainment area (1200–3–19–.03–(1)–(c)) in Anderson and Knox Counties (Bull Run area) was deleted. Attainment was the result of the installation of new control devices at the Tennessee Valley Authority's (TVA) Bull Run plant. The particulate

nonattainment area in Sumner County (Odoms Bend area) was deleted. The original nonattainment designation was a result of noncompliance by TVA's Gallatin plant, which is now on a schedule of compliance. An area of downtown Knoxville was designated as unclassifiable for particulates. (Submitted August 26, 1981).

Nonregulatory revisions (1.3 and 2.12.1) were submitted which support the above changes to area designations. (Submitted May 5, 1980).

The description of the Chattanooga particulate nonattainment area was revised to include a missing boundary. (Submitted January 22, 1982) A revision was made amending the description of the Copper Basin SO_2 nonattainment area to give greater detail to the boundary description. (Submitted regulatory change December 9, 1981, and nonregulatory changes March 20, 1980).

1200–3–20–.03 was adopted which exempts violations of the visible emission standards which occur for periods of less than 20 minutes in one day from the malfunction notice requirement. Prior to this exemption all malfunctions had to be reported to the Technical Secretary first by telephone notification and then by certified mail within 72 hours. (Submitted December 9, 1981).

1200–3–20–.10, Additional Sources Covered, allows the Technical Secretary to require reports from sources which impact a nonattainment area and may be violating ambient standards. (Submitted November 23, 1979).

1200–3–21–.01, General Alternate Emission Standards was added. This rule described the procedures and conditions for obtaining a Certificate of Alternate Control for sources of particulates of sulfur dioxide. (Submitted January 22, 1982).

Several other nonregulatory revisions to the SIP were submitted also.

Section 2.8.1 on review of new stationary sources was submitted. This section discussed permitting requirements, PSD review, modeling guidelines, and redesignation. (Regarding approval of non-guideline air quality models, the State has agreed to obtain EPA concurrence for use of any non-guideline models.) "Section 2.5.1. which is the control strategy for particulates from wood-fired boilers" was added. (Submitted October 25, 1979).

Section 1.4.1 was adopted establishing a public information and participation program to inform the general public, environmental, and industrial groups in order to stimulate public participation in the implementation plan revision process. (Submitted August 15, 1980).

Section 2.5.2 (Table 1) was revised to reflect a previous change in the sulfur dioxide standard. (Submitted August 15, 1980).

A revision to Section 1.3 reclassified the Tullahoma unclassified area for particulates to attainment. (Submitted November 5, 1981).

Section 2.12.3.C.5 was revised by making a change to Chattanooga's reasonable further progress line for ozone. (Submitted August 15, 1980).

Action

An addition is being made to the listing of submittal dates for Tennessee's Part D revisions in § 52.2220(c)(33). The date (May 15, 1979) of the submittal by the State of the revision for new source review and control of volatile organic compounds adopted by the Metropolitan Nashville-Davidson County Board of Health on April 11, 1979, and March 14, 1979, was inadvertently left out of the original listing.

EPA has found all other portions of the submitted material addressed in this notice to comply with EPA requirements. Therefore, EPA is today announcing approval of those submittals as satisfying the requirements of an acceptable plan.

The public should be advised that this action will be effective August 23, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Clean Air Act, judicial review of EPA's approval of these revisions is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before August 23, 1982. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

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 approves state actions. It imposes no new requirements.

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

Note.—Incorporation by reference of the State Implementation Plan for the State of Tennessee was approved by the Director of the Federal Register on July 1, 1981.

Anne M. Gorsuch,

Administrator.

List of Subjects

40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Secs. 107, 110(a) and 172 of the Clean Air Act (42 U.S.C. 7407, 7410(a), and 7502)

Dated: June 14, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 4, Code of Federal Regulations is amended as follows:

Subpart RR—Tennessee

1. Section 52.2220 is amended by revising paragraph (c)(33) and by adding paragraph (c)(44) as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(33) 1979 implementation plans for the Nashville TSP and CO nonattainment areas and Statewide ozone nonattainment areas, including regulations Number 3, and Number 7 for Nashville-Davidson County adopted on April 11, 1979 and March 14, 1979, which were submitted on May 15, 1979, and regulations 1200–3–18–.01 through .47, adopted on March 14, April 11, June 20 and 28, 1979, and May 1, 1980, and submitted on June 28, July 2, 1979, and May 8, 1980, by the Tennessee Department of Public Health.

* * * * *

(44) Miscellaneous nonregulatory revisions submitted on October 25, 1979, March 20, 1980, May 5, 1980, August 15, 1980, and November 5, 1981, and miscellaneous regulatory revisions submitted on February 6, 1979 (change in Chapter 6), on June 13, 1979 (changes in Chapters 2, 4, 6, 7, and 8), on September 27, 1979 (change in Chapter 16), on October 15, 1979 (changes in Chapters 1, 2, 7, 11, 16, and 19), on November 23, 1979 (changes in Chapters 6, 9, 12, 16, 18, and 20), on February 19,

1980 (changes in Chapters 2 and 12), October 25, 1980 (changes in Chapters 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, and 14), on August 26, 1981 (changes in Chapters 5, 9, 14, 15, 16, 18, and 19), on September 30, 1981 (change in Chapter 16), on December 9, 1981 (changes in Chapters 2, 16, 18, 19, and 20), and on January 22, 1982 (changes in Chapters 2, 5, 7, 8, 12, 16, 18, 19, and 21).

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Part 81 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart C—Section 107—Attainment Status Designations

§ 81.343 [Amended]

2. In § 81.343, the table titled "Tennessee-TSP" is revised to read as follows:

TENNESSEE-TSP

Designation area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Those portion of Campbell County within downtown Lafollette and the area surrounding the Carborundum Company's plant at Jacksboro.	X	X		
That portion of Davidson County within the 1964 Urban Services Area of Nashville.	X	X		
That portion of Hamilton County within approximately the city limits of Chattanooga.	X	X		
That portion of Knox County within a section of downtown Knoxville			X	
That portion of Maury County within the northern section of downtown Columbia.	X	X		
That portion of Maury County within the remainder of the northern section of Columbia.			X	
That portion of Obion County within the downtown section of Union City.			X	
That portion of Roane County within a downtown section of Rockwood.			X	
Those portions of Shelby County within two sections of downtown Memphis.	X	X		
Those portions of Sullivan County within a section of Bristol and a section of Kingsport.	X	X		
That portion of Washington County within downtown Johnson City			X	
Rest of State				X

[FR Doc. 82-17097 Filed 6-23-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 123

[W-6-FRL 2153-8]

Oklahoma State Department of Health Underground Injection Control Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of Oklahoma has submitted an application under Section 1422 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Classes I, III, IV, and V injection wells. The Oklahoma program for the regulation of Class II injection wells was approved on December 2, 1981. After careful review of the application and comments received from the public, the Agency has determined that the State's injection well program for Classes I, III, IV, and V wells meets the requirements of Section 1422 of the Act. Therefore, this application covering Classes I, III, IV and V injections is approved. The State of Oklahoma now has primacy enforcement responsibility over all injection wells in the State.

EFFECTIVE DATE: This approval is effective June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Susan Stark, Ground Water Protection Section, U.S. Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2774. Copies of the responsiveness summary are available from the above address.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SDWA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which in his judgment a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, an UIC program which meets the requirements of regulations in effect under Section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The SDWA was amended on December 5, 1980, to include Section 1425, which establishes an alternative method by which a State may obtain primary enforcement responsibility for those portions of its UIC program related to the recovery and production of oil and natural gas (Class II wells). Specifically, instead of meeting the Consolidated Permits Regulations (40 CFR Parts 122, 123 and 124) and related Technical Criteria and Standards (40 CFR Part 146), a State may demonstrate that its program meets the more general statutory requirements of Section 1421(b)(1) (A) through (D) and represents an effective program to

prevent endangerment of underground sources of drinking water.

The State of Oklahoma was listed as needing an UIC program on September 25, 1978 (43 FR 43420). The State of Oklahoma submitted an application under Section 1422 on January 15, 1982, for the approval of an UIC program governing Classes I, III, IV and V injection wells to be administered by the Oklahoma State Department of Health (OSDH). On March 2, 1982, EPA published notice of its receipt of the application, requested public comments, and scheduled a public hearing on the Oklahoma UIC program submitted by the OSDH (47 FR 10861). A public hearing was held on April 1, 1982 in Oklahoma City, Oklahoma. After careful review of the application and comments received from the public, I have determined that the Oklahoma UIC program submitted by the OSDH meets the requirements established by Federal regulations pursuant to Section 1422 of the SDWA, and hereby approve it.

In this application, Oklahoma chose not to assert jurisdiction over Indian lands or reservations for purposes of its UIC program. Therefore, the Environmental Protection Agency will, at a future date, prescribe an UIC program governing injection wells on any Indian lands or reservations in Oklahoma.

EPA is publishing this approval effective immediately so that Oklahoma can begin issuing UIC permits for Classes I, III, IV, and V wells under the UIC program.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

The radioactive tracer survey, as described in the Oklahoma application and further justification, is approved as a mechanical integrity test under the provisions of 40 CFR 146.08(d) for use in Oklahoma.

OMB Approval: The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under Section 1422 of the Safe Drinking Water Act of the application by the Oklahoma State Department of Health will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated: June 17, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

[FR Doc. 82-17096 Filed 6-23-82; 8:45 am]

BILLING CODE 6560-50-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

41 CFR Ch. 18, Parts 1, 3, 5, 7, 15, 20, 24, Appendix C and Supp. No. 2

[Procurement Regulation Directive 82-1 (dated March 31, 1982)]

Procurement Regulations; Miscellaneous Amendments

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This document amends the NASA Procurement Regulation (41 CFR Ch. 18). It reflects amendments contained in Procurement Regulation Directive 82-1 concerning the following areas:

1. Debarred, Ineligible, and Suspended Bidders
2. Recovered Material
3. Equipment Visibility System (EVS) Requirements
4. Types of Contracts
5. Increased Threshold for Cost or Pricing Data
6. Fast Pay Procedure
7. Imprest Funds
8. Waiver of Cost of Money
9. Calculation and Application of Capital Employed for Facilities Under Construction
10. DoD Indirect Cost Monitoring Office
11. Mandatory Federal Supply Schedules
12. Delivery of Excess Quantities of $100 or Less
13. Application of Cost Accounting Standard (CAS) 405, Accounting for Unallowable Costs, to Directly Associated Costs
14. Organization Costs
15. Relocation Costs
16. Cost of Money as an Allowable Cost
17. Contract Administration Functions
18. Contractor's Approved Scrap Procedure
19. Standard Contract Closeout Schedule

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: James H. Wilson, Procurement Policy Division (Code HP-1), Office of Procurement, NASA Headquarters, Washington, D.C. 20546, Telephone: 202-755-2237.

SUPPLEMENTARY INFORMATION: The major changes are summarized as follows:

1. In Part 1, 1.601-4, "Protection of Lists," is removed and the paragraph is marked "Reserved."

2. In Part 1, 1.2500-5(a) is revised to eliminate the requirement for a specified minimum percentage of recovered material to be used in the production of items sold to the Government.

3. In Part 1, the clause in 1.5406 is revised to clarify the EVS screening requirements by excepting centrally reportable equipment for incorporation into "flight qualified" or "flight monitoring" deliverable end items.

Additionally, paragraph 5 of the instructions for the preparation of NASA Form 1018 is revised to state that nonprofit educational and research contractors are not required to report, on NASA Form 1018, property which NASA has transferred to them under Pub. L. 95-224.

4. In Part 3, 3.404-3(c)(3)*c.4.* and 3.404-3(c)(3)*c.6.* are revised to require that any contract containing any Economic Price Adjustment (EPA) clause where the index is subject to revision; e.g., a Bureau of Labor Statistics Producer Price Index, must state if any later contract price revision is to be based on the initial publication or the final revised version of the index and to reflect the Bureau of Labor statistics replacement of the "Wholesale Price Index for Material" with the "Producer Price Index."

5. In Part 3, 3.501(b)(3), Part III, Section L(7), 3.807-3(b) (i), (ii), (iii) and (d), 3.807-6(f), 3.811(c), 7.103-2, the text and clauses under 7.104-28 (a) and (b), the text and clauses under 7.104-43 (a) and (b), the clause under 7.104-89, 7.203-2, 7.304-1, 7.453-1 and 7.901-2 are revised to reflect the change to $500,000 from $100,000 as the threshold for the requirement for certification of cost or pricing data.

Section 2306(f)(1) of Title 10, United States Code, which is the law on this subject, was amended by Public Law 97-86 (FY 82 DoD Authorizations Act) which inserted $500,000 in lieu of $100,000 in each place it appeared in that section of the Code. The Public Law was signed by the President on December 1, 1981.

6. In Part 3, 3.606 is revised to require consignees to notify the procurement office when supplies have not been received or have been received damaged or not in accordance with specifications. The "Fast Payment Procedure" clause is revised to incorporate a 180-day period within which the contractor shall remain responsible for supplies when shipped overseas and notification of damage, etc., is furnished by the contracting

officer within the 180-day period. All invoices are required to be marked "FAST PAY." When a DD Form 250 is not required, specific information is required to be placed on invoices which must be included in each shipment.

15. In Part 15, 15.205–25 is revised to recognize changes in the cost of relocating contractors' employees due to economic factors and changes in industry and Government practices.

16. In Part 15, 15.205–50 is revised to recognize cost of money on capital assets under construction (CAS 417) as an allowable cost; to recognize facilities capital cost of money (CAS 414) as an allowable cost in cost-sharing and cost (no fee) contracts. The effective date of the (CAS 417) cost of money allowability is December 11, 1981. The change in allowability regarding (CAS 414) cost of money is effective upon receipt.

17. In Part 20, 20.604(d) (xxxii) and (xxxiii) are revised to clarify that in those situations where and advance agreement is negotiated of the type discussed under 15.205–3 and 15.205–35, the responsible Government contracting officer has full authority for determinations related to CAS 420.

18. In Part 24, 24.204–4(e) is revised to specify a single control point for precious metal reporting, and to provide for the disposition of all precious metals.

19. In Supplement No. 2, S2.305(a) is revised to provide more time for the closeout of contracts which age due to circumstances which are not within the direct control of NASA personnel.

List of Subjects in 41 CFR Ch. 18, Parts 1, 3, 5, 7, 15, 20, 24, Appendix C and Supplement No. 2

Government procurement.

(42 U.S.C. 2473(c)(1))

Leroy Hopkins,

Deputy Assistant Administrator for Procurement.

PART 1—GENERAL PROVISIONS

1.601–4 [Amended]

1. In Part 1, Table of Contents, the title of 1.601–4 is removed and the paragraph number is marked "Reserved." The page numbers for paragraphs 1.601–4 and 1.601–50 are amended to read "1–6:2" in place of "1–6:1."

2. In Part 1, Table of Contents, the number for paragraph 1.5406 is amended to read "1–54:2" in place of "1–54:1."

3. In Part 1, 1.601–4 is removed and the paragraph is marked "Reserved" and in paragraph 1.1004–1(b) last line, the words "1.1007 and" are removed.

4. In Part 1, 1.2500–5(a) is revised to read as follows:

1.2500–5 Procedures.

(a) These procedures are applicable to all acquisitions using Government specifications which require incorporation of recovered materials.

* * * * *

5. In Part 1, the clause in 1.5406 is revised by changing the date "(March 1980)" to read "(March 1982)" and the first sentence to read as follows:

1.5406 Contract clause. * * *

Prior to the acquisition of any item of centrally reportable equipment under this contract (unless for incorporation into flight qualified or flight monitoring deliverable end items), the Contractor shall provide the Contracting Officer, at the earliest possible date, a detailed listing of his requirements for screening of existing Government inventories.

* * * * *

PART 3—PROCUREMENT BY NEGOTIATION

3.404–4 [Amended]

6. In Part 3, Table of Contents, the page number for paragraph 3.404–4 "Fixed Price Incentive Contracts" "3–4:5" is revised to read "3–4:8B."

7. In Part 3, Table of Contents, the page numbers for paragraphs 3.606–4, 3.607, 3.607–1 through 3.607–4 are revised to read as follows:

3.606–4	Responsibility for Collection of Debts	3–6:7
3.607	Imprest Fund Method	3–6:7
3.607–1	General	3–6:7
3.607–2	Establishment of Imprest Funds	3–6:7
3.607–3	Conditions for Use	3–6:8
3.607–4	Procedures	3–6:8A

8. In Part 3, Table of Contents, the page numbers for paragraphs 3.807–4 through 3.807–7 and 3.807–7 through 3.811 are revised to read as follows:

3.807–4	Subcontractor Cost or Pricing Data	3–8:22
3.807–5	Refusal to Provide Cost or Pricing Data.	3–8:22A
3.807–6	Certificate of Current Cost or Pricing Data.	3–8:22A
3.807–7	Adequate Price Competition and Catalog or Market Prices and Prices Set by Law or Regulation.	3–8:22C
3.808–7	Facilities Capital Cost of Money	3–8:36A
3.809	Contract Audit as a Pricing Aid	3–8:36B
3.810	Exchange of Information	3–8:40B
3.811	Contract Negotiation Memorandum	3–8:40B

9. In Part 3, Table of Contents, Subpart 13 is revised and Subpart 14 is added to read as follows:

Subpart 13—Facilities Capital Employed for Facilities in Use or for Facilities Under Construction

3.1300	Facilities Capital Employed for Facilities in Use.	3–13:1
3.1300–1	Policy	3–13:1
3.1300–2	Definitions, Measurement and Allocation.	3–13:1
3.1300–3	Estimating Business Unit Facilities Capital and Cost of Money.	3–13:1
3.1300–4	Contract Facilities Capital Estimates	3–13:2
3.1300–5	Pre-Award Facilities Capital Applications.	3–13:3
3.1300–6	Post Award Facilities Capital Applications.	3–13:3
3.1300–7	Administrative Procedures	3–13:3
3.1301	Facilities Capital Employed for Facilities Under Construction.	3–13:4
3.1301–1	Policy	3–13:4
3.1301–2	Definitions	3–13:4
3.1301–3	Measurement	3–13:5
3.1301–4	Composition and Allocation of Costs	3–13:6
3.1301–5	Limitations	3–13:6
3.1301–6	Preaward Capital Employed Application.	3–13:6

Subpart 14—Indirect Cost Monitoring Office

3.1400	Scope of Part	3–14:1
3.1401	General	3–14:1
3.1402	Guidance Papers	3–14:1
3.1403	ICMO Working Group	3–14:2

3.404–3 [Amended]

10. In Part 3, 3.404–3(c)(3)*a.* the reference to "* * * *b.* below, * * *" in the first sentence is amended to read "* * * *c.* below, * * *"

11. In Part 3, 3.404–3(c)(3)*c.2.* is revised to read as follows:

3.404–3 Fixed-price contract with economic price adjustment.

* * * * *

c. * * *

1. * * *

2. Normally, the clause should not provide either a ceiling or a floor for adjustment unless adjustment is based on indices below the four digit level of the Bureau of Labor Statistics Producer Price Index or the Wage and Income Series by Standard Industrial Classification (Labor).

12. In Part 3, 3.404–3(c)(3)*c.4.* is revised by adding an new sentence at the end of paragraph *4.* to read as follows:

4. * * * When an index to be used is subject to revision (*e.g.*, the Bureau of Labor Statistics Producer Price Indexes), the economic price adjustment clause shall further specify that any economic price adjustment shall be based upon the applicable revised index.

* * * * *

3.404–3 [Amended]

13. In Part 3, 3.404–3(c)(3)*c.6.* is amended by removing the word "Wholesale" in the second sentence and inserting the word "Producer."

3.501 [Amended]

14. In Part 3, 3.501(b) Section L(7) the figure "$100,000" is amended to read "$500,000."

15. In Part 3, 3.606–1 is revised to read as follows:

3.606–1 General.

The fast payment procedure is designed to reduce lead time to consignees and to improve supplier relations by expediting payment for small purchases. The procedure provides for payment for supplies based on the contractor's submission of an invoice which constitutes a representation that the supplies have been delivered to a post office, common carrier or point of first receipt by the Government, and that the contractor agrees to replace, repair, or correct supplies not received at destination, damaged in transit, or not conforming to purchase agreements. Consignees shall notify the procurement office as soon as possible of supplies not received, damaged in transit, or not conforming to specifications of the purchase order.

3.606–3 [Amended]

16. In Part 3, 3.606–3(b)(iv), the clause date "(March 1980)" is revised to read "(March 1982)".

17. In Part 3, 3.606–3(b)(iv), the last sentence of paragraph (b) of the clause is amended by adding the following: "(one hundred eighty (180) days for overseas shipments.)"

18. In Part 3, 3.606–3(b)(iv), paragraph (c)(1) of the clause is revised to read—All invoices shall also be prominently marked "FAST PAY."

19. In Part 3, 3.606–3(b)(iv) paragraph (c)(3) of the clause is amended by adding the following at the end of the paragraph.

When a DD Form 250 is not required, the invoice will include the following information: (i) Ship-To-Point, (ii) Mark-For-Point and MILSTRIP document number if in contract, as well as the information in (c)(1) above. In all cases where no DD Form 250 if prepared, a copy of the invoice will be included in each shipment.

20. In Part 3, 3.607–3 (a)(ii) and (b)(i) are revised to read as follows:

3.607–3 Conditions for use.

* * * * *

(ii) The supplies or services are available for delivery within 60 days, whether at the supplier's place of business or at destination; and

* * * * *

(b) Imprest funds may also be used for payment of:

(i) Charges for local delivery, parcel post (including c.o.d. postal charges) and line haul or inter-city transportation charges of $75.00 or less for supplies ordered.

* * * * *

21. In Part 3, 3.807–3 (b) (i), (ii), and (iii), and (d) are revised to read as follows:

3.807–3 Requirement for cost or pricing data.

(b) * * *

(i) The award of any negotiated contract (except for unpriced actions such as letter contracts) expected to exceed $500,000 in amount;

(ii) The pricing of any modification to any formally advertised or negotiated contract whether or not cost or pricing data were required in connection with the initial pricing of the contract when the modification involves aggregate increases and/or decrease in costs plus applicable profits expected to exceed $500,000. (For example, the requirement applies to a $150,000 modification resulting from a reduction of $350,000 and an increase of $200,000, or as another example, when the modification results in no change in contract price because there is an increase of $1,000,000 and a reduction of $1,000,000. However, this requirement shall not apply when unrelated and separately priced changes for which cost or pricing data would not be required are included in the same modification for administrative convenience.);

(iii) The award of any negotiated contract not expected to exceed $500,000 in amount, or any contract modification not expected to exceed $500,000 in amount to any contract whether or not cost or pricing data were required in connection with the initial pricing of the contract, provided the contracting officer considers that the circumstances warrant such action; unless the price negotiated is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. The requirements under (i) and (ii) above may be waived in exceptional cases when the Assistant Administrator for Procurement authorizes such waiver and states in writing the reasons for such determination.

* * * * *

(d) Certified cost or pricing data shall not be requested prior to the award of any contract anticipated to be for $25,000 or less and generally should not be requested for modifications in those amounts. There should be relatively few instances where certified cost or pricing data and the inclusion of defective pricing clauses would be justified in awards between $25,000 and $500,000. In most such awards, the administrative costs will outweigh the benefits which might otherwise accrue from receipt of certified cost or pricing data; hence all other means of determining reasonableness of price should be utilized. When less than complete cost analysis (*e.g.*, analysis of only specific factors) will provide a reasonable pricing result on awards under $500,000 without the submission of complete cost or pricing data, the contracting officer shall request only that data which he considers adequate to support the limited extent of the cost analysis required and he will not require certification.

* * * * *

3.807–6 [Amended]

22. In Part 3, 3.807–6(a) the figure "100,000," appearing in two places in the last sentence of paragraph (f) in the "Certificate of Current Cost or Pricing Data" are revised to read "500,000."

23. In Part 3, 3.808–7, the last sentence of the introductory text is revised and a clause is added. 3.808–7 now reads as follows:

3.808–7 Facilities capital cost of money.

When facilities capital cost of money (cost of capital committed to facilities) is included as an item of cost in the contractor's proposal, a reduction in the profit objective shall be made in an amount equal to the amount of facilities capital of cost of money allowed in accordance with 15.205–50. If the contractor does not propose this cost, the following clause shall be inserted into the contract:

Waiver of Facilities Capital Cost of Money (March 1982)

The contractor is aware that facilities capital cost of money is an allowable cost but waives the right to claim it under this contract.

3.809 [Amended]

24. In Part 3, 3.809, paragraph "(d) Review of Contractors' Estimating Systems" is amended by changing the (d) to read "(4)."

25. In Part 3, 3.809(c) is revised by adding a new paragraph (5) to read as follows:

3.809 Contract audit as a pricing aid.

* * * * *

(c) * * *

(5) Procedures for Identifying Contractors' Unallowable Costs.

(i) The establishment, maintenance, and consistent use of procedures for identifying and segregating unallowable costs, which will assure compliance with CAS 405 and 15.201–6, will benefit

both the Government and contractors. Such procedures may vary between plants or divisions of a contractor due to size, mix of business and complexity of organization. Some of the advantages of sound procedures are that:

(A) A greater degree of confidence can be placed on the accuracy and reliability of contractors' proposals, billings and claims;

(B) They expedite the negotiation process; and

(C) They may reduce the scope of reviews performed by audit and other technical and procurement personnel.

(ii) The responsible Federal Contract Audit organization shall review contractors' procedures and practices in conjunction with other contract audit activities. Deficiencies shall be reported to the cognizant ACO, and, as appropriate, PCOs having substantial business with the contractor. Among the matters to be considered in determining the adequacy of a contractor's procedures are its policy, practices and techniques for:

(A) Assignment of responsibilities within the contractor's organization for reviewing and approving claims against the Government;

(B) Identification of unallowable costs (expressly unallowable, mutually agreed to be unallowable or specifically designated as unallowable by written decision of the contracting officer) together with the individual employees incurring such costs;

(C) Identification and computation of directly associated costs;

(D) Assurance that unallowable and directly associated costs are not included in estimated costs proposed, or incurred amounts claimed by the contractor;

(E) Coordination and communication between the elements of the contractor's organization that prepare proposals and claims and those responsible for identifying unallowable and directly associated costs; and

(F) Assuring the adequacy of the documentation maintained by the contractor identifying the unallowable costs together with directly associated costs.

(iii) Documentation in support of the contractor's procedures shall be made available to authorize Government personnel. (See 3.801–5(b)(7).)

26. In Part 3, the titles of Subpart 13 and paragraph 3.1300 are revised to read as follows:

Subpart 13—Facilities Capital Employed for Facilities in Use or for Facilities Under Construction

3.1300 Facilities capital employed for facilities in use.

* * * * *

27. In Part 3, a paragraph 3.1301 is added to read as follows:

3.1301 Facilities capital employed for facilities under construction.

3.1301–1 Policy.

It is the policy of NASA to recognize a contractor's investment in capital facilities while these are being constructed, fabricated, or developed for the contractor's own use. This recognition is made through the allowance of an imputed cost of money amount which is (i) calculated in accordance with 3.1301–3 below, (ii) capitalized along with the other costs of the asset for which the investment is made, and (iii) allocated to NASA contracts in accordance with 3.1301–4.

3.1301–2 Definitions.

The following definitions have been taken or developed from Cost Accounting Standard (CAS) 417, Cost of Money as an Element of the Cost of Capital Assets Under Construction, which has been incorporated in Appendix 0.

(a) *Intangible Capital Asset.* An asset that has no physical substance, has more than minimal value, and is expected to be held by an enterprise for continued use or possession beyond the current acounting period for the benefit it yields.

(b) *Tangible Capital Asset.* An asset that has physical substance, more than minimal value, and is expected to be held by an enterprise for continued use or possession beyond the current accounting period for the service it yields.

(c) *Cost of Money Rate.* The cost of money rate is either the interest rate determined by the Secretary of the Treasury pursuant to Pub. L. 92–41 (85 Stat. 97), or the time-weighted average of such rates for each cost accounting period during which the asset is being constructed, fabricated, or developed. The time-weighted average interest rate is calculated by multiplying the various rates in effect during the months of construction by the number of months each rate was in effect. The sum of the products is divided by the total number of months in which the rates were experienced.

(d) *Representative Investment.* The representative investment is the calculated amount considered invested by the contractor in the project to construct, fabricate, or develop the asset during the cost accounting period. In calculating the representative investment, consideration must be given to the rate or expenditure pattern of the investment, *i.e.*, if most of the investment was at the end of the cost accounting period, the representative investment calculation must reflect this fact.

(1) If the contractor experiences an irregular or uneven expenditure pattern in the construction, fabrication, or development of a capital asset, *i.e.*, a majority of the construction costs were incurred toward the beginning, middle, or end of the cost accounting period, the contractor must either:

(i) Determine a representative investment amount for the cost accounting period by calculating the average of the month-end balances for that cost accounting period; or

(ii) Treat month-end balances as individual representative investment amounts.

(2) If the construction, fabrication, or development costs were incurred in a fairly uniform expenditure pattern throughout the construction period, the contractor may:

(i) Determine a representative investment amount for the cost accounting period by averaging the beginning and ending balances of the construction, fabrication, or development cost account for the cost accounting period; or

(ii) Treat month-end balances as individual representative investment amounts.

3.1301–3 Measurement.

(a) The imputed cost of money for an asset under construction, fabrication, or development is calculated by applying a cost of money rate (see 3.1301–2(c)), to the representative investment amount (see 3.1301–2(d)).

(1) When a representative investment amount is determined for a cost accounting period in accordance with 3.1301–2(d)(1)(i) or 3.1301–2(d)(2)(i), the cost of money rate used shall be the time-weighted average rate.

(2) When a monthly representative investment amount (see 3.1301–2(d)(1)(ii) or 3.1301–2(d)(2)(ii) is used, the cost of money rate shall be the rate in effect each month. (Note: Under this method, the cost of money calculation is made monthly and the total for the cost accounting period is the sum of the monthly calculations.)

(b) The method chosen by a contractor for determining the representative investment amount may be different for each capital asset being

constructed, fabricated, or developed as long as the method fits the expenditure pattern of the construction costs incurred.

(c) The imputed cost of money will be capitalized only once in any cost accounting period; either at the end of the period or at the end of the construction period, whichever comes first.

(d) When the construction of an asset takes more than one cost accounting period, the cost of money capitalized for the first cost accounting period will be included in determining the representative investment amount for any future cost accounting periods.

3.1301-4 Composition and allocation of costs.

(a) The cost of money for a tangible capital asset determined in accordance with 3.1301-2 and 3.1301-3 shall be capitalized along with the other construction, fabrication, or development cost of that asset for purposes of depreciation pursuant to 15.205-9.

(b) The cost of money for an intangible capital asset determined in accordance with 3.1301-2 and 3.1301-3 shall be capitalized along with other construction, fabrication, or development costs of that asset and amortized over appropriate cost accounting periods.

(c) Where CAS 414 cost of money is allocated to construction, fabrication, or development effort in accordance with 3.1300, it will be recognized and considered an element of total construction costs and be included in all calculations of the asset's representative investment amount.

3.1301-5 Limitations.

If substantially all activities necessary to get an asset ready for its intended use are discontinued, cost of money shall not be capitalized for the period of discontinuance, except when such discontinuance arises out of causes beyond the control and without the fault or negligence of the contractor.

3.1301-6 Preaward capital employed application.

An offset to the profit objectives as set forth in 3.808-7 is not required for CAS 417 cost of money.

28. In Part 3, a new Subpart 14 is added to read as follows:

Subpart 14—Indirect Cost Monitoring Office

3.1400 Scope of part.

This Subpart deals with the organization and function of the Indirect Cost Monitoring Office (ICMO) and its role in the DoD procurement process.

3.1401 General.

The Indirect Cost Monitoring Office (ICMO), under the direction of the DoD Director, Contracts and Systems Acquisition, Office of the Under Secretary of Defense, Research and Engineering, is responsible for assuring uniform application of contracting policies and consistent treatment of cost allowability including research and development/bid and proposal (IR&D/B&P) costs, and for promoting timely and equitable settlement of overhead and advance agreements for IR&D/B&P costs. The function of the ICMO will include:

(i) Maintaining a data bank concerning Part 15 cost principles;

(ii) Maintaining a liaison with DCAA to achieve maximum consistency between negotiation decisions and audit decisions as to contracting officer determined and audit determined final overhead rates;

(iii) Attending, after coordination with the Departments, selected negotiations of final overhead rates to act as an observer/advisor, as appropriate, and to identify problem areas requiring policy change;

(iv) Monitoring the negotiation of advance agreements for IR&D/B&P in order to assure maximum uniformity and consistency, and maintaining an awareness of matters that may require policy change;

(v) Recommending to the DoD Director, Contracts and Systems Acquisition (C&SA), OUSD(R&E), policy changes as needed:

(vi) Monitoring establishment of CACO's and the conduct of contracting officer determination assignments in accordance with established criteria. The responsibility and authority for establishing the positions and designation of the individual to perform the function remains with the cognizant Department;

(vii) Maintaining a master list of contractor locations and responsible activities where final overhead rates are contracting officer determined and negotiated advance agreements for IR&D and B&P costs are required by Public Law 91-441;

(viii) Providing advice in resolving disagreements between CACO's and ACO's designated by different Departments and assigned final overhead determination responsibilities within a corporation or business enterprise;

(ix) Reviewing proposed changes relative to the assignments for negotiation of IR&D/B&P advance agreements, and making appropriate recommendations to the DoD Director (C&SA), OUSD(R&E).

3.1402 Guidance papers.

(a) The ICMO guidance papers are issued to provide criteria for Government field personnel to use in the resolution of identified problems. The criteria set forth in the guidance paper shall be used for purposes of establishing a basis for the resolution of the subject issues. In the final settlement, the contracting officer and cognizant DCAA auditor are still responsible for exercising their best judgment in such a manner to protect the best interest of the Government on each individual issue.

(b) Proposed guidance papers will be coordinated with representatives of the ICMO Working Group as indicated in § 3.1403. The coordinated guidance paper, along with Departmental and DCAA positions, will be presented to the DoD Director (C&SA), OUSD(R&E), for approval and publication as appropriate.

3.1403 ICMO working group.

The Working Group shall consist of representatives of each Military Department, DLA/DCAS, and DCAA. Representatives of OUSD(R&E) (C&SA) and OASD(C)DASD(Audit), NASA and other interested agencies will participate as consultants. The Working Group shall be chaired by the ICMO designee. It shall meet at the call of the Chairman to coordinate actions and perform research. The Chairman shall specify task assignments, establish cases and assign case numbers, make case assignments to Working Group members, determine case priorities, and issue resulting guidance papers. Projects which require expenditure of significant DoD resources shall be approved by the DoD Director (C&SA), OUSD(R&E), prior to initiation.

PART 5—INTERDEPARTMENTAL PROCUREMENT

29. In Part 5, § 5.102 is revised by adding a new paragraph (i) to read as follows:

5.102 Mandatory federal supply schedules.

* * * * *

(i) *Authorization to Purchase Identical Item(s) When Available at Lower Price(s).* "Escape" provisions appear in certain Federal Supply Schedule contracts similar to the following:

"AUTHORIZATION TO PURCHASE IDENTICAL ITEM(S) WHEN AVAILABLE

AT LOWER PRICE(S). When an ordering agency finds that an identical product (make and model number) or service is available from another source at a delivered price lower than the contract price, such agency is free to purchase such item at such lower price without violating the contract requirements. Those agencies that purchase items at lower prices are required to furnish a copy of the ordering document to: General Services Administration, Federal Supply Service, Code FCC, Washington, D.C. 20406."

When it is known that the conditions of such a provision can be met, the guidance of 5.103, pertaining to Federal Supply Schedules not mandatory upon NASA, shall be followed. GSA shall be informed of any non-schedule purchase as required by such "escape" provision. Contracting officers shall not solicit bids, or otherwise test the market solely for the purpose of seeking alternative sources to mandatory Federal Supply Schedules.

30. In Part 7, Table of Contents, the page numbers for paragraphs 7.104 through 7.104–35; 7.104–44 and 7.104–45; 7.104–85 through 7.104–96; 7.105 through 7.105–8; 7.203–9 through 7.203–22; 7.403–1 through 7.451–13; 7.452–5 through 7.452–16; 7.452–18 through 7.452–22; 7.452–23 and 7.452–24 are revised and 7.104–97 through 7.104–103; and 7.452–17 are added to read as follows:

* * * * *

7.104–29 through 7.104–34 [Reserved] 7–1:10A
7.104–35 Progress Payments 7–1:10A

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7.104–44 [Reserved] 7–1:16A
7.104–45 Limitation of Liability 7–1:16A

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7.104–85 [Reserved] 7–1:24
7.104–86 Notification of Changes 7–1:24
7.104–87 through 7.104–88 [Reserved] 7–1:26
7.104–89 Engineering Change Proposals (ECP's). 7–1:26
7.104–90 Change Order Accounting 7–1:26A
7.104–91 through 7.104–94 [Reserved] 7–1:26A
7.104–95 Preference for United States Flag Air Carriers. 7–1:26A
7.104–96 Notice of Intent to Disallow or Not Recognize Costs. 7–1:26B
7.104–97 through 7.104–102 [Reserved] 7–1:26B
7.104–03 Delivery of Excess Quantities of $100 or Less. 7–1:26B
7.105 Additional Clauses 7–1:26C
7.105–1 Alterations in Contract 7–1:26C
7.105–2 through 7.105–4 [Reserved] 7–1:26C
7.105–5 Liquidated Damages 7–1:26C
7.105–6 Bill of Materials 7–1:26D
7.105–7 Supply Warranty 7–1:26E
7.105–8 Stop Work Orders 7–1:26E

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7.203–9 Utilization of Small Business and Small Disadvantaged Business Concerns. 7–2:8A
7.203–10 Termination 7–2:8A
7.203–11 Excusable Delays 7–2:8A
7.203–12 Disputes 7–2:8A
7.203–13 Waiver of Facilities Capital Cost of Money. 7–2:8A
7.203–14 Clean Air and Water 7–2:8A
7.203–15 Convict Labor 7–2:8A
7.203–16 Contract Work Hours Standards Act-Overtime Compensation. 7–2:8A
7.203–17 Walsh-Healey Public Contracts Act 7–2:8A
7.203–18 Equal Opportunity 7–2:8A
7.203–19 Officials Not to Benefit 7–2:8A
7.203–20 Covenant Against Contingent Fees 7–2:8A
7.203–21 Government Property 7–2:8A
7.203–22 Insurance-Liability to Third Person 7–2:8A

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7.403–1 Clauses for Contracts Involving Construction Work. 7–4:5
7.403–2 Filing of Patent Applications 7–4:6
7.403–3 Special Test Equipment 7–4:6
7.403–4 [Reserved] 7–4:6
7.403–5 Excusable Delays 7–4:6
7.403–6 [Reserved] 7–4:6
7.403–7 Priorities, Allocations, and Allotments. 7–4:6
7.403–8 Communist Areas 7–4:6
7.403–9 Negotiated Overhead Rates 7–4:6
7.403–10 Notice to the Government of Labor Disputes. 7–4:6
7.403–11 Subcontractor Cost or Pricing Data 7–4:6
7.403–12 Limitation on Withholding of Payments. 7–4:6
7.403–13 Price Reduction for Defective Cost or Pricing Data. 7–4:6
7.403–14 Changes to Make-or-Buy Program 7–4:6
7.403–15 Frequency Authorization 7–4:6
7.403–16 Flight Risks 7–4:7
7.403–17 Required Source for Jewel Bearings and Related Items. 7–4:7
7.403–18 through 7.40–22 [Reserved] 7–4:7
7.403–23 General Services Administration Supply Sources. 7–4:7
7.403–24 Labor Surplus Area Subcontracting Program. 7–4:7
7.403–25 through 7.403–42 [Reserved] 7–4:7
7.403–43 Waiver of Facilities Capital Cost of Money. 7–4:7
7.403–44 Limitation of Liability 7–4:7
7.403–50 Optional Data Requirements 7–4:7
7.403–51 Approval of Contract 7–4:7
7.403–52 Preference for United States–Flag Vessels. 7–4:7
7.403–53 Limitation of Government's Obligation. 7–4:7
7.403–54 Financial Reporting of Government-Owned/Contractor-Held Property. 7–4:7
7.403–55 Cost Accounting Standards 7–4:7
7.403–56 NASA Financial Management Reporting. 7–4:7
7.40357 Key Personnel and Facilities 7–4:7
7.403–58 Safety and Health 7–4:7
7.403–59 [Reserved] 7–4:7
7.403–60 Report on NASA Subcontracts 7–4:7
7.403–61 Rights in Data For Potentially Hazardous Items. 7–4:8
7.403–62 Potentially Hazardous Items 7–4:8
7.403–63 Order of Precedence 7–4:8
7.403–64 Preference for United States Air Carriers. 7–4:8
7.403–65 Geographic Participation in the Aerospace Program. 7–4:8
7.403–66 through 7.403–85 [Reserved] 7–4:8
7.403–86 Notification of Changes 7–4:8
7.403–87 and 7.404–88 [Reserved] 7–4:8
7.403–89 Engineering Change Proposals (ECP's). 7–4:8
7.404–90 Change Order Accounting 7–4:8
7.404 Additional Clauses 7–4:8
7.404–1 Changes 7–4:8
7.404–2 Alterations in Contract 7–4:8A
7.404–3 [Reserved] 7–4:8A
7.404–4 Bill of Materials 7–4:8A
7.404–5 Stop Work Orders 7–4:8A
7.404–50 Notice of Delay 7–4:8A
7.404–51 [Reserved] 7–4:8A
7.404–52 Date of Incurrence of Costs 7–4:8A
7.404–53 Inventions Made Under Contractor's Independent Research and Development Programs. 7–4:8A
7.404–54 through 7.404–56 [Reserved 7–4:8A
7.404–57 Federal, State, and Local Taxes 7–4:8A
7.450 Clauses for Cost-Reimbursement Research and Development Contracts With Nonprofit Institutions (Including Educational Institutions). 7–4:8A
7.450–1 Applicability 7–4:8A
7.451 Required Clauses 7–4:8B
7.451–1 Definitions 7–4:8B
7.451–2 Limitation of Cost 7–4:8B
7.451–3 Allowable Cost and Payment 7–4:8B
7.451–4 Standards of Work 7–4:8C
7.451–5 Inspection 7–4:8C
7.451–6 Assignment of Claims 7–4:8C
7.451–7 Examination of Records by Comptroller General. 7–4:8C
7.451–8 Subcontracts 7–4:8C
7.451–9 Utilization of Small Business and Small Disadvantaged Business Concerns. 7–4:8C
7.451–10 Termination for the Convenience of the Government. 7–4:8C
7.451–11 Disputes 7–4:8C
7.451–12 [Reserved] 7–4:8C
7.451–13 Buy American Act and Trade Agreements Act. 7–4:8C

* * * * *

7.452–5 and 7.452–6 [Reserved.] 7–4:12B
7.452–7 Priorities, Allocations, and Allotments. 7–4:12B
7.452–8 Communist Areas 7–4:12B
7.452–9 Negotiated Overhead Rates 7–4:12B
7.452–10 Notice to the Government of Labor Disputes. 7–4:12B
7.452–11 Subcontractor Cost or Pricing Data 7–4:12B
7.452–12 Limitation on Withholding of Payments. 7–4:12B
7.452–13 Price Reduction for Defective Cost or Pricing Data. 7–4:12C
7.452–14 Changes to Make-or-Buy Program 7–4:12C
7.452–15 Frequency Authorization 7–4:12C
7.452–16 Required Source for Jewel Bearings and Related Items. 7–4:12C
7.452–17 Waiver of Facilities Capital Cost of Money. 7–4:12C
7.452–18 through 7.452–22 [Reserved] 7–4:12C
7.452–23 General Services Administration Supply Sources. 7–4:12C
7.452–24 Labor Surplus Area Subcontracting Program. 7–4:12C

7.103–2 [Amended]

31. In Part 7, 7.103–2, in the text following the "Changes" clause is amended by changing the figure "$100,000" to read "$500,000."

7.104–28 [Amended]

32. In Part 7, 7.104–28 (a) and (b) are amended by increasing the figure "$100,000" to read "$500,000" in the introductory text of both paragraphs and the first paragraph of the clause in paragraph (b). The clause date is changed to read "(June 1981)" in place of "(August 1979)" in paragraph (b). Also, the clause title is changed to read "Price Reduction for Defective Cost or Pricing Data—Price Adjustments."

33. In Part 7, 7.104–43 is revised to read as follows:

7.104–43 Subcontractor Cost or Pricing Data.

(a) The following clause shall be inserted in all negotiated contracts expected to exceed $500,000, except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. The contracting officer may include this clause, with appropriate reduction in the dollar amounts included therein, in other negotiated contracts where a Certificate of Current Cost or Pricing Data is required (see 3.807–3(b)(iii)) in connection with initial pricing of the contract.

Subcontractor Cost or Pricing Data (March 1982)

(a) The Contractor shall require subcontractors hereunder to submit, actually or by specific identification in writing, cost or pricing data under the following circumstances: (i) prior to the award of any subcontract the amount of which is expected to exceed $500,000 when entered into, (ii) prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $500,000, except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(b) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the certificate by the Prime Contractor to the Government, that to the best of their knowledge and belief, the cost and pricing data submitted under (a) above is accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract of subcontract change or modification.

(c) The Contractor shall insert the substance of this clause including this paragraph (c) in each subcontract hereunder which exceeds $500,000 when entered into except where the price thereof is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. In each such excepted subcontract hereunder in excess of $500,000, the Contractor shall insert the substance of the following clause:

Subcontractor Cost or Pricing Data—Price Adjustments

(a) Paragraphs (b) and (c) of this clause shall become operative only with respect to any modification made pursuant to one or more provisions of this contract which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $500,000. The requirements of this clause shall be limited to such contract modifications.

(b) The Contractor shall require subcontractors hereunder to submit, actually or by specific identification in writing, cost or pricing data under the following circumstances: (i) prior to award of any subcontract, the amount of which is expected to exceed $500,000 when entered into; (ii) prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $500,000; except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(c) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the certificate by the Prime Contractor to the Government, that to the best of their knowledge and belief the cost and pricing data submitted under (b) above is accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(d) The Contractor shall insert the substance of this clause including this paragraph (d) in each subcontract hereunder which exceeds $500,000 when entered into.

(b) Insert the following clause in all contracts, both formally advertised and negotiated, which exceed $500,000 other than those described in (a) above:

Subcontractor Cost or Pricing Data—Price Adjustments (March 1982)

(a) Paragraphs (b) and (c) of this clause shall become operative only with respect to any modification made pursuant to one or more provisions of this contract which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $500,000. The requirements of this clause shall be limited to such modifications.

(b) The Contractor shall require subcontractors hereunder to submit cost or pricing data under the following circumstances: (i) Prior to the award of any subcontract the amount of which is expected to exceed $500,000 when entered into; (ii) prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $500,000; except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(c) The Contractor shall require subcontractors to certify that to the best of their knowledge and belief the cost and pricing data submitted under (b) above is accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(d) The Contractor shall insert the substance of this clause including this paragraph (d) in each subcontract which exceeds $500,000.

(c) The requirement for inclusion of the above clauses in contracts with foreign governments or agencies thereof may be waived in exceptional cases by the Assistant Administrator for Procurement, who shall state in writing the reasons for such determination.

7.104-89 [Amended]

34. In Part 7, 7.104-89 is amended by increasing the figure "$100,000" appearing in paragraph (b) of the clause to read "$500,000."

35. In Part 7, 7.104-103 is added to read as follows:

7.104-103 Delivery of Excess Quantities of $100 or Less.

The following clause may be inserted in contracts for supplies:

Delivery of Excess Quantities of $100 or less (March 1982)

The Contractor is responsible for the delivery of each item quantity within allowable variations, if any. If the Contractor delivers and the Government receives quantities of any item in excess of the quantity called for (after considering any allowable variation in quantity), such excess quantities will be treated as being delivered for the convenience of the Contractor. The Government may retain such excess quantities up to $100 in value without compensating the Contractor therefor, and the Contractor waives all right, title, or interests therein. Quantities in excess of $100 will, at the option of the Government, either be returned at the Contractor's expense or retained and paid for by the Government at the contract unit price.

7.203-2 [Amended]

36. In Part 7, 7.203-2 is amended by increasing the figure "$100,000" appearing in the text following the clause to read "$500,000."

37. In Part 7, 7.204-17 is added to read as follows:

7.204-17 Waiver of Facilities Capital Cost of Money.

In accordance with 3.808-7, insert the clause set forth therein.

7.304-1 [Amended]

38. In Part 7, 7.304-1 is amended by increasing the figure "$100,000" to read "$500,000" appearing in the text following the clause.

39. In Part 7, 7.403-43 is added to read as follows:

7.403-43 Waiver of facilities capital cost of money.

In accordance with 3.808-7, insert the clause set forth therein.

7.404-1 [Amended]

40. In Part 7, 7.404-1 is amended by increasing the figure "$100,000" to read "$500,000" appearing in the text following the clause.

41. In Part 7, 7.452-17 is added to read as follows:

7.452-17 Waiver of facilities capital cost of money.

In accordance with 3.808-7, insert the clause set forth therein, if the contract is with a nonprofit organization which is subject to the cost principles in Part 15, Subpart 2.

7.453-1 [Amended]

42. In Part 7, 7.453-1 is amended by increasing the figure "$100,000" to read "$500,000" appearing in the text following the clause.

7.901-2 [Amended]

43. In Part 7, 7.901-2 is amended by increasing the figure "$100,000" to read "$500,000" appearing in the text following the clause.

PART 15—CONTRACT COST PRINCIPLES AND PROCEDURES

44. In Part 15, Table of Contents, 15.201–4 through 15.205–5; 15.205–11 through 15.205–35; 15.205–49 and 15.205–50 are revised to read as follows:

15.201–4	Definition of Allocability	15–2:2
15.201–5	Credits	15–2:2
15.201–6	Accounting for Unallowable Costs.	15–2:2
15.202	Direct Costs	15–2:3
15.203	Indirect Costs	15–2:3
15.204	Application of Principles and Procedures.	15–2:4A
15.205	Selected Costs	15–2:4B
15.205–1	Advertising Costs	15–2:4B
15.205–2	Bad Debts	15–2:4C
15.205–3	Bid and Proposal Costs	15–2:4C
15.205–4	Bonding Costs	15–2:4D
15.205–5	Civil Defense Costs	15–2:4D
15.205–11	Entertainment Costs	15–2:12
15.205–12	Cost of Idle Facilities and Idle Capacity.	15–2:12
15.205–13	Fines and Penalties	15–2:13
15.205–14	[Reserved]	15–2:13
15.205–15	Fringe Benefits	15–2:13
15.205–16	Insurance and Indemnification	15–2:13
15.205–17	Interest and Other Financial Costs.	15–2:14
15.205–18	Labor Relations Costs	15–2:15
15.205–19	Losses on Other Contracts	15–2:15
15.205–20	Maintenance and Repair Costs	15–2:15
15.205–21	Manufacturing and Production Engineering Costs.	15–2:15
15.205–22	Material Costs	15–2:15
15.205–23	Organization Costs	15–2:17
15.205–24	Other Business Expenses	15–2:17
15.205–25	Relocation Costs	15–2:17
15.205–26	Patent Costs	15–2:18A
15.205–27	Pension Plans	15–2:18B
15.205–28	Plant Protection Costs	15–2:18B
15.205–29	Plant Reconversion Costs	15–2:18B
15.205–30	Precontract Costs	15–2:18B
15.205–31	Professional and Consultant Service Costs—Legal, Accounting, Engineering, and Other.	15–2:18B
15.205–32	Gains and Losses on Disposition of Depreciable Property or Other Capital Assets.	15–2:18C
15.205–33	Recruitment Costs	15–2:18D
15.205–34	Rental Costs (Including Sale and Leaseback of Property).	15–2:18E
15.205–35	Independent Research and Development Costs.	15–2:18F
15.205–50	Cost of Money	15–2:27
15.206	Notice of Intent to Disallow or Not Recognize Costs.	15–2:28A

45. In Part 15, 15.201–6 is revised to read as follows:

15.201–6 Accounting for unallowable costs.

(a) *Application of CAS 405.* The provisions of CAS 405, *Accounting for Unallowable Costs*, are incorporated herein in their entirety and are applicable to all contracts to which this Subpart 2 applies. Unallowable costs shall be identified using procedures as contemplated by 3.809(c)(5).

(b) *Directly Associated Costs.* (1) A directly associated cost is any cost which is generated solely as a result of the incurrence of another cost, and would not have been incurred had the other cost not been incurred. When an unallowable cost is incurred, the directly associated costs are also unallowable.

(2) If a directly associated cost is included in a cost pool which is allocated over a base that includes the unallowable cost with which it is associated, the directly associated cost shall remain in the cost pool. Since the unallowable cost will attract its allocable share of costs from the cost pool, no further action is required to assure disallowance of the directly associated cost. In all other cases the directly associated costs, if material in amount, must be purged from the cost pool as unallowable costs.

(3) In determining the materiality of a directly associated cost, consideration should be given to the significance of (i) the actual dollar amount, (ii) the cumulative effect of all directly associated costs in a cost pool, or (iii) the ultimate effect on the cost of Government contracts.

(4) Salary expenses of employees who participate in activities which generate unallowable costs shall be treated as directly associated costs to the extent of the time spent on the prescribed activity provided the costs are material in accordance with (3) above (except when such salary expenses are, themselves, unallowable). The time spent in proscribed activities should be compared to total time spent on company activities (estimated when actual time records are not available), to determine if the costs are material. Time spent by employees outside the normal working hours should not be considered except when it is evident that an employee engages so frequently in company activities during periods outside normal working hours as to indicate that such activities are a part of his regular duties.

(5) When a selected item of cost under 15.205 provides that directly associated costs are unallowable, it is intended that such directly associated costs be unallowable only if determined to be material in amount in accordance with the criteria provided above, except in those situations where allowance of any of the directly associated costs involved would be considered to be contrary to public policy.

46. In Part 15, 15.205–2 is revised to read as follows:

15.205–2 Bad debts.

Bad debts, including losses (whether actual or estimated) arising from uncollectible customers' accounts and other claims, and any directly associated costs such as collection costs and legal costs are unallowable.

47. In Part 15, 15.205–11 is revised to read as follows:

15.205–11 Entertainment costs.

Costs of amusement, diversion, social activities, and any directly associated costs such as meals, lodging, rentals, transportation, and gratuities, are unallowable (see 15.205–10 and 15.205–43).

15.205–17 [Amended]

48. In Part 15, 15.205–17 is amended by replacing the words ", and costs related thereto," with the words ", and directly associated costs," near the end of the paragraph.

15.205–23 [Amended]

49. In Part 15, 15.205–23 is amended by inserting the words "Except as provided in (b) below, * * *" at the beginning of paragraph (a).

50. In Part 15, 15.205–25 is revised to read as follows:

15.205–25 Relocation costs.

(a) Relocation costs, for the purpose of this Subpart 2, are costs incident to the permanent change of duty assignment (for an indefinite period or for a stated period of not less than 12 months) (but see (f) below) of an existing employee or upon recruitment of a new employee. These costs may include, but are not limited to:

(i) Cost of travel of the employee and members of his immediate family (see 15.205–46) and transportation of his household and personal effects to the new location;

(ii) Cost of finding a new home, such as advance trips by employees and spouses to locate living quarters, and temporary lodging during the transition period;

(iii) Closing costs (i.e., brokerage fees, legal fees, appraisal fees, etc.) incident to the disposition of actual residence owned by the employee when notified of transfer;

(iv) Other necessary and reasonable miscellaneous expenses incident to relocation, such as disconnecting and connecting household appliances, automobile registration; drivers license and use taxes; cutting and fitting rugs, draperies, and curtains; forfeited utility fees and deposits; and purchase of insurance against damage to or loss of personal property;

(v) Loss on sale of home;

(vi) Costs incident to the acquisition of a home in a new location;

(vii) Continuing costs of ownership of the vacant former actual residence being sold, such as maintenance of building and grounds (exclusive of fixing-up expenses), utilities, taxes, property insurance, etc., after settlement date or lease date of new permanent residence;

(viii) Continuing mortgage principal and interest payments on residence being sold; and

(ix) Cost of canceling an unexpired lease.

(b) Subject to (c), (d) and (f) below, relocation costs of the type covered in (a)(i), (ii), (iii), (iv), (vi), (vii) and (ix) above are allowable *Provided*

(i) The move is for the benefit of the employer;

(ii) Reimbursement is in accordance with an established policy or practice consistently followed by the employer, and such policy or practice is designed to motivate employees to relocate promptly and economically;

(iii) The costs are not otherwise unallowable under the provisions of 15.205–33, or any other paragraph of Subpart 2 (see 15.107 as related to large scale contractor relocation); and

(iv) Amounts to be reimbursed shall not exceed the employee's actual (or reasonably estimated) expenses, except that for costs of the type discussed in (a)(iv), a flat amount, not to exceed $500, may be allowed in lieu of actual (or reasonably estimated) cost.

(c) Costs otherwise allowable under (b) above are subject to the following additional provisions:

(i) The transition period for incurrence of costs of the type covered in (a)(ii) above shall be kept to the minimum number of days necessary under the circumstances, but shall not, in any event, exceed a cumulative total of 36 days including advance trip time;

(ii) Allowance for the combined total of costs of the type covered in (a)(iii) and (a)(vii) above shall not exceed 11.5% of the sales price of the property sold;

(iii) Costs of canceling an unexpired lease under (a)(ix) shall not exceed 3 times the monthly rental, and

(iv) Costs incident to the acquisition of a home in a new location if customarily paid by the purchaser are allowable except for the following:

(A) Brokers fees and real estate commissions;

(B) Costs of litigation;

(C) Insurance such as owner's title policy, "record title" policy, mortgage insurance relating to real property and insurance against damage or loss of property (however, cost of a mortgage title policy is allowable);

(D) Interest on loans, points, and mortgage discounts;

(E) Any fee, cost, charge, or expense which is determined to be part of the finance charge under the Truth in Lending Act, Title I, Public Law 90–321 and Regulation Z issued pursuant thereto by the Board of Governors of the Federal Reserve System; and

(F) Property taxes and operating or maintenance costs. Costs of the type covered in (a)(iii), (a)(iv), (a)(vi) and (a)(vii) above are allowable only in connection with the relocation of existing employees.

(d) Costs of the type covered in (a)(v), and (a)(viii) above are not allowable. Costs of the type covered in (a)(iii), (a)(iv), (a)(vi) and (a)(vii) above are not allowable for newly recruited employees.

(e) Payments for employee income taxes incident to reimbursed relocation costs are unallowable.

(f) If the employee does not remain at the new location for at least 12 months, the costs associated with the relocation are allowable if failure to comply with the 12-month requirement is beyond the control of the employee and the reason is acceptable to the Government.

15.205–31 [Amended]

51. In Part 15, 15.205–31(d) is amended by replacing the words ", and related costs," with the words ", and directly associated costs," in the first sentence of the paragraph.

52. In Part 15, 15.205–50(a)(2) is revised to read as follows:

15.205–50 Cost of money.

(a) Facilities Capital Cost of Money.

(1) * * *

(2) Facilities capital cost of money is allowable cost *provided* (i) the contractor's capital investment is measured, allocated to contracts, and costed in accordance with 3.1300, (ii) the contractor maintains adequate records to demonstrate compliance with item (i), and (iii) the estimated facilities capital cost of money is specifically identified or proposed in cost proposals relating to the contract under which this cost is to be claimed. (See 3.808–7.)

* * * * *

PART 20—ADMINISTRATIVE MATTERS

53. In Part 20, 20.604(d) (xxxii) and (xxxiii) are revised to read as follows:

20.604 Implementation.

* * * * *

(c) * * *

(xxxii) Determine whether prime contractor's Disclosure Statements are in compliance with Part 15 and Cost Accounting Standards; except that for those contractors with whom advance agreements are negotiated of the type discussed under 15.205–3 and 15.205–35, the Government contracting officer responsible for such agreements shall have full authority for determinations related to CAS 420;

(xxxiii) Determine contractor compliance with Cost Accounting Standards and Disclosure Statements, if applicable; except that for those contractors with whom advance agreements are negotiated of the type discussed under 15.205–3 and 15.205–35, the Government contracting officer responsible for such agreements shall have full authority for determinations related to CAS 420;

PART 24—METHODS OF DISPOSAL

54. In Part 24, 24.204–4(e) is revised to read as follows:

24.204–4 Contractor's approved scrap procedure.

* * * * *

(d) * * *

(e)(1) Silver, gold, platinum, palladium, rhodium, iridium, osmium and ruthenium; scrap bearing such metals; and items containing recoverable quantities thereof will be reported to the Defense Property Disposal Precious Metals Recovery Office (DPDM–R), NWS Earle, Colts Neck, New Jersey 07722, for disposition instructions.

(2) Precious metals shall be packaged in nonporous, smooth containers in a manner to prevent loss through leakage or damage to the containers. (Glass containers shall *not* be used.) Grindings or sweepings shall not be packaged in paper or wooden containers as loss occurs due to adhesion of particles. Containers shall be marked to show the type of precious metals contained therein.

(3) The shipping document shall indicate the net weight of each item to the nearest ounce (troy or avoirdupois). Shipment shall be made by the most economical means available, consistent with adequate safeguards to prevent loss or theft.

(4) When the determination is made that precious metal recovery is not feasible, the material in (e)(1) above shall be disposed of through normal procedures. The sales return shall not be less than the scrap value of the precious metal(s) contained therein.

Appendix C—Property in Possession of R&D Contractors

55. In Appendix C—Instructions for the Preparation of NASA Form 1018, Section "5. EXCLUSIONS" paragraph (k) is added to read as follows:

5. Exclusions

* * * * *

(j) * * *

(k) Property for which title has been transferred to the contractor pursuant to NASA PR 13.350–4.

Supplement No. 2—File Maintenance, Closeout, and Disposition

56. In Supplement No. 2, Subpart 3—Closeout of Contract Files, Table of Contents, S2.303 through S2.306 are revised to read as follows:

* * * * * *

S2.303	Closeout of Contract Files by the Office Administering the Contract.	S2–3:2
S2.304	[Reserved]	S2–3:3
S2.305	Standard Times for Contract Closing	S2–3:3
S2.306	Status of Physically Completed Unclosed Contracts.	S2–3:3

57. In Supplement No. 2, S2.303 an "(a)" is added to the first paragraph to correct the format of the paragraph. The first paragraph now reads as follows:

S2.303 Closeout of Contract Files by the Office Administering the Contract.

(a) The office administering the contract is responsible for ensuring that all contract administration has been completed and for initiating closeout action (see S2.305 and S2.306). The organizational element to which this responsibility is delegated shall proceed as follows upon determination or advice (such as by final DD Form 250 or other final report) that the contract has been fully performed (including final payment) or has been terminated completely:

58. In Supplement No. 2, S2.305(a) is revised to read as follows:

S2.305 Standard Times for Contract Closing.

(a) Standard times for closing physically completed contracts are set forth below.

CALENDAR MONTHS AFTER THE MONTH IN WHICH PHYSICALLY COMPLETED

Category	Months	Contract type
A	3	Fixed priced small purchase ($10,000 and under).
B	6	Firm fixed price (exclude "A" above).
C	36	Contracts requiring settlement of overhead rates.
D	20	All other (excluding "A" through "C" above).

[FR Doc. 82–17065 Filed 6–23–82; 8:45 am]

BILLING CODE 7510–01–M

41 CFR Ch. 18, Part 3

[Procurement Notice 82–3]

Regulatory Coverage for the Uniform Contract Format; Correction

AGENCY: National Aeronautics and Space Administration.

ACTION: Correction to final rule.

SUMMARY: This document corrects a typographical error in a final rule published April 23, 1982 which clarified NASA's position regarding post-selection increases in the apparent successful offeror's proposed estimated costs.

EFFECTIVE DATE: The final rule was effective April 23, 1982.

FOR FURTHER INFORMATION CONTACT: James H. Wilson, Policy Division (Code HP–1), Office of Procurement, NASA Headquarters, Washington, D.C. 20546, Telephone: 202–755–2237.

List of Subjects in 41 CFR Ch. 18 Part 3

Government procurement.

(42 U.S.C. 2473(c)(1))

Leroy Hopkins,

Deputy Assistant Administrator for Procurement.

3.501 [Corrected]

Accordingly, 41 CFR 3.501(b)(3) paragraph (30), published on April 23, 1982 at 47 FR 17489 is corrected by revising the second sentence to read as follows:

"The purpose of this provision is to advise the offeror(s) selected for final negotiation that they may not unilaterally increase their estimated costs except for the reasons cited therein."

[FR Doc. 82–17066 Filed 6–23–82; 8:45 am]

BILLING CODE 7510–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6267

[I–8947]

Idaho; Withdrawal of Forest Service Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 150 acres of national forest land from nonmetalliferous mining for a period of 20 years. The land contains gem quality garnet deposits and lies adjacent to the nationally known Emerald Creek garnet deposit. The withdrawal would protect the streams and facilitate planned development of the public garnet collection area on Emerald Creek.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, Idaho State Office, 208–334–1735.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands, which are under the jurisdiction of the Secretary of Agriculture, are hereby withdrawn from nonmetalliferous location and entry under the general mining laws.

Boise Meridian, St. Joe National Forest, East Fork Emerald Creek Garnet Area

T. 42 N., R. 1 W.,
- Sec. 10, NE¼SW¼SE¼SE¼, S½SW¼SE¼SE¼, N½SE¼SE¼SE¼, SW¼SE¼SE¼SE¼;
- Sec. 11, NW¼SE¼SW¼SW¼, NE¼NW¼SE¼SE¼;
- Sec. 12, E½W½SW¼NE¼, NE¼SW¼NW¼, NW¼SW¼SE¼NW¼, SE¼SW¼SE¼NW¼, W½NE¼NE¼SW¼, NE¼NW¼NE¼SW¼, SE¼NE¼SW¼, SE¼SE¼NE¼SE¼, E½E½NW¼SE¼, E½NW¼NW¼SE¼, W½SW¼NW¼SE¼, NE¼SE¼SE¼, W½SE¼SE¼SE¼;
- Sec. 13, NE¼NE¼NE¼, NE¼SE¼NE¼NE¼, S½SE¼SE¼NE¼, SW¼SE¼SW¼NW¼, SE¼SW¼SE¼NW¼, SE¼SW¼SE¼SW¼;
- Sec. 14, S½SW¼SW¼NE¼, SW¼NE¼NE¼NE¼NW¼, NW¼NW¼NE¼NW¼, SE¼SW¼SE¼NW¼, S½SE¼SE¼NW¼;
- Sec. 15, NW¼NW¼NE¼NE¼, N½NE¼NW¼NE¼.

The area described contains 150 acres in Latah County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 15, 1982

[FR Doc. 82–17085 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6268

[M–41617]

Montana; Order Opening Reclamation Lands to Location, Entry and Patent Under the General Mining Laws

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This document modifies a Departmental Order of October 7, 1948, which withdrew lands for reclamation

purposes. The 70.38 acres involved will be open to location, entry and patent under the United States mining laws, subject to certain stipulations. The lands lie within the Canyon Ferry and Helena Valleys Units, Pick-Sloan Missouri Basin Reclamation Project.

EFFECTIVE DATE: July 21, 1982.

FOR FURTHER INFORMATION CONTACT: Dan Stark, Montana State Office, 406–657–6291.

By virtue of the authority contained in the Act of April 23, 1932, 47 Stat. 136; 43 U.S.C. 154 (1976), and the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights and the provisions of existing withdrawals, the following described lands shall at 8 a.m. on July 21, 1982, be open to location, entry, and patent under the United States mining laws:

Principal Meridian

T. 10 N., R. 1 W.,
Sec. 5, lots 7 and 8.

The lands described contain 70.38 acres in Lewis and Clark County.

2. These lands remain subject to the mineral location provisions of the Act of August 11, 1955, 30 U.S.C. 621 (1976), as they were withdrawn for powersite purposes by Executive Order dated July 2, 1910.

3. The locators or entrymen must agree to the following stipulations which apply to all prospecting, mining and other uses and operations on the lands covered by their locations to insure against interference in the construction, operation and maintenance of the Canyon Ferry Unit and the Helena Valley Unit, Montana.

4. The opening made by this order shall be subject to the stipulations quoted below, and which is made a part of this order, to be executed and acknowledged in favor of the United States by the locators, for themselves, their heirs, successors, and assigns, and recorded in the county records and in the Bureau of Land Management's State Office located in Billings, Montana 59107, before any rights vest in the intending locator(s) or entrymen:

a. Prospective locators or entrymen have applied for mining permits on reclamation lands in T. 10 N., R. 1 W., Sec. 5, lots 7 and 8, P.M. Montana, withdrawn by the Departmental Order of October 7, 1948, in connection with the Canyon Ferry Unit, pursuant to Section 3 of the Act of June 17, 1902, 32 Stat. 388, as amended and supplemented.

b. The Bureau of Reclamation has agreed to have the land opened to location, entry, and patent under the general mining laws pursuant to the Act of April 23, 1932, 47 Stat. 136; 43 U.S.C. 154, and the regulations contained in 43 CFR 3816, without prejudice.

c. In order to insure against the possible interference with the construction, operation and maintenance of the Canyon Ferry Unit and Helena Valley Unit, Montana, the successful locator or entryman agrees that the following conditions shall apply to all prospecting, mining and other uses and operations on the lands covered by the location described in 4a. above in conjunction with and in addition to pertinent State and Federal mining laws:

1. All prospecting, mining and other use and operations on the lands covered by said mining location shall be subject to the reservation of a right-of-way to the United States according to provisions of the Act of August 30, 1890, 26 Stat. 371; 43 U.S.C. 945.

2. The locator or entryman shall be liable for any and all damages to the property of the United States, its successors and assigns, resulting from exploration, development or operation of the works as contemplated by the mining claimant.

3. The locator or entryman agrees to maintain a bond with qualified sureties in an amount as required by the United States to pay for any damage caused to the Canyon Ferry Unit and Helena Valley Unit.

4. The locator or entryman agrees that under no conditions should the mining operation close or cause to be closed any portion of the Helena Valley Pumping Plant access road.

5. In addition to complying with applicable State and Federal mining regulations, the locator or entryman agrees to submit a mining plan to the Regional Director, Bureau of Reclamation, Billings, Montana, for approval. The mining plan shall include the mining operations, methods, and equipment and shall show mining and prospecting sites along with proposed improvements, structures, developments and any other activities. A supplemental agreement will be developed incorporating the mining plan into these stipulations. Said supplemental agreement will set out further conditions or reservations relative to the plan to insure compatability with the purposes of the Canyon Ferry Unit and Helena Valley Unit. Only those activities, structures, and improvements which are contained in the mining plan and thereby receive advance approval by the Regional Director of the Bureau of Reclamation in the form of a supplement to these stipulations will be authorized.

6. No residences or other buildings, including but not limited to trailers, garages, or maintenance buildings, shall be allowed on the premises, except a mobile type office building directly associated with the mining operations or the security thereof.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 15, 1981.

[FR Doc. 82-17087 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6269

[M-41836]

Montana; Partial Revocation of Secretarial Order Dated August 18, 1894

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a Secretarial order affecting 120 acres of land described as Reservoir Site No. 6. The lands are in private ownership, therefore, they will not be restored to operation of the public land laws, including the mining and mineral leasing laws.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406–657–6291.

By virtue of the authority vested in the Secretary of the Interior, by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order dated August 18, 1894, which withdrew lands for reservoir use is hereby revoked insofar as it affects the following described lands:

Principal Meridian

T. 20 N., R. 8 W.,
Sec. 14, NE¼SE¼, S½SE¼.

The area described contains 120 acres in Lewis and Clark County.

2. This action will not restore the above described land to operation of the public land laws, mining or mineral leasing laws as the surface and mineral interests are in private ownership.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau

of Land Management, P.O. Box 30157, Billings, Montana 59107.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 15, 1982.

[FR Doc. 82-17086 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6270

[OR-22199 (Wash)]

Washington; Revocation of Executive Order of July 2, 1875

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order which withdrew 128.65 acres of land for use by the Department of the Army for military purposes. The lands have been conveyed from United States ownership.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of July 2, 1875, which withdrew the following described lands for use by the Department of the Army for military purposes is hereby revoked:

Willamette Meridian

T. 34 N., R. 2 W.,
Sec. 9, lots 1 to 4, inclusive, and NE¼NE¼;
Sec. 16, lots 1 and 2.
The areas described aggregate 128.65 acres in San Juan County.

2. The lands described above have been conveyed from United States ownership and will not be restored to operation of the public land laws, including the mining laws and mineral leasing laws.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 15, 1982.

[FR Doc. 82-17088 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6271

[OR-33890 (Wash)]

Washington; Revocation of Executive Order of July 27, 1875

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order which withdrew 484.31 acres of land for use by the Department of the Army for military purposes. The land has been conveyed from United States ownership.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of July 27, 1875, which withdrew the following described land for use by the Department of the Army for military purposes is hereby revoked:

Willamette Meridian

T. 35 N., R. 3 W.,
Sec. 1, lots 1, 2, and 3, and SW¼SW¼;
Sec. 2, lots 4, 7, and 8;
Sec. 11, lots 1, 4, and 5;
Sec. 12, lots 1, 2, and 3, and NW¼NW¼.
The area described contains 484.31 acres in San Juan County.

2. The land described above has been conveyed from United States ownership and will not be restored to operation of the public land laws, including the mining laws and mineral leasing laws.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 15, 1982

[FR Doc. 82-17082 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6272

[M-53456]

Montana; Partial Revocation of Public Land Order No. 648

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will partially revoke Public Land Order No. 648, dated June 5, 1950, covering a Bureau of Land Management administrative site. This action will not restore the lands to operation of the public land laws, including the mining and mineral leasing laws as these interests are in private ownership.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406-657-6291.

By virtue of the authority vested in the Secretary of the Interior, by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 648 dated June 5, 1950, which withdrew and reserved lands for use by the Bureau of Land Management as administrative sites, is revoked insofar as it affects the following described lands:

Principal Meridian

T. 30 N., R. 30 E.,
Cosner's Third Addition to Malta Townsite, in sec. 18, Block 10, lots 28, 29, 30, and 31.

The area described contains 0.39 acres of reconveyed land in Phillips County.

2. This action will not restore the above described lands to operation of the public land laws, mining laws or mineral leasing laws as the surface and mineral interests are in private ownership.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 15, 1982

[FR Doc. 82-17089 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6273

[OR-19168]

Oregon; Powersite Cancellation No. 357; Revocation of Powersite Classification No. 311

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order as to 1,866.89 acres of land withdrawn for a powersite classification. This action will restore 1,686.89 acres to such forms of disposition as may by law be made of national forest lands. The balance of 180 acres remains segregated by existing withdrawals.

EFFECTIVE DATE: July 21, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Energy Regulatory Commission in DA-567-Oregon, it is ordered as follows:

1. The Secretarial Order of November 18, 1938, which created Powersite Classification No. 311, is hereby revoked

insofar as it affects the following described lands:

Willamette Meridian

Powersite Classification No. 311, Mt. Hood National Forest

T. 1 N., R. 9 E.,
Sec. 14, S½NW¼.
T. 1 S., R. 9 E.,
Sec. 1, lot 4 and SW¼NW¼;
Sec. 2, lots 1 and 2, lots 5 to 9, inclusive, SW¼NE¼, and W½SE¼;
Sec. 11, lots 1 and 2, W½NE¼, and SE¼;
Sec. 12, SW¼NW¼, N½SW¼, SW¼SW¼, N½SE¼SW¼, and SW¼SE¼SW¼;
Sec. 13, NW¼NW¼;
Sec. 14, E½;
Sec. 23, E½ and E½W½.

The areas described aggregate 1,866.89 acres in Hood River County.

2. The State of Oregon has waived its preference right for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. The S½SE¼NE¼ and NE¼SE¼ of Section 23, T. 1 S., R. 9 E., W.M., are included in a recreation area withdrawal and the SE¼SW¼ and S½SE¼ of Section 23, T. 1 S., R. 9 E., are included in a preliminary power project and remain withdrawn from operation of the public land laws, including the mining laws.

4. At 7:30 a.m., on July 21, 1982, the lands will be open to such forms of disposition as may by law be made of national forest lands, except as provided in paragraph 3 of the order.

5. The lands have been and continue to be open to applications and offers under the mineral leasing laws and, except as provided in paragraph 3, to location under the United States mining laws subject to the provisions of the Act of August 11, 1955, (69 Stat. 682; 30 U.S.C. 621).

Dated: June 15, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-17106 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6274

[U-41558]

Utah; Partial Revocation of Public Water Reserve No. 81

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes the Executive Order creating Public Water Reserve No. 81 insofar as it affects 120 acres. This action will restore 40 acres of land to surface entry and nonmetalliferous mining. This portion has been and will remain open to metalliferous mining and mineral leasing. The remaining 80 acres are located within an oil shale withdrawal and thus will remain closed to surface entry and all mining.

EFFECTIVE DATE: July 21, 1982.

FOR FURTHER INFORMATION CONTACT: Ken Latimer, Utah State Office, 801–524–4245.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of November 26, 1921, creating Public Water Reserve No. 81, is hereby revoked insofar as it affects the following described lands:

Salt Lake Meridian

T. 14 S., R. 22 E.,
Sec. 13, NW¼SE¼.
T. 15 S., R. 22 E.,
Sec. 15, SE¼SW¼;
Sec. 23, SE¼SW¼.

The areas described aggregate 120 acres in Uintah County.

2. At 10:00 a.m. on July 21, 1982, the above described lands, excepting those described in paragraph 3 below, shall be open to the operation of the public lands generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws. All valid applications received at or prior to 10:00 a.m. on July 21, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. This action will not restore the following described lands to operation of the public land laws or to mining location for nonmetalliferous minerals as they are subject to an oil shale withdrawal.

Salt Lake Meridian

T. 14 S., R. 22 E.,
Sec. 13, NW¼SE¼.
T. 15 S., R. 22 E.,
Sec. 23, SE¼SW¼.

The area described aggregates 80 acres in Uintah County.

4. At 10:00 a.m. on July 21, 1982, Section 15, SE¼SW¼, shall be open to location for nonmetalliferous minerals, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable laws. The lands have been and continue to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 15, 1982.

[FR Doc. 82-17083 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6275

[CA-7792 WR; CA-8196 WR]

California; Revocation of Recreation Withdrawal No. 50 and Public Land Order No. 651

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial Order and a Public Land Order which withdrew approximately 937.89 acres, more or less, for protection of recreational values. The lands have been patented to the State of California. The 200 acres described in paragraph 1 will not be opened to location under the mining laws unless and until appropriate rules and regulations are issued to allow mineral location on lands conveyed pursuant to the Recreation and Public Purposes Act. The remaining lands are within the Golden Gate Recreation Area and are not subject to mineral location or leasing.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald Morrison, California State Office, 916–484–4431.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of April 20, 1932, which withdrew the following described lands for protection of recreational values is hereby revoked:

Humboldt Meridian Recreation Withdrawal No. 50

T. 2 S., R. 2 E.,
Sec. 8, NW¼NE¼, N½NW¼, SW¼NW¼, and NW¼SW¼.

The area described contains 200 acres in Humboldt County.

2. The surface estate of the lands has been conveyed to the State of California pursuant to the Recreation and Public Purposes Act of June 14, 1926, as amended, 43 U.S.C. 869, et seq.; therefore, unless and until appropriate rules and regulations are issued, the lands will not be open to location under the United States mining laws. The lands have been open and continue to

be open to applications and offers under the mineral leasing laws.

3. Public Land Order No. 651 of June 26, 1950, which withdrew the following described lands for protection of recreation values is hereby revoked:

Mount Diablo Meridian

T. 1 S., R. 5 W.,
Tract 37;
Tract 38;
Tract 39.

The area described contains 737.89 acres, more or less, in Marin County, except the following parcel described by metes and bounds which was not included in Public Land Order No. 651:

Commencing at Point Ione, at low-water mark of the Bay, thence south, approximately six hundred and eighty (680) feet to a point on the northerly side of Military Road; thence following the Station side (northerly) of said Military Road to a point of intersection with a line bearing south forty-five (45) degrees east, which line passes through a point one hundred (100) feet north, forty-five (45) degrees east from the northernmost Station structure; thence north forty-five (45) degrees west to a point on the low-water mark of Bay at Hospital Cove; thence in a westerly direction with the low-water mark to the point of beginning; together with a contiguous area one hundred (100) feet wide, centered on two groups of water tanks, and to extend from the Station side of Military Road a distance of fifty (50) feet beyond the center of the farthest group of tanks.

The lands described in paragraph 3, less the metes and bounds parcel, which were patented to the State of California for historic monument purposes only, lie within the Golden Gate National Recreation Area. In accordance with 36 CFR 5.14, lands within the National Park system are not subject to mineral location or leasing.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, Room E-2841, 2800 Cottage Way, Sacramento, California, 95825.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 15, 1982

[FR Doc. 82-17077 Filed 6-23-82, 8:45 am]

BILLING CODE 4310-84-M

Public Land Order 6276

[C-3830]

Colorado; Revocation of Public Land Order No. 4913

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a public land order which withdrew 40 acres of land for the Black Ridge Communication Site. The land will be restored to operation of the public land laws generally, including the mining laws.

EFFECTIVE DATE: July 21, 1982.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303-837-2535.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 4913 of October 5, 1970, which withdrew the following described land for protection of public values as a communication facilities site is hereby revoked in its entirety:

Sixth Principal Meridian

T. 11 S., R. 102 W.,
Sec. 25, SW¼SW¼.

Containing 40 acres in Mesa County.

2. At 7:45 a.m. on July 21, 1982, the land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on July 21, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 7:45 a.m. on July 21, 1982, the land will be open to location under the United States mining laws. The land has been and continues to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be directed to the Chief, Withdrawal Section, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 15, 1982.

[FR Doc. 82-17084 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6280

[U-0146319]

Utah; Powersite Restoration Nos. 629; Partial Revocation of Powersite Reserves No. 199, 380, and 463

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes three Executive Orders as to 4,440.15 acres of land situated in southwestern Utah. The lands which were withdrawn for powersite reserve purposes have been relinquished by the U.S. Geological Survey. Approximately 1,000.66 acres, located within the Manti LaSal National Forest, will be opened to such uses as may by law be made of national forest lands. Another 480.00 acres are privately owned and thus will not be opened. The remaining 2,959.49 acres of public lands will be opened to surface entry. Both the National Forest and public lands affected by this order have been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: Deen Bowden, Utah State Office, 801-524-4245.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Energy Regulatory Commission in DA-186 Utah, it is ordered as follows:

1. The Executive Orders dated, August 16, 1911 creating Powersite Reserve No. 199, July 3, 1913 creating Powersite Reserve No. 380, December 11, 1914 creating Powersite Reserve No. 463 are hereby revoked as to the following described lands:

Salt Lake Meridan, Utah

Powersite Reserve No. 199

T. 29 S., R. 6 W.,
Sec. 17, lot 11;
Sec. 18, lot 3, E½SW¼, S½SE¼;
Sec. 20, NE¼, N½NW¼, SE¼NW¼, E½SE¼;
Sec. 21, W½NW¼, SW¼SW¼;
Sec. 28, lots 2, 3, S½N½, NW¼NW¼.
T. 29 S., R. 7 W.,
Sec. 13, N½S½.

Powersite Reserve No. 380

T. 18 S., R. 3 E.,
Sec. 8, S½NE¼, N½SE¼;
Sec. 9, S½NW¼, N½SW¼, SE¼;
Sec. 10, lots 3, 4, E½SW¼, SE¼.

Powersite Reserve No. 463

T. 28 S., R. 9 W.,
Sec. 19, lots 3, 4, SE¼SW¼, SW¼SE¼;
Sec. 28, N½SW¼, SE¼SW¼, S½SE¼;
Sec. 29, S½NE¼, N½NW¼, SE¼NW¼, NE¼SE¼;
Sec. 30, N½NE¼;
Sec. 33, NE¼NE¼;
Sec. 34, W½NW¼, SE¼NW¼, NE¼SW¼, W½SE¼, SE¼SE¼.
T. 28 S., R. 10 W.,
Sec. 14, SW¼SW¼;
Sec. 15, lot 3, E½SW¼, S½SE¼;
Sec. 22, NE¼NE¼;
Sec. 23, NE¼, N½NW¼;
Sec. 24, S½NW¼, NE¼SW¼, N½SE¼, SE¼SE¼.
T. 27 S., R. 11 W.,
Sec. 30, lot 4, SE¼SW¼, SW¼SE¼;
Sec. 31, N½NE¼;
Sec. 32, S½NE¼, NW¼, NE¼SE¼;

Sec. 33, lots 1, 2, 3, N½SW¼.

The area described aggregates 4,440.15 acres in Beaver and Sanpete Counties.

2. The State of Utah has waived its preference right for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. The lands described in this paragraph are privately owned and will not be restored to the operation of the public land laws.

Salt Lake Meridian

T. 28 S., R. 10 W.,
Sec. 15, E½SW¼, S½SE¼;
Sec. 22, NE¼NE¼.
T. 27 S., R. 11 W.,
Sec. 32, S½NE¼, NW¼, NE¼SE¼.

The area described aggregates 480 acres in Beaver County.

4. The lands described in this paragraph are national forest lands and will be opened to such uses as may by law be made of national forest lands.

Salt Lake Meridian

T. 18 S., R. 3 E.,
Sec. 8, S½NE¼, N½SE¼;
Sec. 9, S½NW¼, N½SW¼, SE¼;
Sec. 10, lots 3, 4, E½SW¼, SE¼.
T. 29 S., R. 6 W.,
Sec. 17, lot 11;
Sec. 20, NE¼, E½NW¼, NW¼NW¼, E½SE¼;
Sec. 21, W½NW¼, SW¼SW¼;
Sec. 28, lots 2, 3, S½N½, NW¼NW¼.

The area described aggregates approximately 1,000.66 acres in Beaver County.

5. At 10 a.m. on July 22, 1982, the public lands, except as provided for in paragraphs 3 and 4, shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on July 22, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

6. The lands have been open to mineral leasing and to location under the mining laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 16, 1982.

[FR Doc. 82-17061 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6281

[NEV-051731; (A-13384)]]

Arizona; Public Land Order No. 5976; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This document amends and corrects errors and adds lands that were omitted in a public land order revoking certain lands included in Executive Order No. 5339 for the State of Arizona that appeared at pages 35504 thru 35506 of Thursday, July 9, 1981 (46 FR 81–20070). This order is restated for clarity and correction of land descriptions and acreages therein. An additional 19,058 acres in Arizona will be restored to operation of the public land laws generally, including nonmetalliferous minerals under the mining laws. The lands are already open to mineral leasing.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office, 602–261–4774.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 5339 of April 25, 1930, which withdrew lands in Nevada and Arizona in aid of legislation pending determination as to the advisability of including them in a national monument, is revoked as to the remaining lands in Arizona:

Gila and Salt River Meridian, Arizona

T. 27 N., R. 22 W.
T. 28 N., Rs. 10, 11, 12, 13, 21, and 22 W.
T. 29 N., Rs. 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23 W.
T. 30 N., Rs. 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23 W.
T. 31 N., Rs. 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23 W.
T. 32 N., R. 5 W.,
Secs. 1 thru 18, inclusive.
T. 32 N., R. 8 W.
T. 32 N., Rs. 9, 10, 11, 12, 13, 14, 15, 16, and 17 W.
T. 33 N., R. 5 W.
T. 33 N., R. 6 W.,
That part north of the Colorado River and in the Grand Canyon National Monument.
T. 33 N., R. 7 W.,
That part lying north of the Colorado River and in the Grand Canyon National Monument.
T. 33 N., R. 8 W.,
All of township except those parts of secs. 5, 8 and 17 west of the Grand Canyon National Monument and secs. 6, 7 and 18.
T. 33 N., R. 9 W.,
Secs. 22 thru 27, inclusive; secs. 31 to 36, inclusive.
T. 33 N., R. 10 W.,
Secs. 32 thru 36, inclusive.
T. 33 N., R. 12 W.,
Secs. 1, 2, and 3;
Secs. 10 to 15, inclusive; secs. 22 to 36, inclusive.

Gila and Salt River Meridian

T. 33 N., R. 15 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 33 N., R. 16 W.
T. 34 N., Rs. 4, 5, and 6 W.
T. 34 N., R. 7 W.,
Secs. 1 to 2, inclusive;
Sec. 10, E½;
Secs. 11 to 15, inclusive;
Secs. 22 to 27, inclusive;
Sec. 28, E½;
Sec. 33, E½;
Secs. 34, 35, and 36.
T. 35 N., R. 4 W.,
Sec. 10, E½
Secs. 11 to 14, inclusive;
Sec. 15, E½
Sec. 22, E½
Secs. 23 to 36, inclusive.
T. 35 N., R. 5 W.
T. 35 N., R. 6 W.,
Secs. 25 thru 36, inclusive.
T. 35 N., R. 7 W.,
Secs. 25, and 26;
Secs. 27, E½E½, S½SW¼, W½SE¼;
Secs. 34 to 36, inclusive.

2. At 10 a.m. on July 22, 1982, any of the following described lands not previously opened on August 5, 1981, by Public Land Order No. 5976 dated June 30, 1981, shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on July 22, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on July 22, 1982, any of the following described lands not previously opened on August 5, 1981, by Public Land Order No. 5976 dated June 30, 1981, will be open to nonmetalliferous mineral location under the United States mining laws. The lands have been and continue to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Gila and Salt River Meridian

T. 32 N., R. 11 W.,
Secs. 1, 2, 3, 4, and 5, inclusive;
Sec. 6, lots 1, and 2, S½NE¼, SE¼;
Sec. 7, NE¼;
Secs. 8, and 9;
Sec. 10, E½, N½NW¼, SE¼NW¼, SW¼;
Secs. 11 to 16, inclusive;

Sec. 18, lots 3, and 4, E½SW¼, SE¼;
Sec. 19, lot 3;
Sec. 20;
Secs. 22 to 24, inclusive.
T. 31 N., R. 12 W.,
Secs. 4, and 6.
T. 32 N., R. 12 W.,
Sec. 1, lots 2, 3, and 4, SW¼NE¼, S½NW¼, SW¼ and W½SE¼;
Sec. 2, lots 1 to 4, inclusive, S½N½, SW¼, S½SE¼;
Secs. 3 to 7, inclusive;
Secs. 8 to 19, inclusive;
Sec. 20, W½;
Sec. 21, E½;
Secs. 22, and 23;
Secs. 30, 32, and 34.
T. 33 N., R. 12 W.,
Secs. 1, 2, and 3;
Secs. 11 to 14, inclusive;
Secs. 23, 24, and 25;
Sec. 26, NE¼, E½NW¼, NE¼SW¼, SE¼;
Sec. 34, S½;
Sec. 35, S½.
T. 31 N., R. 13 W.,
Excepting any lands within the Grand Canyon National Park on the following described lands:
Sec. 4, W½,
Secs. 5 to 8, inclusive,
Sec. 9, W½,
Sec. 16, W½,
Secs. 17, and 18.
T. 32 N., R. 13 W.,
Excepting any lands within the Grand Canyon National Park on the following described lands:
Secs. 1 thru 24, inclusive,
Secs. 26, and 28,
Secs. 30, 31, 32, 34, and 36.
T. 32 N., R. 14 W.,
Excepting any lands within the Grand Canyon National Park on the following described lands:
Secs. 1 to 19, inclusive,
Secs. 22, to 26, inclusive,
Sec. 36.
T. 29 N., R. 15 W.,
Sec. 4, lots 1 to 4, inclusive,
Secs. 6, 8, 18, and 20,
Sec. 28, lots 1 to 4, inclusive,
Sec. 30.
T. 30 N., R. 15 W.,
Excepting any lands within the Grand Canyon National Park on the following described lands:
Secs. 18, and 20,
Sec. 28, lots 1, 2, 3, and 4,
Sec. 30,
Sec. 32, E½.
T. 29 N., R. 16 W.,
Secs. 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, and 36.
T. 30 N., R. 16 W.,
Excepting any lands within the Grand Canyon National Park on the following described lands:
Secs. 2, 3, 4, 10, 14, 16, 20, 22, 24, 26, 28, 30, 32, and 34,
Sec. 36, S½NW¼, S½.
T. 29 N., R. 17 W.,
Secs. 2, and 4,
Sec. 9, N½NW¼, SW¼NW¼, W½SW¼,
Sec. 10, N½, SW¼, N½SE¼, SW¼SE¼, N½SE¼SE¼, SW¼SE¼SE¼, N½SE¼SE¼SE¼,
Secs. 12, and 14,
Sec. 16, W½,
Secs. 17, and 18,
Sec. 19, NE¼,
Secs. 20, 22, 24, 26, and 28,
Sec. 29, NE¼, W½SE¼ and NE¼SE¼,
Secs. 30, 32, and 34.
T. 29 N., R. 18 W.,
Secs. 14, 16, 17, 18, 20, 22, 24, 26, 28, 30, 32, 34, and 36.
T. 29 N., R. 19 W.,
Secs. 3 thru 10, inclusive,
Secs. 13 thru 20, inclusive,
Secs. 22, 24, 26, 28, 30, 31, 32, and 34.
T. 29 N., R. 20 W.,
Secs. 1, and 2,
Secs. 11 to 15, inclusive; secs. 22 to 27, inclusive,
Secs. 34 to 36, inclusive.
T. 30 N., R. 20 W.,
Secs. 1, 12, 13, 24, 25, 35, and 36.
T. 28 N., R. 21 W.,
T. 29 N., R. 21 W.,
T. 30 N., R. 21 W., unsurveyed,
Secs. 5 to 8, inclusive; secs. 17 to 21, inclusive,
Secs. 28 to 33, inclusive.
T. 27 N., R. 22 W.,
Sec. 6,
Secs. 7, 18, and 19 except as to all lands lying inside a line 300-foot landward from the highwater mark, measured from a line horizontal to a perpendicular rising from the 655-foot elevation of Lake Mohave, and the 1,229-foot elevation of Lake Mead.
T. 29 N., R. 22 W.,
Secs. 1, 2, 12, and 13, unsurveyed.
T. 30 N., R. 22 W.,
Secs. 1, 12, 13, 24, and 25;
Secs. 2, 11, 14, 23, 26, 35, and 36 except as to all lands lying inside a line 300-foot landward from the highwater mark, measured from a line horizontal to a perpendicular rising from the 655-foot elevation of Lake Mohave, and the 1,229-foot elevation of Lake Mead.

Containing approximately 208,715 acres.

4. The remaining lands containing approximately 607,379 acres in Arizona are either patented or contained within other withdrawals which continue to segregate the lands from all forms of appropriation.

Inquires concerning the lands should be addressed to the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Date: June 16, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-17112 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6282

[OR-20221]

Oregon; Partial Revocation of Public Water Reserve No. 61

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order in part as to 1,602.18 acres of land withdrawn for public water reserve purposes. The action will restore 1,522.18 acres to operation of the surface land laws and 1,602.18 acres to nonmetalliferous mineral location under the mining laws. The entire acreage has been and will remain open to metalliferous mineral location and mineral leasing.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of February 25, 1919, which withdrew certain land for public water reserve purposes is hereby revoked insofar as it affects the following described land:

Willamette Meridian

T. 9 S., R. 14 E.,
Sec. 4, SE¼.
T. 5 S., R. 15 E.,
Sec. 34, NE¼NE¼.
T. 8 S., R. 15 E.,
Sec. 24, W½;
Sec. 27, SW¼.
T. 7 S., R. 17 E.,
Sec. 8, SE¼.
T. 8 S., R. 18 E.,
Sec. 24, NE¼.
T. 10 S., R. 18 E.,
Sec. 23, SE¼SE¼;
Sec. 24, S½SW¼.
T. 7 S., R. 19 E.,
Sec. 31, lots 1, 2, 3, and 4, and E½W½.
T. 10 S., R. 19 E.,
Sec. 7, S½SE¼;
Sec. 18, N½NE¼.

The areas described aggregate 1,602.18 acres in Wasco and Jefferson Counties.

2. The land in section 34, T. 5 S., R. 15 E., is included in Stock Driveway No. 96 of September 19, 1919, and the NE¼SW¼ of section 31, T. 7 S., R. 19 E., is included in Powersite Classification No. 383 of August 15, 1947, and remains withdrawn from operation of the public land laws generally.

3. At 10 a.m. on June 22, 1982, the land described in paragraph 1, except as provided in paragraph 2, shall be open to operation of the public land laws

generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on July 22, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 10 a.m. on July 22, 1982, the land will be open to nonmetalliferous mineral location under the United States mining laws. The land has been and continues to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: June 16, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-17110 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6283

[OR-22459 (WASH)]

Washington; Revocation of Coal Land Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order which withdrew certain lands for examination and classification with respect to coal values. This action will restore 2,706 acres of land to such forms of disposition as may by law be made of national forest lands and 2,426 acres to nonmetalliferous mineral location under the mining laws.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive order of February 5, 1912, which withdrew the following described lands for examination and classification with respect to coal values is hereby revoked:

Willamette Meridian

Wenatchee National Forest

T. 18 N., R. 15 E.,
Sec. 9, S½N½ and S½; Patented
Sec. 10, S½NW¼ and S½;
Sec. 14, NW¼NE¼ and S½N½;
Sec. 15, N½, N½SW¼, SE¼SW¼, and SE¼;
Patented
Sec. 16, N½, SW¼, N½SE¼, and SW¼SE¼;
Sec. 17, E½; Patented
Sec. 21, NE¼, N½NW¼, and N½SE¼;
patented
Sec. 22, SW¼NE¼, NW¼, and N½SW¼;
(NW¼NW¼ and S½NW¼ Patented)
Sec. 23, NW¼NW¼ and S½NW¼.
T. 19 N., R. 15 E.,
Sec. 19, E½NE¼ and NE¼SE¼; Patented
Sec. 20, SW¼NW¼, SW¼, and SW¼SE¼;
Sec. 27, SW¼ amd SW¼SE¼; (Portions
patented in M.S. 1200)
Sec. 28, NW¼NW¼, S½NW¼, and S½;
Sec. 29, NE¼, N½NW¼, SE¼NW¼, N½SE¼,
and SE¼SE¼; Patented
Sec. 33, NE¼, N½NW¼, and SE¼NW¼;
Patented
Sec. 34, W½NE¼ and N½NW¼. (Portions
patented in M.S. 1200).

The areas described aggregate 5,160 acres in Kittitas County.

2. At 7:30 a.m. on July 22, 1982, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the national forest lands will be open to such forms of disposition as may by law be made of national forest lands.

3. At 7:30 a.m. on July 22, 1982, the lands described in paragraph 1, except where the mineral estate has been conveyed from United States ownership, will be open to nonmetalliferous mineral location under the United States mining laws.

4. The lands described in paragraph 1, except where the mineral estate has been conveyed from United States ownership, have been and continue to be open to location under the United States mining laws as to metalliferous minerals and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated June 16, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-17111 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6284

[NM-42912-WR]

New Mexico; Partial Revocation of Secretarial Interpretation, Public Water Reserve No. 107

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes a Secretarial Order as to 320 acres withdrawn for public water reserve purposes. This action will restore the lands to operation of the public land laws generally, including nonmetalliferous mining. All lands affected by this order have been and will remain open to metalliferous mining and mineral leasing.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: Miguel M. Martinez, New Mexico State Office, 505-988-6654.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Those portions of Public Water Reserve No. 107 granted to BLM by Executive Order of April 17, 1926, and further designated by Secretarial Order of Interpretation No. 47 dated April 18, 1927, are hereby revoked as far as they affect the following described lands:

New Mexico Principal Meridian

T. 16 N., R. 5 W.,
Sec. 16, N½.

The area described contains 320 acres in McKinley County.

2. At 8:00 a.m. on July 22, 1982, the lands will be open to operation of the public land laws generally subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws. All valid applications received at or prior to 8:00 a.m. on July 22, 1982, shall be considered as simultaneously filed at that time, those received thereafter shall be considered in the order of filing.

3. At 8:00 a.m. on July 22, 1982, the lands will be open to nonmetalliferous mineral location under the United States mining laws. The land has been and will continue to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 16, 1982.

[FR Doc. 82-17080 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6285

[OR-20520]

Oregon; Revocation of Reclamation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial order which withdrew 7,855.29 acres of land for reclamation purposes. This action will restore 7,035.29 acres to operation of the public land laws generally, and 7,675.29 acres to operation of the mining laws.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan. Jr., Oregon State Office, 503–231–6905.

By virtue of the authority vested in the Secretary of the Interior, by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of January 5, 1905, which withdrew certain lands for use by the Bureau of Reclamation for reclamation purposes in connection with the Chewaucan Project is hereby revoked:

Willamette Meridian

Chewaucan Project

T. 33 S., R. 18 E.,
Sec. 26, E½SW¼;
Sec. 27;
Sec. 28, Lots 1 to 4, inclusive, and W½;
Sec. 33, Lots 1 to 9, inclusive.

Freemont National Forest

T. 36 S., R. 17 E.,
Sec. 26.
T. 34 S., R. 18 E.,
Sec. 9, N½Ne¼, SW¼NE¼, W½SE¼NE¼, and S½;
Secs. 16 and 21;
Sec. 28, N½, W½SW¼, and SE¼;
Sec. 33 Tract C, N½NE¼NE¼, W½W½, N½SE¼NW¼, E½NE¼SE¼, and SE¼SE¼.
T. 35 S., R. 18 E.,
Sec. 6, Lots 1 to 7, inclusive, Tract C, SE¼NE¼, N½SW¼NE¼, SE¼SW¼NE¼, SE¼NW¼, NE¼SW¼, N½N½SE¼SW¼, SW¼NW¼SE¼SW¼, NW¼SW¼ SE¼SW¼, E½SE¼, E½NE¼NW¼SE¼, W½W½NW¼SE¼, E½SW¼NW¼SE¼, NE¼SE¼NW¼SE¼, and N½NW¼ SW¼SE¼;
Sec. 23, N½, W½SW¼,SE¼SW¼, and SW¼SE¼;
Sec. 34, N½, N½SW¼, SW¼SW¼, N½NE¼ SE¼, NW¼SE¼, and S½SE¼SE¼.
T. 36 S., R. 18 E.,
Sec. 3, Lots 1, 2, and 4, N½SW¼NE¼, SE¼SW¼NE¼, SE¼NE¼, SW¼NW¼, W½SW¼, S½NE¼SW¼, SE¼NW¼SE¼, E½SW¼SE¼, and SE¼SE¼;
Sec. 4, Lots 1 to 4, inclusive, S½N½, and S½;
Sec. 18, Lots 1 to 4, inclusive, N½NE¼, NE¼NW¼, E½SW¼, NE¼SE¼, and S½SE¼.

The areas described aggregate 7,855.29 acres in Lake County.

2. The land in the E½SW¼, sec. 27, T. 33 S., R. 18 E., is included in Power Project 865 of March 16, 1928, and the lands in the SE¼SE¼, sec. 6, T. 35 S., R. 18 E., and W½NE¼SW¼, sec. 16, T. 34 S., R. 18 E., are withdrawn as a recreation area by Public Land Order No. 2298 of March 14, 1961, and remain segregated from operation of the public land laws generally, including the United States mining laws.

3. The land in the W½E½ and W½, sec. 9, T. 34 S., R. 18 E., is included in Powersite Reserve No. 289 of October 18, 1912, and remains segregated from operation of the public land laws generally.

4. The land in the W½E½NE¼, section 16, T. 34 S., R. 18 E., is withdrawn as a recreation area by Public Land Order No. 3363 of April 7, 1964, and remains segregated from operation of the United States mining laws.

5. The surface estate of the lands in the SE¼ of section 28 and the N½NE¼ NE¼ and W½SE¼SE¼ of section 33, T. 34 S., R. 18 E., has been conveyed from Federal ownership and will not be opened to operation of the public land laws.

6. At 7:30 a.m., on July 22, 1982, the land in T. 33 S., R. 18 E., except as provided in paragraph 2, will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 7:30 a.m., on July 22, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

7. At 7:30 a.m., on July 22, 1982, the land in T. 33 S., R. 18 E., except as provided in paragraph 2, will be open to location under the United States mining laws. The land has been and continues to be open to applications and offers under the mineral leasing laws.

8. At 7:30 a.m., on July 22, 1982, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the above described lands, except as provided in paragraphs 2 to 5, inclusive, will be open to such forms of disposition as may by law be made of national forest lands, including location and entry under the United States mining laws. The lands have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 16, 1982.

[FR Doc. 82–17079 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6286

[OR–20407]

Oregon; Reservoir Site Restoration No. 53; Revocation of Reservoir Site Reserve No. 19

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order as to 476.39 acres of land withdrawn for a reservoir site reserve. This action will restore 396.39 acres to operation of the surface land laws and 80 acres to such forms of disposition as may by law be made of national forest land, including the nonmetalliferous mining laws. The lands have been and will remain open to metalliferous mining and mineral leasing.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 6205 of July 14, 1933, which created Reservoir Site Reserve No. 19 is hereby revoked insofar as it affects the following described lands:

Willamette Meridian

Reservoir Site Reserve No. 19

T. 21 S., R. 10 E.,
Sec. 1, W½SE¼;
Sec. 12, SE¼NE¼ and N½NE¼SE¼;
Sec. 13, W½NE¼NE¼, W½SE¼NW¼, and W½SW¼SW¼;
Sec. 24, W½SE¼NW¼;
Sec. 25, W½SW¼SW¼.
T. 21 S., R. 11 E.,
Sec. 6, lot 2 and SE¼NW¼;
Sec. 7, lots 1 and 2.

Deschutes National Forest

T. 20 S., R. 11 E.,
Sec. 31, W½SE¼.

The areas described aggregate 476.39 acres in Deschutes County.

2. At 10 a.m. on July 22, 1982, the W½SE¼, section 31, T. 20 S., R. 11 E., will be open to such forms of disposition as may by law be made of national forest lands.

3. At 10 a.m. on July 22, 1982, the lands described in paragraph 1, except as provided in paragraph 2, will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of

applicable law. All valid applications received at or prior to 10 a.m. on July 22, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 10 a.m. on July 22, 1982, the lands will be open to nonmetalliferous mineral location under the United States mining laws. The lands have been and continue to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 16, 1982.

[FR Doc. 82-17078 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6287

[OR-11517, OR-25306]

Oregon; Withdrawal of Lands For Addition to Oregon Islands National Wildlife Refuge; Revocation of Executive Orders Nos. 4082, 4364, 4774 and 5702; Partial Revocation of Executive Order of January 29, 1867

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws approximately 208 acres of land involving unsurveyed rocks and islands off the coast of Oregon as an addition to the Oregon Islands National Wildlife Refuge. It also revokes or partially revokes five withdrawal orders which are no longer needed.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the mining laws, 30 U.S.C. Ch. 2, and reserved for use by the U.S. Fish and Wildlife Service as an addition to the Oregon Islands National Wildlife Refuge:

Willamette Meridian

All the Federally owned unsurveyed rocks and islands above the mean high water elevation of the Pacific Ocean offshore from and within three geographical miles of the Pacific coastline of Oregon, except for those rocks and islands that are already withdrawn and reserved as part of the Oregon Islands National Wildlife Refuge by Executive Order No. 7035 of May 6, 1935, and Public Land Order No. 4395 of April 1, 1968; except those rocks and islands withdrawn and reserved as the Three Arch Rocks National Wildlife Refuge by Executive Order No. 699 of October 14, 1907; except the unsurveyed island known as Gregory Point containing the Cape Arago Light Station; and except the following described lands which remain under the administration of the Bureau of Land Management:

Squaw Island, Unsurveyed

T. 26 S., R. 14 W.,
Offshore from Sec. 4
(43°20' N., 124°22' W.).

Two Unnamed Islands, Unsurveyed

T. 26 S., R. 14 W.,
Offshore from Sec. 8
(43°20' N., 124°22' W.).

Fish Rock, Unsurveyed

T. 29 S., R. 15 W.,
Offshore from Sec. 2
(43°05' N., 124°25'45" W.).

North Sisters Rocks, Unsurveyed (Three Rocks)

T. 34 S., R. 14 W.,
Offshore from Sec. 30
(42°37'04" N., 124°24'50" W.).

Pistol River and Myers Creek Rocks, Unsurveyed (Eight Rocks)

T. 38 S., R. 14 W.,
Offshore from Sec. 7
(42°18' N., 124°24'50" W.).

Lone Ranch Beach Rocks, Unsurveyed

T. 40 S., R. 14 W.,
Offshore from Sec. 22
(42°06'02" N., 124°20'40" W.).

Harris Island and Unnamed Rock, Unsurveyed

T. 40 S., R. 14 W.,
Offshore from Sec. 36
(42°03'50" N., 124°18'30" W.).

Zwagg Island

T. 41 S., R. 13 W.,
Sec. 6, Lot 9;
Sec. 7, Lot 2.

Table Rock, Unsurveyed

T. 41 S., R. 13 W.,
Offshore from Sec. 6
(42°02'55" N., 124°17'25" W.).

The areas described aggregate, after making the aforesaid exceptions, approximately 208 acres in Clatsop, Tillamook, Lincoln, Lane, Douglas, Coos, and Curry Counties, Oregon.

2. The withdrawal shall remain in effect for a period of 40 years from the effective date of this order.

3. The lands added to the Oregon Islands National Wildlife Refuge by this order have either been designated as wilderness and made a part of the "Oregon Island Wilderness" by Act of Congress of October 11, 1978 (Pub. L. 95-450) or will be managed so as not to impair their suitability for preservation as wilderness pending a determination by Congress as to their inclusion in the National Wilderness Preservation System.

4. Executive Order No. 4774 of November 29, 1927, which temporarily withdrew all unreserved rocks and pinnacles off the coast of Oregon from settlement, location, sale, or entry for classification and in aid of proposed legislation, is hereby revoked in its entirety.

5. Executive Order No. 5702 of September 1, 1931, which withdrew the rocks constituting Port Orford, Blanco, and Rogue River Reefs from settlement, location, sale, or entry and reserved them as a refuge for the protection of sea lions, is hereby revoked in its entirety.

6. Executive Order No. 4364 of January 7, 1926, which withdrew certain named and unnamed islands and rocks situated in the Pacific Ocean and lying off the coast of Oregon from settlement, location, sale, or entry pending legislation for permanent reservation for recreational purposes or protection of waterfowl and other native birds, is hereby revoked in its entirety.

7. Executive Order No. 4082 of October 6, 1924, which temporarily withdrew the unsurveyed island known as Proposal Rock situated in Secs. 26 and 35, T. 5 S., R. 11 W., W.M., for classification and in aid of legislation, is hereby revoked in its entirety.

8. The Executive Order of January 29, 1867, which reserved certain islands off the Pacific Coast for lighthouse purposes, is hereby revoked insofar as it affects the rocky islets off Cape Blanco in Oregon.

9. The lands identified in paragraph 1 as remaining under the jurisdiction of the Bureau of Land Management have been and continue to be segregated from operation of the public land laws, generally, by multiple use management withdrawal, Public Land Order No. 5490 of February 12, 1975.

10. At 10:00 a.m., on July 22, 1982, the lands identified in paragraph 1 as remaining under the jurisdiction of the Bureau of Land Management and aggregating approximately 18.88 acres will be open to nonmetalliferous mineral location under the United States mining laws, and they have been and continue to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: June 16, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-17109 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 153

[CGD 78-128]

Safety Rules for Self-Propelled Vessels Carrying Hazardous Liquids

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule governing self-propelled vessels carrying bulk hazardous liquid cargoes that appeared in the Federal Register of Monday, May 17, 1982, (47 FR 21198). This action is necessary to correct typographical errors in the Federal Register and inadvertent omissions in the original document.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander James W. Gormanson, Office of Merchant Marine Safety (G-MTH-1/14), Room 1405, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593 (202-426-1217).

Accordingly, the Coast Guard is correcting 46 CFR Part 153 as follows:

1. On page 21205, item 6., under the table I "Cargo name" column, "Dimethylehanolamine" is corrected to read "Dimethylethanolamine."

2. On page 21206, item 6., under the table I "Special requirements" column for "Isophorone diisocyanate" is corrected to read ".236(a),(b), .316, .409, .500, .501, .602, .1000, .1020."

3. On page 21206, item 6., under the table I "Cargo name" column, "(alpha-) Methyl styrene" is corrected to read "alpha-Methyl styrene."

4. On page 21207, item 6., footnote 2 at the end of table I is corrected to read "[2]153.230-153.232."

5. On page 21208, column 1, item 19., § 153.284(a) is corrected by inserting the word "a" between "Be" and "positive."

6. On page 21208, column 2, item 24., the introductory text of § 153.350 splits "B/3" into two lines as "B/" and "3." As corrected, it should read as follows:

§ 153.350 Location of B/3 vent discharges.

Except as prescribed in § 153.353, a B/3 venting system must discharge:

* * * * *

7. On page 21208, column 3, item 27., the title of § 153.361 is corrected by inserting the word "systems" between "venting" and "having."

8. On page 21209, column 1, "§ 153.336 (Removed.)" is corrected to read "§ 153.366 (Removed.)"

9. On page 21209, column 1, item 30., "§ 153.408(b), line 2, "value" is corrected to read "valve."

10. On page 21209, column 1, item 30., "§ 153.408(c)(6), line 3, "Tank Overflow Alarm" is corrected to read "TANK OVERFLOW ALARM."

11. On page 21209, column 2, item 31., "§ 153.409(d), lines 2 and 3, "High Level Alarm" is corrected to read "HIGH LEVEL ALARM."

Clyde T. Lusk, Jr.,

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

June 18, 1982.

[FR Doc. 82-17128 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[Docket No. 20840]

Use of Recording Devices in Connection With Telephone Service: Order Extending Time for Filing Revised Tariff Regulations

AGENCY: Federal Communications Commission.

ACTION: Rule related notice.

SUMMARY: The Common Carrier Bureau has extended the time for filing revised tariff regulations providing for the use of recording devices in connection with telephone service. The Federal Communications Commission modified its policies concerning the use of recording devices and ordered common carriers to revise their tariffs accordingly. However, the American Telephone and Telegraph Company has requested clarification of that order. This extension will allow common carriers until after the Commission's determination on the petition for clarification to file their revised tariff regulations.

DATE: Revised tariff regulations must be submitted within 30 days after publication in the Federal Register of the Commission's determination on the perition for clarification.

ADDRESS: FCC Wash., D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Margaret Wood, 202-254-8100.

SUPPLEMENTARY INFORMATION:

In the matter of use of recording devices in connection with telephone service (Docket No. 20840, June 2, 1981, 46 FR 29474); Order.

Adopted June 9, 1982.

Released June 14, 1982.

By the Chief, Common Carrier Bureau.

1. Before the Commission is a petition filed by American Telephone and Telegraph Company (AT&T) requesting, *inter alia*, an extension of time for filing revised tariff regulations providing for the use of recording devices in connection with interstate and foreign message toll telephone service and wide area telephone service. In the *Memorandum Opinion and Order* in Docket No. 20840, 86 FCC 2d 313 (1981), the Commission ordered all common carriers subject to Title II of the Communications Act, 47 U.S.C. 151 *et seq.* to revise their tariffs to comport with the order. AT&T, however, has filed a petition for clarification of that order, and therefore it requests that the time for filing revised tariffs be extended to a period thirty days subsequent to the publication in the Federal Register of the Commission's determination on the petition for clarification. Good cause having been shown, we grant the request.

2. So ordered.

Federal Communications Commission.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 82-17257 Filed 6-23-82; 9:31 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 215

[Docket Number RSFC-6, Notice 4]

Railroad Freight Car Safety Standards

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Amendment of final rule, notice of public hearing.

SUMMARY: This document amends the final rule published on December 31, 1979 (44 FR 77328), which revised the Railroad Freight Car Safety Standards (49 CFR Part 215). The amendment extends the compliance date for equipping the side doors of railroad box cars with safety hangers, or the equivalent (49 CFR 215.121(d)). The compliance date is extended from July 1, 1982, until November 1, 1982. The extension will permit FRA an

opportunity to hold a public hearing and receive written comments from interested persons on the petition of the Association of American Railroads (AAR) to further extend the compliance date until December 31, 1985. This action is taken by FRA in response to the AAR's petition for an extension of a compliance date in the final rule.

DATES: This amendment is effective June 30, 1982.

(1) Written Comments: Written comments must be received before August 17, 1982. Comments received after that date will be considered so far as possible without incurring additional expense or delay.

(2) Public Hearing: A public hearing will be held at 10:00 a.m. in Washington, D.C. on August 3, 1982. Any person who desires to make an oral statement at the hearing should notify the Docket Clerk before July 27, 1982, by phone or by mail.

ADDRESSES: (1) Written Comments: Written comments should identify the docket number and the notice number and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Written comments will be available for examination both before and after the closing date for written comments, during regular business hours in Room 7321A of the Nassif Building at the above address.

(2) Public Hearing: A public hearing will be held in Room 2230 of the Nassif Building, 400 Seventh Street, SW., Washington, D.C. Persons desiring to make oral statements at the hearing should notify the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Leavitt A. Peterson, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, telephone (202) 426-0897.

SUPPLEMENTARY INFORMATION:

Background

On January 5, 1979, FRA published a notice of proposed rulemaking (NPRM) to revise the Freight Car Safety Standards (44 FR 1419). The proposed revision included a requirement that a railroad may not place or continue in service "* * * a box car, the side doors of which are not equipped with operative safety hangers, or the equivalent, to prevent the door from becoming disengaged * * *" (proposed § 215.41(d)).

The door safety hanger requirement was widely supported, though many commenters stated that the compliance period needed to be lengthy in light of the number of cars (approximately 100,000) involved. The Association of American Railroads (AAR) suggested a 6 year compliance period.

The final rule (44 FR 77329) adopted the safety hanger requirement and provided a 6 month compliance period instead of making the requirement immediately applicable as originally proposed. The 6 month compliance period resulted from a misreading of the AAR's comments. The preamble to the final rule stated, "the AAR requested a 6 month extension to permit the railroads to comply with proposed § 215.41(d), which would require that the side doors on box cars be equipped with safety hangers. FRA believes that this request is reasonable. Therefore, § 215.121(d) of the final rule provides this extension." (44 FR 77337)

After publication of the final rule, the AAR submitted a petition for reconsideration which addressed, among other things, the compliance period for door safety hangers. As a result, FRA amended the final rule and extended the compliance date from September 1, 1980 until July 1, 1982 (45 FR 26708).

In that notice, FRA acknowledged that "the constraints of personnel and materials and design differences" necessitate an extension of the deadline. However, FRA did not grant AAR's request that a compliance date of December 31, 1985 (a 6 year period from publication of the final rule) be adopted.

The AAR has renewed its request that FRA establish a compliance date of December 31, 1985. The AAR bases this request, as it consistently has, on the limitations of personnel and materials. AAR estimates that there are approximately 65,000 remaining plug door box cars without safety hangers.

FRA recognizes that the remaining 65,000 cars cannot be equipped by July 1, 1982. FRA also recognizes that the industry has made substantial efforts to reduce the number of box cars that are not equipped with safety hangers. However, in light of the potential hazard posed by the absence of safety hangers and the lack of data on the time needed to complete the safety hanger retrofit, FRA believes that only a 4 month extension is warranted at this time. FRA will hold a public hearing on the AAR's petition to extend the compliance to December 31, 1985, and will receive written comments from interested persons as well. Further extension of the compliance date may be made after full consideration of the comments made in response to this notice.

To avoid the disruption of rail service and public inconvenience that would result if the remaining 65,000 plug door box cars not yet equipped with safety hangers were to be removed from service on the current compliance date of July 1, 1982, this amendment date shall become effective in less than 30 days on June 30, 1982.

List of Subjects in 49 CFR Part 215

Railroad safety.

Environmental Impact

On June 16, 1980, the FRA published (45 FR 40854) revised procedures for ensuring full consideration of the environmental impacts of FRA actions as required by the National Environmental Policy Act ("NEPA," 42 U.S.C. 4321 *et seq.*), the Department of Transportation Act (49 U.S.C. *et seq.*), other environmental statutes, executive orders, and DOT Order 5610.1C. FRA has reviewed the amendment in this notice in light of the criteria established under the FRA procedures and has determined that the action does not constitute a major FRA action requiring an environmental assessment.

Economic Impact

FRA has reviewed this notice under the standards established by Executive Order 12291 and by DOT's order on regulatory policies and procedures. FRA has concluded that the amendment is not a major rule under the terms of Executive Order 12291 or a significant rule under DOT criteria.

This notice has been reviewed according to the requirements of the Regulatory Flexibility Act (Pub. L. 95-354, 94 Stat. 1184, September 19, 1980). FRA has not identified any significant economic impact from the rule change that will affect small entities. Based on this fact, it is certified that the amendment will not have significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act.

PART 215—RAILROAD FREIGHT CAR SAFETY STANDARDS

In consideration of the foregoing, § 215.121(d) of Part 215 of Title 49, Code of Federal Regulations, is revised, effective June 30, 1982, as follows:

§ 215.121 Defective car body.

* * * * *

(d) After November 1, 1982, the car is a box car and its side doors are not equipped with operative hangers, or the

equivalent, to prevent the doors from becoming disengaged.

* * * * *

(Secs. 202 and 209, 84 Stat. 971 and 975, 45 U.S.C. 431 and 438; and § 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n))

Issued in Washington, D.C. on June 21, 1982.

Robert W. Blanchette,

Administrator.

[FR Doc. 82-17210 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-06-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Critical Habitat for the Hawksbill Sea Turtle in Puerto Rico

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines Critical Habitat for the hawksbill sea turtle (*Eretmochelys imbricata*) in the Commonwealth of Puerto Rico. Nesting of this species occurs in scattered localities throughout the Caribbean although in no place is nesting as abundant as in the past. The beaches on Mona Island represent a significant nesting area for this species in the Caribbean and were singled out as of major importance at the World Conference on Sea Turtle Conservation held in November 1979 in Washington, D.C. Areas on the islands of Culebra, Culebrita, and Cayo Norte are also regularly used by nesting hawksbills. This document identifies habitat subject to Federal agency consultation pursuant to Section 7(a) of the Act.

DATE: This rule becomes effective on July 26, 1982.

ADDRESSES: Questions concerning this action may be addressed to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to the rule are available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION: Background. The hawksbill sea turtle is a rare and critically Endangered reptile throughout the world (see Parsons, 1972; Carr and Stancyk, 1975; and Pritchard, 1979) and has been officially listed as Endangered since 1970. Much of the hope for the survival and recovery of this species depends upon the maintenance of suitable and undisturbed nesting beaches and the protection of nesting beaches is a strategy endorsed by scientists throughout the world (World Conference on Sea Turtle Conservation, 1979) for the conservation of this species. The Service recognizes that areas containing such beaches may qualify for recognition as Critical Habitat as referred to in Section 4 of the Act, thereby providing additional protection through Section 7.

In accordance with the July 18, 1977, Memorandum of Understanding between the Fish and Wildlife Service and National Marine Fisheries Service, the Fish and Wildlife Service was given responsibility for sea turtles while on land. Such responsibility includes proposing and designating Critical Habitat. The designation of marine Critical Habitat is the jurisdiction of the National Marine Fisheries Service; therefore, this rule includes only land areas.

Hawksbill sea turtles are known to nest on all of Mona Island's 7.2 kilometers of beaches. The offshore areas appear to support a somewhat stable and resident population (Thurston and Wiewandt, 1975; Wiewandt, 1973; A. Carr, pers. commun.). In addition, green turtles and, rarely, leatherback turtles may also nest on Mona (T. Wiewandt, pers. commun.). The designation of Mona Island as Critical Habitat for the hawksbill sea turtle was recommendation number 83 in the World Action Plan for the Conservation of Sea Turtles (World Conference on Sea Turtle Conservation, 1979). The entire island of Mona is already Critical Habitat for the listed yellow-shouldered blackbird, Mona ground iguana, and Mona boa.

Nesting of hawksbill sea turtles occurs on suitable sandy beaches on the north shore of Culebra Island, as well as the nearby islands of Cayo Norte and Isla Culebrita. Turtles are known to feed on the rich offshore reefs around these islands. In addition to hawksbills, occasional nesting has been reported for leatherback, loggerhead, and green turtles on these beaches (T. Carr, 1974). The Critical Habitat for the Endangered Culebra Island giant anole on Playa Resaca barely overlaps the Critical Habitat of the hawksbill.

The hawksbill sea turtle is a tropicopolitan species. It occurs in waters off the east coast of the continental United States (primarily Florida), the U.S. Virgin Islands, mainland Puerto Rico, the Hawaian Islands, Pacific Trust Territory, American Samoa, Guam, and Territory of the Northern Marianas. Nesting is known to occur very rarely in Florida (Lund, 1978; R. Witham, pers. commun.) and more frequently in the Virgin Islands (Island Resources Foundation, 1978) and on remote islands under U.S. jurisdiction in the Pacific Ocean (Pritchard, 1977). Dodd (1978) has provided a list of nesting areas for the hawksbill in the United States and in areas under its jurisdiction.

The threats to the worldwide apparent decline in populations of the hawksbill sea turtle come from three main sources: killing the animal so that the scutes covering the bony shell may be removed to fashion tortoise-shell items, or the animal may be stuffed and sold to tourists; removal of eggs for human consumption or the destruction of eggs by predators; disruption or alteration of the nesting beaches. Additional problems that this species may encounter include killing for meat (this happens occasionally but hawksbill meat is considered poisonous in many parts of the world), incidental catch in trawls (a minor problem in the Caribbean), accidental entanglement in fishing nets, pollution and destruction of nesting and feeding reefs, and harassment while nesting and swimming. The problems faced by this species were treated in detail at the recent (November 26–30, 1979) World Conference on Sea Turtle Conservation held in Washington, D.C.

Critical habitat for beaches used by nesting hawksbills in the Commonwealth of Puerto Rico was proposed on May 24, 1978, in the Federal Register (43 FR 22224–22225). Those areas were withdrawn from consideration on March 6, 1979 (44 FR 12382–12384), because of the substantive changes made to the requirements for the determination of Critical Habitat by the Endangered Species Act Amendments of 1978. The areas in the final rule are essentially the same as those of the original and subsequent proposal. This rule is in compliance with the requirements of the 1978 and later amendmants.

In conjunction with the proposal for Critical Habitat, the Service held public meetings in Mayaguez (December 2, 1980), San Juan (December 3, 1980), and on Isla Culebra (December 4, 1980) to explain the proposal, answer public

questions, and to solicit additional information on the biology of the turtle and the economic effects of a Critical Habitat designation on federally authorized and funded projects in the area. All public comment periods were closed on January 21, 1981.

Summary of Comments and Recommendations

Section 4(b)(1)(C) of the Act requires that a summary of all comments and recommendations received be published in the **Federal Register** prior to adding any species to the List of Endangered and Threatened Wildlife and Plants or to the addition of Critical Habitat to an already listed species. In the October 22, 1980, **Federal Register** (45 FR 70198–70201), the Service proposed to list the Critical Habitat of the hawksbill sea turtle, *Eretmochelys imbricata*.

Comments received through January 21, 1981, on the proposed Critical Habitat of this turtle are summarized below. A total of 25 comments were received in response to the proposal.

All comments favored the proposal, except a letter signed by Mr. Frederick E. Rushford on behalf of Governor Carlos Romero Barcelo of Puerto Rico. Mr. Rushford simply acknowledged receipt of notification of the proposal but offered no comments on the proposal itself. Of the remainder, 21 comments offered no substantive comments or criticisms, but merely reiterated the information contained in the proposal.

In the additional three favorable comments, several suggestions were offered. One comment recommended exclusion of Playa de Pajaros and Sardinera Beach on Mona because these areas are used for camping or there are cottages constructed near them. The Service notes that both areas are used for nesting by this species and believes they are important to the survival of the nesting hawksbill on Mona. Neither camping nor already existing cottages would be affected by this rule since a designation of Critical Habitat only applies to federally authorized or funded projects. Harassing or harming of hawksbills is prohibited by other sections of the Act and have been since 1973.

One comment from the National Wildlife Federation noted the discrepancy between the width of the proposed Critical Habitat on Culebra and Culebrita (150 meters inland from mean high tide) and that recommended to protect marine turtles in the Draft Environmental Impact Statement with regard to the proposed land transfer on Culebra and Culebrita (167 meters from mean low tide contour). The Service responds as follows: Recent legislation gave the Commonwealth title to all submerged lands around Puerto Rico and all its islands (including Culebra and Culebrita) for a distance of 3 marine leagues (=10.35 statute miles) beginning at mean *high* tide (Pub. L. 96–205, which amended the Puerto Rican Federal Relations Act of 1971, also known as the "Jones Act"). Legal citation for the current jurisdiction is 48 U.S.C. 749, as amended March 12, 1980. Based on this, the Service believes the Critical Habitat boundary at mean high tide is appropriate. The conveyance restrictions were first drafted prior to enactment of this amendment. Substantively, there is little difference between the two, since tidal fluctuations in Puerto Rico are reported to be extremely small.

While Defenders of Wildlife supported the proposal, they raised a number of questions concerning it, in addition to reiterating information contained in the proposal. Defenders noted past U.S. Navy involvement and the pending transfer of excess Navy lands to the Commonwealth of Puerto Rico and the Service. Defenders expressed concern that the beaches proposed as Critical Habitat be adequately protected and managed. The Service responds that the transfer of lands on Culebra to the Commonwealth of Puerto Rico was approved by the Secretary on February 1, 1982. The Department decided to deed 936 acres on Culebra, including most of the beach in this final rule, to the Commonwealth. Seven hundred and seventy six acres were deeded to the Service to be managed as part of the National Wildlife Refuge system. Culebrita, already within the Refuge system, will remain within Caribbean National Wildlife Refuge. An integral part of the transfer included conveyance restrictions to insure that no activities adverse to sea turtle nesting will occur on the beaches. These restrictions include prohibition of all night time uses, including recreation and anchoring of boats; prohibition of installation of lights or their use at night during the nesting season; prohibition of motorized vehicles and hoofed animals; limitation of daytime uses to hiking, picnicking, swimming, and similar compatible recreational activities; intensive beach patrols; and education of visitors to the protections provided to all Endangered species and marine mammals. In an intra-Service consultation completed on May 16, 1980, the Service determined that these restrictions would be sufficient to preclude adverse impacts to nesting and hatchling turtles.

Defenders noted that Playas Blanca and Flamenco, both proposed in 1978 by the Service (see the **Federal Register** of May 24, 1978; 43 FR 22224–22225), were absent from the reproposal. They questioned this, as well as why beaches on Vieques were not included. The Service notes that Playa Blanca and Playa Flamenco were deleted from the reproposal because of the lack of hawksbill turtle nesting there and the intensive recreational use of the area. Other beaches mentioned in the letter were not included in either the original proposal or the reproposal because of lack of definitive data on turtle use.

The Service notes that the article cited by Defenders (Dodd, 1978) included areas under review for Critical Habitat status, not areas already determined to be biologically Critical Habitat. In any case, the article does not present Service positions, only the professional opinion of one biologist as to which areas may qualify.

Finally, Defenders noted that the proposed Critical Habitat in 1978 (previously referenced) proposed Critical Habitat to extend 0.1 mile inland whereas the reproposal extended only 150 meters inland. The Service believes, however, that the decision to change the Critical Habitat boundary from 0.1 mile (161 meters) to 150 meters from the high tide line makes no substantive difference; the beaches are fully protected regardless of which is chosen. As it is, there is extensive overlapping on Culebrita and all beach areas are included within the Critical Habitat boundaries.

After a thorough review and consideration of all the available information, the Secretary has determined that those areas proposed in the October 22, 1980, **Federal Register** (45 FR 70198–70201) should be determined as Critical Habitat for the Endangered hawksbill.

Critical Habitat

The Act defines "Critical Habitat" as: (i) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of Section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of Section 4 of this Act, upon a determination by the Secretary that such

areas are essential for the conservation of the species.

The Service believes that certain beaches and adjacent landward areas within the geographical area occupied by the hawksbill sea turtle in the Commonwealth of Puerto Rico should be designated as Critical Habitat. This species is highly susceptible to changes in its nesting habitat and unless these areas are managed carefully with regard to nesting and the successful incubation and hatching of eggs, the species could disappear from these beaches, which are reputed to be among the best in the world for hawksbills. The Service believes that the designation of Critical Habitat is essential to the conservation of this species and will work carefully in cooperation with the Department of Natural Resources in Puerto Rico to insure survival of the species, which requires special management consideration and protection.

Section 424.12(b) of 50 CFR further states that, when considering the designation of Critical Habitat, the Service shall focus on the biological or physical constituent elements within the defined area that are essential to the conservation of the species. Known primary constituent elements shall be listed with the Critical Habitat description. The following elements are known or believed to be constituent elements in the nesting habitat of the hawksbill sea turtle.

1. *Presence of clean sand*—The hawksbill sea turtle requires clean sand, free of pollutants such as oil, to have successful incubation of its eggs.

2. *Obstructions*—Tree roots, beach debris, steep banks, and offshore obstructions such as rocks or jetties may prohibit or hinder successful nesting. Beaches should be free from or have a minimum of such obstructions.

3. *Depth of sand*—There must be sufficient depth of sand to allow successful incubation and hatching without the eggs being drowned by sea water intrusion.

4. *Lights on land*—Areas behind and on the nesting beach should be free of lights. Lights may inhibit females from nesting and disorient hatchlings (Philibosian, 1976).

5. *Beach disturbance*—Beaches should receive a minimum of disturbance, especially after dark. Loud noise and even silhouettes may inhibit females from nesting. In addition, vehicles on a beach or even careless human walking may collapse nesting cavities.

Section 4(f)(4) of the Act requires, to the maximum extent practicable, that any determination of Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or may be impacted by such designation. Such activities are identified below for this species. It should be emphasized that Critical Habitat designation may not affect each of the activities listed below, as Critical Habitat designation only affects Federal agency activities, through Section 7 of the Act. At this time, no Federal activities are known which would be affected by this action.

Examples of activities that could be detrimental to the environment of this species and lead to further reduction of its range include:

1. The destruction of reef areas needed for feeding and resting or actual physical disturbance or pollution.

2. The modification of nesting beaches through removal of sand.

3. The placement of artificial lighting too near the nesting beach which could disorient hatchlings.

4. Putting human recreational facilities too close to nesting beaches which could allow the destruction of already completed nests or the spooking of nesting females as they come onto shore to deposit eggs.

5. Pollution of the nesting beaches by oil or other fouling materials.

6. The use of off-road vehicles on nesting beaches.

7. The creation of offshore barriers which could prevent the females from reaching the beaches.

8. General harassment by people and domestic and introduced animals.

The above eight examples are provided as illustrations of the types of activities which may be detrimental to the physical environment of hawksbill sea turtle nesting beaches. They are not necessarily examples of what is actually happening at each of the areas determined as Critical Habitat.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared an impact analysis and believes at this time that economic and other impacts of this section are not significant in the foreseeable future. The Service is notifying Federal and Commonwealth agencies that may have jurisdiction over the land and water under consideration in this action.

Effect of this Final Rule

Section 7(a) of the Act provides (in part):

(1) The Secretary shall review other programs administered by him and utilize such programs in furtherance of the Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purpose of this Act by carrying out programs for the conservation of Endangered species and Threatened species listed pursuant to Section 4 of this Act.

(2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as "agency action") is not likely to jeopardize the continued existence of any Endangered species or Threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to Subsection (h) of this section. In fulfilling the requirements of this paragraph each agency shall use the best scientific and commercial data available.

This final rule now requires Federal agencies not only to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the hawksbill sea turtle, but also requires them to insure that their actions are not likely to result in the destruction or adverse modification of its Critical Habitat which has been determined by the Secretary. Provisions for Interagency Cooperation are codified at 50 CFR Part 402.

Literature Cited

Carr, T. 1974. The marine turtles and terrestrial reptiles of Culebra Island. Rept. to U.S. Fish and Wildlife Service, Washington, D.C. 28 pg., 24 fig.

Carr, A. and S. Stancyk. 1975. Observations on the ecology and survival outlook of the hawksbill turtle. Biol. Conserv. 8:161–172.

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Island Resources Foundation. 1978. Report on sea turtle nesting, sighting, eggs and hatchlings for 1978 in the U.S. Virgin Islands and a recommended research methodology for dealing with hatchling disorientation on the beach (with special reference to leatherback nests at Sandy Point, St. Croix). Rept. to NOAA/NMFS on purchase order 01–8–D08–00187. 29 pp.

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Philibosian, R. 1976. Disorientation of hawksbill turtle hatchlings, *Eretmochelys imbricata*, by stadium lights. Copeia. 1976:824.
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Wiewandt, T. A. 1973. Mona amphibians, reptiles, and mammals. In: Mona and Monito Islands, an assessment of their natural and historical resources. Vol. II. Environmental Quality Board of Puerto Rico, San Juan.
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An environmental assessment has been prepared and is on file in the Service's Office of Endangered Species. This assessment is the basis for a decision that this rule is not a major Federal action that significantly affects the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969, implemented at 40 CFR Parts 1500–1508.

Note.—The Department of the Interior has determined that this is not a major rule and does not require preparation of a regulatory analysis under Executive Order 12291, and does not have a substantial effect on a significant number of small entities under the Regulatory Flexibility Act. These determinations are discussed in more detail in a Determination of Effects which has been prepared by the U.S. Fish and Wildlife Service.

The primary author of this rule is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is hereby amended as set forth below:

1. Section 17.95(c), Reptiles, is amended by adding Critical Habitat of the hawksbill sea turtle before that of the leatherback sea turtle as follows:

§ 17.95 [Amended]

Hawksbill Sea Turtle

(Eretmochelys imbricata)

Puerto Rico: (1) Isla Mona. All areas of beachfront on the west, south, and east sides of the island from mean high tide inland to a point 150 meters from shore. This includes all 7.2 kilometers of beaches on Isla Mona. (2) Culebra Island. The following areas of beachfront on the north shore of the island from mean high tide inland to a point 150 meters from shore: Playa Resaca, Playa Brava, and Playa Larga. (3) Cayo Norte. South beach, from mean high tide inland to a point 150 meters from shore. (4) Isla Culebrita. All beachfront areas on the southwest facing shore, east facing shore, and northwest facing shore of the island from mean high tide inland to a point 150 meters from shore.

HAWKSBILL SEA TURTLE
COMMONWEALTH OF PUERTO RICO

HAWKSBILL SEA TURTLE
COMMONWEALTH OF PUERTO RICO

Dated: May 14, 1982.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82–17039 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–55–M

Proposed Rules

Federal Register
Vol. 47, No. 122
Thursday, June 24, 1982

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 Parts 1134, 1136, and 1137

[Docket Nos. AO-326-A21, AO-301-A17 and AO-309-A23]

Milk in the Eastern Colorado, Western Colorado and Great Basin Marketing Areas; Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends adoption in each of the three milk marketing orders of the uniform classification and order format provisions that were incorporated in a large number of other milk orders in 1974, including a 10-cent Class II differential and the use of a single butterfat differential. In the Eastern Colorado milk order only, the decision also would permit a handler to consider all his distributing plants as a single unit for purposes of meeting the pooling standards. The proposed amendments are based on industry proposals considered at a public hearing held on February 2, 1982.

DATE: Comments are due by July 9, 1982.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250.

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

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued January 4, 1982, published January 7, 1982 (47 FR 778).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the aforesaid specified marketing areas. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, by July 9, 1982. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The hearing notice specifically invited interested persons to present evidence concerning the probable regulatory and informational impact of the proposals on small businesses. Most parties subject to a milk order are considered to be a small business. No participants at the hearing testified about any potentially adverse impacts of the proposals on small businesses as a group.

Further, William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that the amendments adopted herein, which are based on the hearing record, would not have a significant economic impact on a substantial number of small entities. The amendments would promote orderly marketing of milk by producers and regulated handlers.

The proposed amendments set forth below are based on the record of a public hearing held at Denver, Colorado, on February 2, 1982, pursuant to the notice thereof issued January 4, 1982 (47 FR 778).

The material issues on the record of the hearing relate to:

1. Classification of milk.
2. Class II differential.
3. Butterfat differential
4. Unit pooling of distributing plants in the Eastern Colorado milk order.
5. Other changes.
6. Advance Class II price announcement.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Classification of milk.* The Eastern Colorado, Western Colorado and Great Basin milk orders should provide for the same uniform classification of skim milk and butterfat that is commonly provided in many other Federal milk orders.

The proposals for the uniform classification of milk in the three orders were made by two cooperative associations supplying milk to the Eastern and Western Colorado milk orders and by a proprietary handler regulated by the Great Basin milk order. Also, two proprietary handlers regulated by the Eastern Colorado milk order proposed that such classification be provided for that order. In the case of all proponents, the uniform classification plan that was proposed was that which was included in 39 Federal milk orders in 1974 following extensive hearings in 1971 on the issue of uniform classification and pricing provisions. The plan was modified slightly the following year.

The spokesman for the cooperative associations testified that uniform classification provisions are needed in the Eastern and Western Colorado marketing areas because competition for sales between the two markets and with other federal milk order markets has developed over the years since the two orders were promulgated. He testified that one of the cooperatives, through its bottling facilities in the Western Colorado area, distributes fluid milk products into the Eastern Colorado marketing area and takes back Class II and Class III products for distribution in the Western Colorado market. Also, he indicated that Eastern Colorado handlers distribute ice cream, cottage cheese and yogurt into the Western Colorado area.

The witness testified that there is distribution of products in all 3 classes into the Eastern Colorado area from the

Scottsbluff, Nebraska, area of the Nebraska-Western Iowa order. Also, handlers regulated by the Wichita, Kansas, order distribute all 3 classes of milk and dairy products into the Eastern Colorado area. It was noted that both orders were included in the earlier classification proceedings.

The witness also testified that a handler regulated by the Great Basin milk order distributes sour cream and yogurt in the Eastern and Western Colorado areas and takes back cottage cheese from its plant regulated by the Eastern Colorado milk order for distribution in the Great Basin market.

The spokesman for the proponent cooperatives testified that the reasons for adopting uniform classification provisions are essentially the same as those reasons which were stated in the Department's decisions for the earlier classification proceedings. He said that the adoption of the uniform classification provisions for the Eastern and Western Colorado orders will provide competitive parity for the various dairy products being distributed between the two markets.

The spokesman for two handlers regulated by the Eastern Colorado order testified that the uniform classification provisions that have been provided by the Department in other orders should be provided for the Eastern Colorado order. He testified that when the Eastern Colorado order and other nearby orders were promulgated the classification plans adopted reflected the marketing conditions that prevailed at that time for the respective marketing areas. He stated that the classification plans varied from one order to another because local conditions and facilities were seldom alike from market to market. The witness indicated that as long as the markets remained relatively isolated from each other marketing problems resulting from the differences in the various classification plans were minimal.

The witness testified that in recent years the local character of the markets in the region have been disappearing. Intermarket movements of milk and dairy products have been commonplace as handlers have sought to find additional outlets for their products. He also indicated that such movements have been facilitated by developments such as health inspection reciprocity, improved highway networks, the virtual completion of the interstate highway system and the concentration of processing and packaging operations in large, specialized facilities.

The witness said that sour cream is being sold in the Denver area (Eastern Colorado order) by a handler regulated by the Indiana milk order. Also, cream products, including whipping cream and half and half, that are processed and packaged in Nebraska are presently being sold in the Eastern Colorado area, including Denver. In the above instances, he noted, the products are being classified under the uniform classification provisions previously cited. The witness stated that differences in classification among markets can adversely affect competition for sales among regulated handlers. He said that such differences have little, if any, foundation in current marketing conditions.

A spokesman for a proprietary handler regulated by the Great Basin milk order testified that the uniform classification provisions cited previously should be adopted for the order. He indicated that the handler operates two pool plants under the Great Basin order and distributes dairy products from the plants into the Great Basin, Western Colorado, Eastern Colorado, Lake Mead, Black Hills and Southwestern Idaho-Eastern Oregon marketing areas. The spokesman stated that over 70 percent of the sour cream, yogurt, half and half and party dips produced by the handler's Salt Lake City plant under the Great Basin milk order are shipped to Denver and distributed in the Eastern Colorado, Western Colorado and Black Hills marketing areas.

The witness said that unless the Great Basin milk order is amended to provide the uniform classification provisions cited previously, the Salt Lake City plant will continue to operate at a disadvantage with competing products in the other orders. He said that the adoption of a uniform classification system will eliminate the pricing distortions that act as an artificial barrier to the free movement of dairy products.

It is apparent from the testimony presented by proponents that considerable intermarket competition for sales of all classes of milk has developed since the three orders involved in this proceeding were established (1958–1961). When the orders were promulgated, marketing conditions were generally local in nature. Now, handlers, in one market compete extensively with handlers in another market where the classification of skim milk and butterfat are not the same. Also, the handlers regulated by the milk orders in this proceeding compete for sales with handlers regulated by the Indiana, Nebraska-Western Iowa, Wichita, and Eastern South Dakota milk orders which provide for the uniform classification provisions cited previously.

Exhibits introduced at the hearing indicated that handlers regulated under these three orders presently use milk to produce products that are classified as Class I or Class III, but under the proposals would be a Class II classification. Such products include cream (both sweet and sour), which is a Class I product under these orders (except that under the Eastern Colorado order sour cream not disposed of under a Grade A label is a Class III product), and yogurt, ice cream mix, eggnog, and milk sold to commercial food processors, which are Class III uses under the orders. As described previously, these are all Class II products under those orders that provide for the uniform classification provisions.

These differences in the classification and the corresponding differences in prices of milk used to produce the same products are disruptive to the competitive relationships of handlers, and thus to the orderly marketing of producer milk, under these three orders in relation to handlers regulated under orders providing for the uniform classification provisions. It is concluded that uniformity is needed and that adoption of the uniform classification provisions in these three orders, along with uniform Class II pricing and uniform butterfat differentials, as discussed later, is appropriate.

Class I milk should include all skim milk, and butterfat disposed of in the form of milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids. Skim milk and butterfat disposed of in any such product that is flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted likewise should be classified as Class I milk. Such classification should apply whether the products are disposed of in fluid or frozen form.

Skim milk disposed of in any product described above that is modified by the addition of nonfat milk solids should be Class I milk only to the extent of the weight of the skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

Class I milk should not include skim milk or butterfat disposed of in the form of evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, or whey.

Each product designated herein as a Class I produce would be considered a "fluid milk product" as defined in the respective orders. In addition to these fluid milk products, Class I milk would include any skim milk and butterfat not specifically accounted for in Class II or Class Class III, other than shrinkage permitted a Class III classification.

Class III milk should include products which are made from surplus Grade A milk and which compete in a national market with similar products made from manufacturing grade milk. These products include cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese), butter, any milk product in dry form (such as nonfat dry milk), any concentrated milk product in bulk, fluid form that is used to produce a Class III product, and evaporated or condensed skim milk (plain or sweetened) and evaporated or condensed skim milk (plain or sweetened) in consumer-type packages. Class III milk also should include any product not specified in Class I or Class II.

An intermediate class, Class II, should apply to certain products which can command a higher value than Class III products, but which must be competitively priced below Class I in order to compete with non-dairy substitute products or manufactured dairy products that can be used in making Class II products. Class II milk should include skim milk and butterfat disposed of in the form of a "fluid cream product," eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles one of these products. As defined in the respective orders, "fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

Class II milk should also include bulk fluid milk products disposed of to any commercial food processing establishment at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. In addition, it should include milk used to produce cottage cheese, lowfat cottage cheese, dry curd cottage cheese, milkshake and ice milk mixes containing 20 percent or more total solids, frozen desserts, frozen dessert mixes, and certain other products as specified in the order.

The classification scheme adopted herein was proposed by proponents and is identical to the uniform classification plan contained in many of the other Federal orders. The plan was based on exhaustive hearings held on this issue in 1971 for 39 markets. The final decision on the uniform classification plan was issued February 19, 1974 (39 FR 8202, 8452, 8712, 9012). Official notice was taken of this decision at the hearing for the current proceeding. It contains a detailed discussion of the classification issue. Official notice also was taken of the Assistant Secretary's decision issued July 17, 1975 (40 FR 30119), which modified certain provisions originally adopted in the 39-market decision. The record evidence indicates that the findings and conclusions of these decisions are equally applicable under current marketing conditions in the three markets involved in the current proceeding. The classification system adopted herein will be fully appropriate for the three orders. Adoption of the uniform classification plan in the respective orders will coordinate these essential provisions in the respective orders and with the same provisions under most other orders.

A spokesman for a cooperative association and one for an ice cream manufacturer testified that skim milk and butterfat used to make ice cream should continue to be classified as Class III in the Great Basin milk order, and not in Class II as proposed by proponents. They testified that ice cream made in Great Basin regulated plants competes with ice cream made in unregulated plants and from ungraded milk ingredients. However, the evidence in the record is not persuasive that any significant quantity of ungraded product competes with ice cream made by regulated plants. Further, it is apparent that both regulated and unregulated plants making ice cream in the Great Basin area are using substantial quantities of Grade A milk for use in ice cream and that a large proportion of the ingredients for unregulated plants comes from Great Basin pool plants. The record established that handlers want a regular supply of Grade A milk for the products proposed for uniform Class II classification, including ice cream, and that such milk is not available from alternative sources for less than the proposed Class II price. It is concluded that the continued Class III classification of skim milk and butterfat used in ice cream in the Great Basin order should be denied.

2. *Class II differential.* Class II differential should be 10 cents for each of the three orders in this proceeding. The differential is added to the basic formula price for the month of yield the Class II price.

The two cooperatives supplying milk to the Eastern Colorado and Western Colorado markets proposed that the Class II differential be 10 cents. Two proprietary handlers regulated by the Eastern Colorado order also proposed that the Class II differential be 10 cents. A proprietary handler regulated by the Great Basin order proposed that the Class II differential of that order be 10 cents, and the cooperative association that supplies most of the milk to the Great Basin market supported the proposal.

At present, the Eastern Colorado and Great Basin orders provide for a Class II differential of 15 cents. The Western Colorado order provides for a Class II differential of 15 cents. In all three orders the differential is added to the basic formula price for the month. There was no proposal to change the basic formula price as the move for the Class II price.

In conjunction with the adoption of the uniform classification provisions it also is appropriate to provide for the same Class II differential in these three orders that is provided presently in those orders that provide for the uniform classification provisions (i.e., the M–W price plus 10 cents). Both producer and handler witnesses claimed that the Class II differential in these three orders should be the M–W price plus 10 cents even though such a differential would represent a 5-cent reduction in Class II prices under the Eastern Colorado and Great Basin orders and a 5-cent increase in Class II prices under the Western Colorado order. To promote equity among handlers competing for the sale of similar products and the orderly marketing of milk by producers, it was previously found in this decision that the uniform classification provisions should be adopted in these three orders. To fully achieve this objective, it also is necessary to adopt in these three orders the same Class II differential that is provided in the other orders. Otherwise, the benefits of adopting the uniform classification provisions would be reduced because the prices of milk used to produce the Class II products would not be uniform. Accordingly, the Class II differential in each of the three orders should be the M–W price plus 10 cents.

3. *Butterfat differential.* The three orders should have a single butterfat differential equal to .115 times the average wholesale price of Grade A (92-score) bulk butter per pound at Chicago as reported by the Department for the month. This butterfat differential should

be used to adjust prices to the actual butterfat content of the milk being priced.

Presently, the three orders provide for separate butterfat differentials (for each one-tenth percent of butterfat above or below 3.5 percent) for each of the three classes of milk utilization. For Class I milk, the butterfat differential in the Eastern Colorado order is the Chicago butter price for the preceding month multiplied by 0.13, while in the Great Basin and Western Colorado orders it is the preceding month's Chicago butter price multiplied by 0.12. For Class II and Class III milk, the butterfat differential in the Eastern Colorado and Western Colorado orders is the Chicago butter price for the current month multiplied by 0.12, while in the Great Basin order it is the current month's Chicago butter price multiplied by 0.115. The butterfat differential used in adjusting the uniform price in each order is the average of the butterfat differentials for each class weighted by the proportion of butterfat in producer milk allocated to each class.

Proponents of the uniform classification provisions in the three markets stated that using a single butterfat differential factor of .115 would result in a uniform adjustment of class prices for butterfat content among the three orders and also would promote competitive equity with handlers in other markets with whom they compete. There was no opposition.

The witness for the proprietary handler who proposed amending the Great Basin order testified that under present conditions, with separate class butterfat differentials, the handler's Salt Lake City plant is at a disadvantage when competing with handlers regulated under orders that provide for a single butterfat differential. To illustrate this, the witness said that based on current pricing formulas the difference in the cost at its Salt Lake City plant for half and half with 10.5 percent butterfat and the cost at plants subject to a single butterfat differential is $2.34 per hundredweight. This would take into consideration the different classification for half and half among the markets.

It is appropriate to adopt the same butterfat differential in these three markets as is provided in the markets that contain the uniform classification provisions. As described previously, the record evidence indicates there is a need to incorporate the uniform classification provisions in these three orders because of the extensive competition among handlers regulated under these three orders, both between themselves and with handlers regulated under orders that already contain those classification provisions.

Further, a change in the relative values of the components of milk in Class I uses also has been occuring for some time. This has been related to the continuous decline, both nationally and locally, in the proportion of butterfat in Class I sales. An indication of this trend is the average test of fluid milk products sold in the Federal order marketing areas. In 1975 the average butterfat test in 55 Federal order markets for such sales was 2.75 percent. This percentage declined from year to year and in 1980 the comparable average butterfat test was 2.56 percent (official notice was taken at the hearing of the Annual Summaries for 1975 and 1980, Federal Milk Order Market Statistics, issued by the Dairy Division, AMS, USDA). On a percentage basis, the average butterfat content in these fluid milk products declined 7 percent from 1975 to 1980. It is anticipated that this decline will continue because of consumers' preference for low-fat products.

The average butterfat test of Class I sales in the three markets subject to the instant hearing also has been declining. The average test of Class I sales by handlers regulated under the Eastern Colorado order dropped from 2.63 percent in 1975 to 2.49 percent in 1980, a decline of 5 percent. For handlers regulated under the Great Basin order, the average test of Class I sales also declined 5 percent (from 2.54 percent in 1975 to 2.41 percent in 1980), while for handlers regulated under the Western Colorado order the average test declined 11 percent (from 2.83 percent in 1975 to 2.52 percent in 1980).

The increasing demand for fluid milk products with lower butterfat content can be expected to result in a continuing decline in the average butterfat test of Class I sales under each of the orders. Adopting the same butterfat differential for Class I milk as for other classes will give recognition to the reduced demand and the related lower market value of butterfat in Class I fluid milk products. By reflecting a lower value for butterfat in the returns to producers, there will be less incentive to produce high-test milk which consumers do not want.

Since the same butterfat differential would apply to all classes of milk, it is necessary under the orders to provide only for a producer butterfat differential. Under this procedure, there is no need to provide for a separate butterfat differential for adjusting class prices nor is there any need to pool the value of butterfat in each class. All producer "differential" butterfat received by handlers will be priced the same to all handlers regardless of the class in which the butterfat is used. Accordingly, each order should be modified to provide only for the announcement and use of a single producer butterfat differential.

4. *Unit polling of distribution plants for the Eastern Colorado milk order.* The provisions of the order that relate to the basis for pooling a distributing plant should be revised.

Presently, the order provides that a distributing plant shall qualify as a pool plant if during the month it processes and packages fluid milk products and an amount of milk equal to 50 percent or more of the total receipts of Grade A milk (except receipts from distributing pool plants) is disposed of as milk products, except filled milk, on routes, and 10 percent or more of such receipts, or 12,000 pounds per day, whichever is less, are disposed of as fluid milk products, except filled milk, on routes in the marketing area. If a handler operates more than one distributing plant, each plant must qualify separately as a pool plant.

The order should be changed to permit a handler who operates two or more distributing plants to consider them as a unit for purposes of meeting the 50 percent total route disposition requirement. The order should continue to provide that the in-area distribution requirement be met by each plant separately.

The proposal was made by a cooperative association that supplies milk to the Eastern Colorado marketing area. The spokesman for the cooperative said that one of its chief customers has a fluid milk plant at Englewood, Colorado, and a plant at Greeley, Colorado, where it processes fluid milk products and where it also manufactures the majority of its Class II and Class III products. The plant at Greeley is operating close to the 50 percent route disposition requirement. If the Englewood plant increases its Class II manufacture to lessen the impact at Greeley, the cooperative probably would have to supply the milk at some cost to the association. The association believes that the unit pooling that it proposes would obviate the need to do that, would keep the Greeley plant pooled and would assure continued pool status for the association's member producers who are supplying milk to the Greeley plant.

A spokesman for the proprietary operator of the plants at Englewood and Greeley supported the proposal. He testified that both plants process fluid milk products and the Greeley plant packages sour cream, cottage cheese, whipping cream and half and half for the Eastern Colorado market. The Englewood plant packages ice cream, yogurt and buttermilk for the same

market. The spokesman indicated that the two plants are about 60 miles apart and are coordinated to supply the Eastern Colorado market with a variety of milk and dairy products.

The witness stated that in the recent past the Greeley pool plant has encountered problems meeting the requirement that the plant distribute at least 50 percent of its receipts as fluid milk products on routes, particularly in the summer months. He noted that in June 1980 the plant failed to meet the requirement and it was depooled, with adverse consequences to other regulated handlers who bought fluid milk products from the Greeley plant. He indicated that such handlers incurred additional financial obligations to the order's producer-settlement fund. To avoid this, the witness said, the handler obtained a temporary suspension of the provision for July and August 1980. A similar suspension was obtained for July and August 1981.

The spokesman testified that the pooling problem for the Greeley plant will not be restricted to the summer months. The handler anticipates that the Greeley plant's Class I utilization will hover around 50 percent throughout the year because the cream products will become Class II if the uniform classification provisions are adopted.

The proposed change in the pool distributing plant definition should be adopted. Order provisions should not impede the ability of a multi-plant handler to achieve operational efficiencies by specializing in the processing of fluid milk products in one plant and by-products in another. With unit pooling, it will be possible for a multi-plant handler to confine certain specialized operations in one plant in order to achieve an economy of scale comparable to that which would be realized by maintaining his total operation in one plant.

Moreover, the need for shifting producer deliveries between the two plants solely to assure that each plant qualifies individually for pooling could be avoided under the proposal. Such practices would add unnecessarily to the cost of handling and transporting the milk to be pooled. Providing for unit pooling will remove the need to make uneconomic movements of milk solely for pooling purposes and will allow the assignment of producers to the plant where it is most practicable for them to deliver milk.

As indicated previously, each distributing plant in the pooling unit would still have to dispose of at least 10 percent of its receipts or 12,000 pounds per day, whichever is less, on routes in the marketing area. There was no proposal to change this requirement.

As a condition to qualify for unit pooling, a handler would be required to notify the market administrator in writing prior to the first month in which plants are to be considered as a unit for pooling purposes. Unit pooling would be continued in each following month without further notification. However, if other plants of the handler are added to or dropped from the unit, the handler would need to notify the market administrator prior to the month in which such change is to be effective.

The proposal by the multi-plant operator that notification to the market administrator be made during any month for which unit pooling is applicable, rather than prior to such month, should not be adopted. The handler said that such provision was needed, if it were discovered during a month that unit pooling is needed. The evidence is that unit pooling may be needed in all months of the year, particularly with the adoption of uniform classification provisions. Accordingly, it is presumed that the market administrator will be notified in advance that automatic unit pooling is desired.

5. *Other changes.* If for any reason a price or pricing constituent needed by the market administrator in administrating the three orders in this proceeding is not available, the market administrator should be authorized by the order to use an equivalent price or pricing constituent as determined by the Secretary. Including this identical provision in each of the three orders will leave no uncertainty with respect to the procedure to be followed in the absence of any data customarily used and thereby will prevent interruption in the operation of the order. This is the same provision that was adopted as part of the format of uniform provisions for the 39-market amendments cited previously. It is one of the several such provisions that were proposed by proponents in requesting uniform classification for the orders in this proceeding, and all of such provisions are adopted herein for the reasons set forth in the previously cited 1974 decision.

The uniform format of order provisions that was incorporated into the 39 other Federal milk orders in 1974 also should be adopted in these three orders. In adopting this format no substantive changes have been made in the order provisions of the respective orders that were not under consideration at the hearing. All orders contain essentially the same categories of provisions, such as those relating to the definition of a pool plant or of other source milk, those setting forth the class price formulas, or those describing how the uniform price shall be computed. At present, the three orders of this proceeding are structured so that the provisions relating to these various categories do not appear in the same place in the orders or under the same section title as they do in those orders that contain the uniform classification provisions. Accordingly, for the reasons set forth in the previously cited 1974 decision these three orders should be coordinated with those other orders in this respect.

6. *Advance Class II price notice.* This decision includes amendatory language for advance Class II price notice for the Eastern Colorado, Western Colorado and Great Basin milk orders. The adopted amendments are based on the record of a hearing held at Denver, Colorado, on February 3, 1982, under Docket Nos. AO–326–A21–R01, AO–301–A17–R01 and AO–309–A23–R01 (47 FR 814). Such hearing, which involved 14 milk orders, was a reopening of the hearing on uniform classification provisions for the Eastern Colorado, Western Colorado and Great Basin orders. The findings, conclusions and adopted amendments based on the record of the 14-order hearing are being published simultaneously with this decision, and the adopted amendatory language of that decision is included herein as a convenience.

Rulings on Proposed Finding and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict

with the findings and determinations set forth herein.

The following findings are made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

List of Subjects in 7 CFR Parts 1137, 1134, and 1136

Milk marketing orders, Milk, Dairy products.

Recommend Marketing Agreements and Order Amending the Orders

The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following order amending the orders, as amended, regulating the handling of milk in each of the respective marketing areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

PART 1137—MILK IN THE EASTERN COLORADO MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

Sec.

1137.1 General provisions.

Definitions

1137.2 Eastern Colorado marketing area.
1137.3 Route disposition.
1137.4 [Reserved]
1137.5 [Reserved]
1137.6 [Reserved]
1137.7 Pool plant.
1137.8 Nonpool plant.
1137.9 Handler.
1137.10 Producer-handler.
1137.11 [Reserved]
1137.12 Producer.
1137.13 Producer milk.
1137.14 Other source milk.
1137.15 Fluid milk product.
1137.16 Fluid cream product.
1137.17 Filled milk.
1137.18 Cooperative association.
1137.19 Product prices.

Handler Reports

1137.30 Reports of receipts and utilization.
1137.31 Payroll reports.
1137.32 Other reports.

Classification of Milk

1137.40 Classes of utilization.
1137.41 Shrinkage.
1137.42 Classification of transfers and diversions.
1137.43 General classification rules.
1137.44 Classification of producer milk.
1137.45 Market administrator's reports and announcements concerning classification.

Class Prices

1137.50 Class prices.
1137.51 Basic formula price.
1137.51a Basic Class II formula price.
1137.52 Plant location adjustments for handlers.
1137.53 Announcement of class prices.
1137.54 Equivalent price.

Uniform Price

1137.60 Handler's value of milk for computing uniform price.
1137.61 Computation of uniform price.
1137.62 Announcement of uniform price and butterfat differential.

Payments for Milk

1137.70 Producer-settlement fund.
1137.71 Payments to the producer-settlement fund.
1137.72 Payments from the producer-settlement fund.
1137.73 Payments to producers and to cooperative associations.
1137.74 Butterfat differential.
1137.75 Plant location adjustments for producers and on nonpool milk.
1137.76 Payments by a handler operating a partially regulated distributing plant.
1137.77 Adjustment of accounts.
1137.78 Charges on overdue accounts.

Administrative Assessment and Marketing Service Deduction

1137.85 Assessment for order administration.
1137.86 Deduction for marketing services.

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

Subpart—Order Regulating Handling

General Provisions

§ 1137.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

Definitions

§ 1137.2 Eastern Colorado marketing area.

"Eastern Colorado marketing area" hereinafter called the "marketing area" means all the territory within the perimetric boundaries of the counties listed below, including all territory (municipal, State, or Federal) installations, institutions and other establishments:

Colorado Counties

Adams, Arapahoe, Boulder, Cheyenne, Clear Creek, Crowley, Custer, Denver, Douglas, Elbert, El Paso, Gilpin, Huerfano, Jefferson, Kiowa, Kit Carson, Las Animas, Larimer, Lincoln, Logan, Morgan, Otero, Park, Phillips, Pueblo, Sedgwick, Teller, Washington, Weld, Yuma.

Kansas Counties

Cheyenne, Logan, Sherman, Wallace.

§ 1137.3 Route disposition.

"Route disposition" means any delivery to retail or wholesale outlets (including a delivery by a vendor or a sale from a plant or plant store) of any fluid milk product classified as Class I milk, other than a delivery to a pool plant or a nonpool plant: *Provided,* That packaged fluid milk products, except filled milk, that are transferred to a distributing plant from a plant with route disposition in the marketing area, and which are classified as Class I under § 1137.40(a), shall be considered as a route disposition from the transferor plant, rather than from the transferee plant, for the single purpose of qualifying it as a pool distributing plant under § 1137.7(a)(1).

§§ 1137.4–1137.6 [Reserved]

§ 1137.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) Any plant, hereinafter referred to as a "distributing pool plant", in which during the month fluid milk products are processed or packaged and from which:

(1) An amount equal to 50 percent or more of the total receipts of Grade A milk (except receipts from distributing pool plants) is disposed of as route disposition, except filled milk. A unit consisting of two or more distributing plants operated by a handler shall be considered as one distributing plant for the purpose of meeting the requirements of this subparagraph if each plant separately meets the requirements of paragraph (a)(2) of this section and the

handler notifies the market administrator in writing before the first day of the month that the plants should be considered as a unit. The unit shall continue from month to month thereafter without further notification. If, however, there is any change in the composition of the unit, the handler shall notify the market administrator in writing on or before the first day of the month such change is to be made; and

(2) Ten percent or more of such receipts, or 12,000 pounds per day, whichever is less, are disposed of as route disposition, except filled milk, in the marketing area.

(b) Any plant, hereinafter referred to as a "supply pool plant" from which during the month 50 percent of its dairy farm supply of Grade A milk is moved to distributing pool plant(s) as fluid milk products, except filled milk. Any supply plant which has qualified as a pool plant in each of the months of September through February shall be a pool plant in each of the following months of March through August unless written request for nonpool status for any such month(s) is furnished in advance to the market administrator. A plant withdrawn from supply pool plant status may not be reinstated for any subsequent month of March through August unless it fulfills the shipping requirements of this paragraph for such month.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(3) A plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in this marketing area than in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(4) Any distributing plant from which there is less than an average of 300 pounds of route disposition per day, except filled milk, in the marketing area during the month.

§ 1137.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant which is neither an other order plant nor a producer-handler plant from which fluid milk products are moved during the month to a pool plant.

§ 1137.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to the milk of its member producers which it causes to be diverted for its account pursuant to § 1137.12;

(c) A cooperative association with respect to the milk of its member producers which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association, if the cooperative association notifies the market administrator and the operator of the pool plant to whom the milk is delivered, in writing prior to the first day of the month in which the milk is delivered, that it elects to be the handler for all such milk. Such milk shall be deemed to have been received by such cooperative association at the location of the pool plant to which delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1173.7(c).

§ 1137.10 Producer-handler.

(a) "Producer-handler" means any person who operates a dairy farm and a milk processing plant from which there is route disposition in the marketing area and who:

(1) Receives no fluid milk products during the month from dairy farmers;

(2) Receives no fluid milk products during the month from any other source except by transfer from a pool plant; and

(3) Receives no other source milk for reconstitution into fluid milk products.

(b) Such person must provide proof satisfactory to the market administrator that the care and management of all the dairy animals and other resources necessary to produce the volume of fluid milk products (excluding transfers from pool plants) and the operation of the processing and distribution business is the personal enterprise of and at the personal risk of such person.

§ 1137.11 [Reserved]

§ 1137.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk eligible for distribution as Grade A milk in compliance with the fluid milk product requirements of a duly constituted health authority, whose milk is received at a pool plant or diverted to a nonpool plant that is not a producer-handler plant within the limits set forth in paragraph (a) (1) and (2) of this section:

(1) A cooperative association may divert for its account the milk of any member-producer from whom at least three deliveries of milk are received during the month at a distributing pool plant. The total quantity of milk so diverted may not exceed 30 percent in the months of March, April, May, June, July, and December and 20 percent in other months of its member producer milk received at distributing pool plants during the month. Diversions in excess of such percentages shall not be considered producer milk, and the diverting cooperative shall specify the dairy farmers whose milk is ineligible as producer milk. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed such a request in writing with the market administrator on or before the first day of the month the agreement is effective. This request shall specify the basis for assigning over-diverted milk to the producer members of each cooperative according to a method approved by the market administrator.

(2) A handler in this capacity as the operator of a distributing pool plant may divert for this account the milk of any

producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (a)(1) of this section, from whom at least three deliveries of milk are received during the month at this distributing pool plant. The total quantity of milk so diverted may not exceed 30 percent in the months of March, April, May, June, July, and December and 20 percent in other months of the milk received at such distributing pool plant during the month from producers who are not members of a cooperative association which has diverted milk pursuant to paragraph (a)(1) of this section. Diversions in excess of such percentages shall not be considered producer milk, and the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk.

(3) For the purposes of the requirements of § 1137.7, milk diverted for the account of the operator of a distributing pool plant, except an operator which is also a cooperative association diverting milk in the same month pursuant to paragraph (a)(1) of this section, shall be included in the receipts of the pool plant from which diverted.

(4) For purposes of location adjustments pursuant to §§ 1137.52 and 1137.75, milk diverted to a nonpool plant shall be considered to have been received at the location of the nonpool plant to which diverted.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1137.44(a)(8)(iii) and the corresponding step of § 1137.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1137.13 Producer milk.

"Producer milk" means all skim milk and butterfat in milk produced by a producer.

(a) With respect to receipts at a pool plant for which the handler operating such plant is to be responsible pursuant to § 1137.60:

(1) Received directly from such producer; and

(2) Diverted from such pool plant to a nonpool plant for the account of the operator of the pool plant, subject to the limitations and conditions provided in § 1137.12;

(b) With respect to the additional receipts of a cooperative association:

(1) For which the cooperative association is the handler pursuant to § 1137.9(b), subject to the limitations and conditions provided in § 1137.12; and

(2) For which the cooperative association is the handler pursuant to § 1137.9(c).

§ 1137.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1137.40(b)(1) from any source other than producers, handlers described in § 1137.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1137.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1137.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1137.40(b)(1)) for which the handler fails to establish a disposition.

§ 1137.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) the term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1137.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1137.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1137.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members; and

(c) To be engaged in making collective sales, or marketing milk or its products for its members.

§ 1137.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1137.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices

used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

Handler Reports

§ 1137.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1137.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1137.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1137.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragrahs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1137.31 Payroll reports.

(a) On or before the 23rd day after the end of each month, each handler described in § 1137.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1137.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1137.32 Other reports.

(a) On or before the seventh day after the end of each month, each handler described in § 1137.9 (a) and (b) who diverted milk to nonpool plants shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(1) The name of the plant to which diverted;

(2) The name of the individual dairy farmers so diverted;

(3) The pounds of skim milk and butterfat from each dairy farmer contained in the milk so diverted; and

(4) The number of days milk of the dairy farmer was received at a pool plant of the diverting order.

(b) In addition to the reports required pursuant to §§ 1137.30 and 1137.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

Classification of Milk

§ 1137.40 Classes of utilization.

Except as provided in § 1137.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1137.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt,

except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is not disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cotttage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1137.15; and

(6) In shrinkage assigned pursuant to § 1137.41(a) to the receipts specified in § 1137.41(a)(2) and in shrinkage specified in § 1137.41 (b) and (c).

§ 1137.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1137.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph in amounts equal to 50 times the maximum amount that may be computed pursuant to paragraph (b) (1) through (6) of this section; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1137.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraphs (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1137.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1137.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Except as provided in paragraph (e) of this section, skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1137.44(a)(12) and the corresponding step of § 1137.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1137.44(a)(7) or the corresponding step of § 1137.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the

least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1137.44(a) (11) or (12) or the corresponding steps of § 1137.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk from form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administractors, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provide for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1137.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignments of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1137.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products as such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization as such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any

remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

(e) *Transfers by a cooperative association to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1137.9(c) and from a pool plant operated by a cooperative association to another handler's pool plant shall be classified pursuant to § 1137.44 pro rata with producer milk received at the transferee-plant and the value thereof at the class prices shall be included in his value of milk pursuant to § 1137.60.

§ 1137.43 General classification rules.

In determining the classification of producer milk pursuant to § 1137.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1137.30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1137.9(b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1137.40, 1137.41, and 1137.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1137.9(b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1137.9(b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1137.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1137.9(a) for each of his pool plants separately the classification of producer milk and milk subject to the provisions of § 1137.42(e) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1137.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from another order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1137.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1137.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in $1137.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1137.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount

equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk subject to the provisions of § 1137.42(e), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1137.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received. For purposes of this subtraction at a pool plant operated by a cooperative association, skim milk in fluid milk products transferred to the pool plant of another handler shall be added to the remaining pounds of skim milk in each class prorata to the market average utilization announced pursuant to § 1137.45(a):

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section.

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1137.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler). For purposes of such computation at a pool plant of a cooperative association, the pounds remaining shall include any remainder of the quantity added pursuant to paragraph (a)(11) of this section;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the

computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1137.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk subject to the provisions of § 1137.42(e), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk subject to the provisions of § 1137.42(e) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1137.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1137.44(a)(12) and the corresponding step of § 1137.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimates shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1137.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant, the class to which such shipments were allocated by the market administrator of the other order on the basis of the report of the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such association to each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

Class Prices

§ 1137.50 Class prices.

Subject to the provisions of § 1137.52, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.30.

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the proceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1137.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1137.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1137.51a.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1137.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1137.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1137.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1137.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

§ 1137.52 Plant location adjustments for handlers.

(a) For milk received from producers and from handlers described in § 1137.9(c) at a pool plant, or diverted to a nonpool plant, located more than 50 miles by shortest highway distance as measured by the market administrator, from the plant to the nearest County Courthouse located in Denver, Colo.; Pueble, Colo.; or Colorado Springs, Colo., and classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1137.50(a) shall be reduced by 10 cents if such plant is located more than 50 miles but not more than 75 miles from such courthouse, and by an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 75 miles.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and handlers described in § 1137.9(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1137.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

§ 1137.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1137.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1137.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk subject to the provisions of § 1137.42(e) that were classified in each class pursuant to §§ 1137.43(a) and 1137.44(c) by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1137.44(a)(14) and the corresponding step of § 1137.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1137.74, that are applicable at the location of the pool plant;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1137.44(a)(9) and the corresponding step of § 1137.44(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1137.44(a)(9) and the corresponding step of § 1137.44(b) for the current month; or

(ii) The hundredweight of skim milk and butterfat remaining in Class III after the computations pursuant to § 1137.44(a)(12) and the corresponding step of § 1137.44(b) for the preceding month, less the hundredweight of skim milk and butterfat specified in paragraph (c)(1) of this section;

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1137.44(a)(7) (i) through (iv) and the corresponding step of § 1137.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1137.44(a)(7) (v) and (vi) and the corresponding step of § 1137.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1137.44(a)(11) and the corresponding step of § 1137.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or

butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1137.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1137.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1137.60 for all handlers who filed the reports prescribed by § 1137.30 for the month and who made the payments pursuant to §§ 1137.71 and 1137.73 for the preceding month;

(b) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1137.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1137.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" per hundredweight of producer milk of 3.5 percent butterfat content delivered to plants at which no location adjustment is applicable.

§ 1137.62 Announcement of uniform price and butterfat differential

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1137.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1137.71, 1137.76, and 1137.77, subject to the provision of § 1137.78 and out of which he shall make all payments pursuant to §§ 1137.72 and 1137.77: *Provided,* That any payments due to any handler shall be offset by any payments due from such handler.

§ 1137.71 Payments to the producer-settlement fund.

(a) On or before the 14th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1137.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1137.75, of such handler's receipts of producer milk and milk subject to the provisions of § 1137.42(e). In the case of a cooperative association which is a handler, less the amount due from other handlers pursuant to § 1137.73(c), exclusive of differential butterfat values; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1137.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1137.72 Payments from the producer-settlement fund.

On or before the 15th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1137.71(a)(2) exceeds the amount computed pursuant to § 1137.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1137.73 Payments to producers and to cooperative associations.

Except as provided in paragraphs (b) and (c) of this section, each handler except a cooperative association shall make payment as specified in paragraph (a) of this section to each producer from whom milk is received:

(a)(1) On or before the last day of each month, to each producer who had not discontinued shipping milk to such handler before the 18th day of the month, a partial payment with respect to milk received during the first 15 days of the month at the Class III price for the preceding month.

(2) On or before the 16th day after the end of each month, for milk received during such month, an amount computed at not less than the uniform price per hundredweight pursuant to § 1137.61, as adjusted by the butterfat differential specified in § 1137.74 and location adjustments specified in § 1137.75, plus or minus adjustments for errors made in previous payments to such producers and less:

(i) Payments made pursuant to paragraph (a)(1) of this section;

(ii) Deductions for marketing services pursuant to § 1137.86; and

(iii) Proper deductions authorized in writing by such producer: *Provided,* That if by such date such handler has not received full payment for such delivery period pursuant to § 1137.72 he may reduce his total payment to all producers uniformly by not more than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator.

(b)(1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to

reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association each handler shall pay to the cooperative association on or before the second day prior to the date of payment to producers in lieu of payments pursuant to paragraph (a) of this section an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association; and

(2) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(c) For milk received from a pool plant operated by a cooperative association or from a cooperative association that is a handler pursuant to § 1137.9(c), each handler shall on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at not less than the Class III price for the preceding month; and

(2) A final settlement equal to the value of such milk at the uniform price pursuant to § 1137.61, as adjusted pursuant to §§ 1137.74 and 1137.75, less payment made pursuant to paragraph (c)(1) of this section.

(d) In making the payments to producers pursuant to paragraphs (a)(2) and (b) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement which shall show for each month:

(1) The month and identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount, or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

§ 1137.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1137.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price to be paid for milk received at a pool plant from producers, in bulk from pool plants operated by cooperative associations, and from handlers described in § 1137.9(c) may be reduced by the amount of the location adjustment applicable at the location of the pool plant at which such milk was first physically received from producers, and the uniform price for producer milk diverted to a nonpool plant shall be reduced according to the location of such nonpool plant, each at the rates set forth in § 1137.52; and

(b) For purposes of computations pursuant to §§ 1137.71 and 1137.72 the uniform price shall be adjusted at the rates set forth in § 1137.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price).

§ 1137.76 Payments by a handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to § 1137.30(b) and § 1137.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order in classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partically regulated distributing plant (except that the Class I price and the uniform price shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partically regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1137.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the

extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1137.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1137.60 for such handler shall include, in lieu of the value of other source milk specified in § 1137.60(f) less the value of such other source milk specified in § 1137.71(a)(2)(ii), a value of milk determined pursuant to § 1137.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1137.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§ 1137.30(b) and 1137.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1137.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1137.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1137.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1137.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or other verification discloses errors resulting in moneys due a producer, a cooperative association, or the market administrator from such handler or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

§ 1137.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1137.71 or 1137.77 relative to payments to the producer settlement fund shall be increased one-half of 1 percent on the first day of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

Administrative Assessment and Marketing Service Deduction

§ 1137.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 14th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including milk subject to the provisions of § 1137.42(e) but excluding such milk in the case of a cooperative association which is a handler of milk subject to the provisions of § 1137.42(e)) and such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1137.44(a) (7) and (11) and the corresponding steps of § 1137.44(b), except such other source milk that is excluded from the computations pursuant to § 1137.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant during the month that exceeds the skim milk and butterfat substracted pursuant to § 1137.76(a)(2).

§ 1137.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk (other than milk of his own production) pursuant to § 1137.73, shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 14th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such services from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members, and on or before the 16th day after the end of each month, the handler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deductions and the quantity of milk on which the deduction was computed from each producer.

PART 1134—MILK IN THE WESTERN COLORADO MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

Sec.

1134.1 General provisions.

Definitions

1134.2 Western Colorado marketing area.
1134.3 Route disposition.
1134.4 [Reserved]
1134.5 Distributing plant.
1134.6 Supply plant.
1134.7 Pool plant.
1134.8 Nonpool plant.
1134.9 Handler.
1134.10 Producer-handler.

Sec.
1134.11 [Reserved]
1134.12 Producer.
1134.13 Producer milk.
1134.14 Other source milk.
1134.15 Fluid milk product.
1134.16 Fluid cream product.
1134.17 Filled milk.
1134.18 Cooperative association.
1134.19 Product prices.

Handler Reports

1134.30 Reports of receipts and utilization.
1134.31 Payroll reports.
1134.32 Other reports.

Classification of Milk

1134.40 Classes of utilization.
1134.41 Shrinkage.
1134.42 Classification of transfers and diversions.
1134.43 General classification rules.
1134.44 Classification of producer milk.
1134.45 Market administrator's reports and announcements concerning classification.

Class Prices

1134.50 Class prices.
1134.51 Basic formula price.
1134.51a Basic Class II formula price.
1134.52 Plant location adjustments for handlers.
1134.53 Announcement of class prices.
1134.54 Equivalent price.

Uniform Price

1134.60 Handler's value of milk for computing uniform price.
1134.61 Computation of uniform price.
1134.62 Announcement of uniform price and butterfat differential.

Payments for Milk

1134.70 Producer-settlement fund.
1134.71 Payments to the producer-settlement fund.
1134.72 Payments from the producer-settlement fund.
1134.73 Payments to producers and to cooperative association.
1134.74 Butterfat differential.
1134.75 Plant location adjustments for producers and on nonpool milk.
1134.76 Payments by a handler operating a partially regulated distributing plant.
1134.77 Adjustment of accounts.
1134.78 Charges on overdue accounts.

Administrative Assessment and Marketing Service Deduction

1134.85 Assessment for order administration.
1134.86 Deduction for marketing services.

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

Subpart—Order Regulating Handling

General Provisions

§ 1134.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

Definitions

§ 1134.2 Western Colorado marketing area.

"Western Colorado marketing area", hereinafter called the "marketing area", means all the territory within the outer boundaries of the following counties in the State of Colorado:

Delta, Garfield, Mesa, Montrose.

§ 1134.3 Route disposition.

"Route disposition" means any delivery to retail or wholesale outsets (including a delivery by a vendor or a sale from a plant or plant store) of any fluid milk product classified as Class I milk, other than a delivery to a pool plant or a delivery in bulk to a nonpool plant.

§ 1134.4 [Reserved]

§ 1134.5 Distributing plant.

"Distributing plant" means any plant at which fluid milk products are pasteurized or packaged and from which there is route disposition of Grade A fluid milk products in the marketing area.

§ 1134.6 Supply plant.

"Supply plant" means any plant to which Grade A milk is received from dairy farmers and from which fluid milk products are moved to a pool distributing plant.

§ 11.34.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) Any plant, hereinafter referred to as a "distributing pool plant", in which during the month fluid milk products are processed or packaged and from which:

(1) An amount equal to 50 percent or more of the total receipts of Grade A milk (except receipts from distributing pool plants) is disposed of as route disposition, except filled milk; and

(2) Ten percent or more of such receipts, or 2,000 pounds per day, whichever is less, are disposed of as route disposition, except filled milk, in the marketing area.

(b) Any plant, hereinafter referred to as a "supply pool plant" from which during the month 50 percent of its dairy farm supply of Grade A milk is moved in the form of fluid milk products, except filled milk, to distributing pool plants. Any supply plant which has qualified as a pool plant in each of the months of September through February shall be a pool plant in each of the following months of March through August, unless written request for nonpool status for any such month(s) is furnished in advance to the market administrator. A plant withdrawn from supply pool plant status may not be reinstated for any of the following months of March through August unless it fulfills the shipping requirements of this paragraph for such month(s).

(c) The term "pool plant" shall not apply to the follwing plants:

(1) A producer-handler plant;

(2) Any distributing plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to paragraph (a) of this section and there is more route disposition (except filled milk) in this marketing area than in the marketing area defined under such other order;

(3) Any plant qualified pursuant to paragraph (b) of this section for any portion of March through August, inclusive, that the milk at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act; and

(4) Any distributing plant from which there is less than an average of 200 pounds of route disposition per day, except filled milk, in the marketing area during the month.

§ 1134.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are futher defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant from which fluid milk products are moved during the month to a pool plant.

§ 1134.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to the milk of its member producers which it causes to be diverted for its account pursuant to § 1134.12;

(c) A cooperative association with respect to milk of its member producers

which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by the association or by a hauler under contract to the assocation;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant described in § 1134.7(c); and

(g) A vendor (any person who does not operate a plant described in paragraph (a), (d), (e) or (f) of this section but who engages in the business of receiving fluid milk products for resale and distributes to retail and wholesale outlets, via a mobile delivery vehicle, packaged fluid milk products received from such a plant).

§ 1134.10 Producer-handler.

"Producer-handler" means any person who is an individual, partnership or corporation and who meets all the following conditions:

(a) Operates a dairy farm(s) from which the milk produced thereon is supplied to a plant operated by him in accordance with the conditions set forth in paragraph (b) of this section, and provides proof satisfactory to the market administrator that:

(1) The full maintenance of milk-producing cows on such farm(s) is his sole risk and under his complete and exclusive management and control;

(2) Each such farm is owned or operated by him, at his sole risk, and under his complete and exclusive management and control; and

(3) Only he and no other person (except a member of his immediate family, or a stockholder in the case of a corporate farm) employed on such farm(s) own, fully or partially, either the cows producing the milk on the farm or the farm on which it is produced;

(b) Operates a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and from which there is route disposition during the month in the marketing area: *Provided,* That:

(1) No fluid milk products are received at such plant or by him at any other location except:

(i) From dairy farm(s) as specified in paragraph (a) of this section; and

(ii) From pool plants or other order plants in an amount that is not in excess of the lesser of 5,000 pounds or 5 percent of his Class I sales during the month;

(2) Such plant is operated under his complete and exclusive management and control and at his sole risk, and is not used during the month to process, package, receive or otherwise handle fluid milk products for any other person; and

(3) For the purpose of this section, all fluid milk products disposed of as route disposition or at stores operated by him or by any person (including the operator of a plant, or a vendor) who controls or is controlled by him (e.g., as an interlocking stockholder) or in which he (including, in the case of a corporation, any stockholder therein) has a financial interest, shall be considered as having been received at his plant; and the utilization for such plant shall include all such route and store dispositions; and

(c) Disposes of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk.

§ 1134.11 [Reserved]

§ 1134.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the inspection requirements for fluid consumption of a duly constituted health authority, whose milk is received at a pool plant or diverted to a nonpool plant that is not a producer-handler plant within the limits set forth in paragraph (a) (1) and (2) of this section:

(1) A cooperative association may divert for its account the milk of any member-producer from whom not less than 3 days' production was received during the month at a distributing pool plant. The total quantity of milk so diverted may not exceed 60 percent in the months of March, April, May, June, July, and August and 30 percent in other months of its member-producer milk received at pool plants during the month. Diversions in excess of such percentages shall not be considered producer milk, and the diverting cooperative shall specify the dairy farmers whose milk is ineligible as producer milk. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed a request in writing with the market administrator on or before the first day of the month the agreement is effective. Such request shall specify the basis for assigning overdiverted milk to the producer-members of each cooperative association, at a time and in a manner approved by the market administrator.

(2) A handler may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (a)(1) of this section, from whom not less than 3 days' production was received during the month at the pool plant. The total quantity of milk so diverted may not exceed 60 percent in the months of March, April, May, June, July, and August and 30 percent in other months of the milk received at such distributing pool plant during the month from producers who are not members of a cooperative association which has diverted milk pursuant to paragraph (a)(1) of this section. Diversions in excess of such percentages shall not be considered producer milk, and the diverting handler, at a time and in a manner approved by the market administrator, shall specify the dairy farmers whose milk is ineligible as producer milk.

(3) For the purpose of the requirements of § 1134.7, milk diverted for the account of the operator of a distributing pool plant, except an operator who is also a cooperative association diverting milk in the same month pursuant to paragraph (a)(1) of this section, shall be included in the receipts of the pool plant from which diverted.

(4) For purpose of location adjustments pursuant to §§ 1134.52 and 1134.75, milk diverted to a nonpool plant shall be considered to have been received at the location of the pool plant from which diverted.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1134.44(a)(8)(iii) and the corresponding step of § 1134.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1134.13 Producer milk.

"Producer milk" means all skim milk and butterfat in milk produced by a producer.

(a) With respect to receipts at a pool plant for which the handler operating such plant is to be responsible pursuant to § 1134.60:

(1) Received directly from such producer; and

(2) Diverted from such pool plant to a nonpool plant for the account of the operator of the pool plant, subject to the limitations and conditions provided in § 1134.12;

(b) With respect to the additional receipts of a cooperative association:

(1) For which the cooperative association is the handler pursuant to § 1134.9(b), subject to the limitations and conditions provided in § 1134.12; and

(2) For which the cooperative association is the handler pursuant to § 1134.9(c). If the milk received at a pool plant from a handler described in § 1134.9(c) is purchased on a basis other than farm weights, the amount by which the total farm weights of such milk exceed the weights on which the pool plant's purchases are based shall be producer milk received by the handler described in § 1134.9(c) at the location of the pool plant.

§ 1134.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1134.40(b)(1) from any source other than producers, handlers described in § 1134.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1134.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1134.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1134.40(b)(1)) for which the handler fails to establish a disposition.

§ 1134.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percentage nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1134.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1134.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1134.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of, or marketing milk or its products for its members; and

(c) Has its entire activities under the control of its members.

§ 1134.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1134.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division,

Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

Handler Reports

§ 1134.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1134.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1134.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1134.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1134.31 Payroll reports.

(a) On or before the 23rd day after the end of each month, each handler described in § 1134.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer:

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 11344.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1134.32 Other reports.

(a) On or before the seventh day after the end of each month, each handler described in § 1134.9 (a) and (b) who diverted milk to nonpool plants shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(1) The name of the plant to which diverted;

(2) The name of the individual dairy farmers so diverted;

(3) The pounds of skim milk and butterfat from each dairy farmer contained in the milk so diverted; and

(4) The number of days milk of the dairy farmer was received at a pool plant of the diverting order.

(b) In addition to the reports required pursuant to §§ 1134.30 and 1134.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

Classification of Milk

§ 1134.40 Classes of utilization.

Except as provided in § 1134.42, all skim milk and butterfat required to be reported by a handler pursuant to§ 1134.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and buld fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, pudding, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry cured cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this

section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1134.15; and

(6) In shrinkage assigned pursuant to § 1134.41(a) to the receipts specified in § 1134.41(a)(2) and in shrinkage specified in § 1134.41(b) and (c).

§ 1134.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1134.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section, the maximum pounds computed pursuant to such paragraph divided by 0.02; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim mik and butterfat, respectively, in milk received from a handler described in § 1134.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1134.9(b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1134.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Except as provided in paragraph (e) of this section, skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1134.44(a)(12) and the corresponding step of § 1134.44(b);

(2) If the transferor-plant received during the month orther source milk to be allocated pursuant to § 1134.44(a)(7) or the corresponding step of § 1134.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1134.44(a) (11) or (12) or the corresponding steps of § 1134.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Tranfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat

allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1134.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified.

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product; and

(2) As Calss I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1134.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, and then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

(e) *Transfers by a cooperative association to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1134.9(c) and from a pool plant operated by a cooperative association to another handler's pool plant shall be classified pursuant to § 1134.44 pro rata with producer milk received at the transferee-plant and the value thereof at the class prices shall be included in his value of milk pursuant to § 1134.60.

§ 1134.43 General classification rules.

In determining the classification of producer milk pursuant to § 1134.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1134.30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1134.9 (b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class is accordance with §§ 1134.40, 1134.41, 1134.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1134.9 (b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1134.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1134.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1134.9(a) for each of his pool plants separately the classification of producer milk and milk subject to the provisions of § 1134.42(e) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1134.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid products received in packaged form from an other order plant, except that to be substracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1134.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1134.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1134.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1134.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk subject to the provisions of § 1134.42(e), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subract from the pounds of skim remaining in each class, in series begining with Class III, the pounds of skim milk in fluid milk products and products specified in § 1134.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being

subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1134.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1134.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk subject to the provisions of § 1134.42(e), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk subject to the provisions of § 1134.42(e) in each class shall be the combined pounds of skim and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1134.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(A) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1134.44(a)(12) and the corresponding step of § 1134.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1134.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant, the class to which

such shipments were allocated by the market administrator of the other order on the basis of the report of the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such association to each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

Class Prices

§ 1134.50 Class prices.

Subject to the provisions of § 1134.52, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.00.

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1134.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1134.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1134.51a.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1134.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§1134.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1134.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheedar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1134.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computation:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

§ 1134.52 Plant location adjustments for handlers.

(a) For milk received from producers and from handlers described in § 1134.9(c) at a pool plant, located more than 100 miles by shortest highway distance as measured by the market administrator, from the courthouse in Grand Junction, Colorado, and which is classified as Class I milk or assigned Class I location adjustment credit under paragraph (b) of this section, the price computed pursuant to § 1134.50(a) shall be reduced by 15 cents if such plant is located more than 100 miles but not more than 110 miles from such courthouse, and by an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition at the transferee plant, in excess of the sum of receipts at such plant for producers and handlers described in § 1134.9(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1134.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

§ 1134.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1134.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1134.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk subject to the provisions of § 1134.42(e) that were classified in each class pursuant to §§ 1134.43(a) and 1134.44(c) by the applicable class prices, and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1134.44(a)(14) and the corresponding step of § 1134.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1134.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1134.44(a)(9) and the corresponding step of § 1134.44(b);

(D) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1134.44(a)(7) (i) through (iv) and the corresponding step of § 1134.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1134.44(a)(7) (v) and (vi) and the corresponding step of § 1134.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1134.44(a)(11) and the corresponding step of § 1134.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classifed and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1134.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1134.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1134.60 for all handlers who filed the reports prescribed by § 1134.30 for the month and who made the payments pursuant to §§ 1134.71 and 1134.73 for the preceding month;

(b) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1134.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1134.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1134.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1134.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1134.71, 1134.76, and 1134.77, subject to the provision of § 1134.78 and out of which he shall make all payments pursuant to §§ 1134.72 and 1134.77: *Provided,* That any payments due to any handler shall be offset by any payments due from such handler.

§ 1134.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1134.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1134.75, of such handler's receipts of producer milk and milk subject to the provisions of § 1134.42(e). In the case of a cooperative association which is a handler, less the amount due from other handlers pursuant to § 1134.73(e), exclusive of differential butterfat values; and

(ii) The value at the uniform price applicable at the location of the plant from which received (not to be less than the Class III price) of other source milk for which a value is computed pursuant to § 1134.60(f).

(b) On or before the 25th day after the end of the month each person who

operated another order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

(c) Each vendor shall pay the market administrator on or before the 25th day after the end of the month at the difference between the value of the skim milk and butterfat in fluid milk products received from a producer-handler during the month at the Class I price applicable at the location of the producer-handler's plant (but not less than the Class III price) and its value at the Class III price subject to the following conditions:

(1) The quantities of skim and butterfat in fluid milk products on which payments shall be made pursuant to this section shall not exceed the vendor's Class I disposition in the marketing area during the month; and

(2) This section shall not apply to a vendor whose total Class I disposition is obtained from a producer-handler, or whose total receipts and disposition of fluid milk products are considered as a part of the receipts and disposition of the producer-handler pursuant to § 1134.10(b)(3).

§ 1134.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1134.71(a)(2) exceeds the amount computed pursuant to § 1134.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1134.73 Payments to producers and to cooperative associations.

Except as provided in paragraph (c) of this section, each handler shall make payment to each producer from whom milk is received as follows:

(a) Not later than the last day of the month, to each producer from whom he received milk during the first 18 days of the month, a partial payment for the milk received during the first 15 days of the month, at the Class III price for the preceding month.

(b) Not later than the 16th day of the month, for milk received during the preceding month, an amount computed at not less than the uniform price, per hundredweight, pursuant to § 1134.61, as adjusted by the butterfat differential specified in § 1134.74, location adjustment specified in § 1134.75 and adjustments for errors made in previous payments minus:

(1) Payments made pursuant to paragraph (a) of this section;

(2) Deductions for marketing services pursuant to § 1134.86; and

(3) Deductions approved by the market administrator and authorized in writing by the producer. If the handler has not received full payment for the delivery period from the market administrator pursuant to § 1134.72, he may reduce his total payments to all producers uniformly by the amount owing to him by the market administrator. The handler shall, however, complete all payments not later than the 16th day of the month following receipt of the balance from the market administrator.

(c)(1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk, and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim by the cooperative association, each handler shall pay to the cooperative association on or before the second day preceding the dates set out in paragraphs (a) and (b) of this section an amount equal to the sum of the individual payments otherwise payable to the producer members of such organization. This payment shall be made for all milk of such producer certified by the cooperative association as a member, beginning the first day of the month following receipt of the certification and ending the last day of the month next preceding the date on which a written notice from the cooperative association terminating the membership was received.

(2) A copy of the request for payment, promise to reimburse, and certified list of members, shall be filed simultaneously with the market administrator. He may verify the information by auditing the records of the cooperative association. Exceptions to the accuracy of the membership certification, by a producer or by a handler, shall be made in writing to the market administrator for his determination.

(d) In making the payments to producers under paragraphs (b) and (c) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk, a supporting statement which shall show for each month:

(1) The month and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk received from such producers;

(3) The minimum rate or rates at which payment to such producer is required under this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

(e) For milk received from a pool plant operated by a cooperative association or from a handler described in § 1134.9(c), each handler shall on or before the second day prior to the date payments are due individual producers, pay such cooperative association for milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at not less than the Class III price for the preceding month; and

(2) A final settlement equal to the value of such milk at the uniform price, as adjusted pursuant to §§ 1134.74 and 1134.75, less payment made pursuant to paragraph (e)(1) of this section.

§ 1134.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter

per pound at Chicago, as reported by the Department for the month.

§ 1134.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price to be paid for milk received at a pool plant from producers, in bulk from a pool plant operated by a cooperative association, and from a handler described in § 1134.9(c) may be reduced by the amount of the location adjustment applicable at the location of the pool plant at which such milk was first physically received from producers, and the uniform price for producer milk diverted to a nonpool plant shall be reduced according to the location of the pool plant from which diverted, each at the rates set forth in § 1134.52; and

(b) For purposes of computations pursuant to §§ 1134.71 and 1134.72 the uniform price shall be adjusted at the rates set forth in § 1134.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price).

§ 1134.76 Payments by a handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to § 1134.30(b) and § 1134.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and uniform price shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1134.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1134.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1134.60 for such handler shall include, in lieu of the value of other source milk specified in § 1134.60(f) less the value of such other source milk specified in § 1134.71(a)(2)(ii), a value of milk determined pursuant to § 1134.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1134.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§1134.30(b) and 1134.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1134.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1134.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1134.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1134.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or other verification discloses errors resulting in

moneys due a producer or the market administrator from such handler or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

§ 1134.78 Charges on overdue accounts.

The unpaid obligation of a handler pursuant to §§ 1134.71, 1134.76, 1134.77, 1134.85 and 1134.86 shall be increased 1 percent for each month or portion thereof beginning with the third day following the date by which such obligation was payable: *Provided,* That:

(a) The amounts payable pursuant to this sections shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously made pursuant to this section; and

(b) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

Administrative Assessment and Marketing Service Deduction

§ 1134.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 13th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including milk subject to the provisions of § 1134.42(e) but excluding such milk in the case of a cooperative association which is a handler of milk subject to the provisions of § 1134.42(e)) and such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1134.44(a)(7) and (11) and the corresponding steps of § 1134.44(b), except such other source milk that is excluded from the computations pursuant to § 1134.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant during the month that exceeds the skim milk and butterfat subtracted pursuant to § 1134.76(a)(2).

§ 1134.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk (other than milk of his own production) pursuant to § 1134.73, shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 13th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such services from a cooperative association.

(b) For producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members, and on or before the 14th day after the end of each month, the handler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deductions and the quantity of milk on which the deduction from each producer was computed.

PART 1136—MILK IN THE GREAT BASIN MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

Sec.
1136.1 General provisions.

Definitions

1136.2 Great Basin marketing area.
1136.3 Route disposition.
1136.4 [Reserved]
1136.5 Fluid milk plant.
1136.6 [Reserved]
1136.7 Pool plant.
1136.8 Nonpool plant.
1136.9 Handler.
1136.10 Producer-handler.
1136.11 [Reserved]
1136.12 Producer.
1136.13 Producer milk.
1136.14 Other source milk.
1136.15 Fluid milk product.
1136.16 Fluid cream product.
1136.17 Filled milk.
1136.18 Cooperative association.
1136.19 Product prices.

Handler Reports

1136.30 Reports of receipts and utilization.
Sec.
1136.31 Payroll reports.
1136.32 Other reports.

Classification of Milk

1136.40 Classes of utilization.
1136.41 Shrinkage.
1136.42 Classification of transfers and diversions.
1136.43 General classification rules.
1136.44 Classification of producer milk.
1136.45 Market administrator's reports and announcements concerning classification.

Class Prices

1136.50 Class prices.
1136.51 Basic formula price.
1136.51a Basic Class II formula price.
1136.52 Plant location adjustments for handlers.
1136.53 Announcement of class prices.
1136.54 Equivalent price.

Uniform Price

1136.60 Handler's value of milk for computing uniform price.
1136.61 Computation of uniform price.
1136.62 Announcement of uniform price and butterfat differential.

Payments for Milk

1136.70 Producer-settlement fund.
1136.71 Payments to the producer-settlement fund.
1136.72 Payments from the producer-settlement fund.
1136.73 Payments to producers and to cooperative associations.
1136.74 Butterfat differential.
1136.75 Plant location adjustments for producers and on nonpool milk.
1136.76 Payments by a handler operating a partially regulated distributing plant.
1136.77 Adjustment of accounts.
1136.78 Charges on overdue accounts.

Administrative Assessment and Marketing Service Deduction

1136.85 Assessment for order administration.
1136.86 Deduction for marketing services.

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

Subpart—Order Regulating Handling

General Provisions

§ 1136.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made part of this order.

Definitions

§ 1136.2 Great Basin marketing area.

"Great Basin marketing area" hereinafter called the "marketing area" means all the territory, including all government reservations and installations and all municipalities, within the places listed below:

Utah Counties

Box Elder, Cache (city of Logan only), Carbon, Daggett, Davis, Duchesne, Emery, Grand, Juab, Millard, Morgan, Salt Lake, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Weber.

Nevada Counties

Elko, White Pine.

Wyoming Counties

Uinta (town of Evanston only).

Idaho Counties

Bannock, Bear Lake, Bingham, Bonneville, Franklin, Jefferson, Madison.

§ 1136.3 Route disposition.

"Route disposition" means any disposition of fluid milk products (including through a vendor or disposition from a plant or plant store) classified as Class I milk, except in bulk form to fluid milk plants and except Class II and Class III milk disposition to plants which are not fluid milk plants.

§ 1136.4 [Reserved]

§ 1136.5 Fluid milk plant.

"Fluid milk plant" means a plant:

(a) In which milk or milk products (including filled milk) are processed or packaged and from which there is route disposition during the month in the marketing area, or

(b) In which milk is received or processed and from which milk or skim milk is shipped during the month to a plant described in paragraph (a) of this section.

§ 1136.6 [Reserved]

§ 1136.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A fluid milk plant from which not less than 50 percent in any month of September through February, not less than 45 percent in any month of March and April, and not less than 40 percent in any month of May through August of the fluid milk products, except filled milk, approved by a duly constituted health authority for fluid consumption that are physically received at such plant (excluding milk received at such plant from other order plants or dairy farms which is classified in Class III under this order and which is subject to the pricing and pooling provisions of another order issued pursuant to the Act) or diverted therefrom as producer milk to a nonpool plant pursuant to § 1136.13 are disposed of as route disposition, and not less than 15 percent of such receipts are disposed of as route disposition in the marketing area.

(1) For the purpose of determining the qualification pursuant to this paragraph of a fluid milk plant pursuant to § 1136.5(a) operated by a cooperative association, producer milk which such cooperative association causes to be delivered to the pool plant of another handler or diverted therefrom shall be included with receipts of producer milk at such cooperative's plant and the quantity of such milk assigned to Class I pursuant to § 1136.45(d) shall be included as route disposition from such cooperative's plant;

(i) If such a cooperative association operates more than one fluid milk plant as defined in § 1136.5(a), such producer milk and Class I milk shall be included in the computation for whichever plant the cooperative association requests in writing to the market administrator; and

(ii) If no such written request is made, such producer milk and Class I milk shall be prorated among the plants; and

(2) If a handler operates more than one fluid milk plant, the combined receipts and fluid milk products disposition, except filled milk, of any such plants may be used as the basis for qualifying the respective plants pursuant to the preceding computations specified in this paragraph if a handler in writing so requests the market administrator.

(b) A fluid milk plant from which during the month fluid milk products, except filled milk, equal to not less than 50 percent of the total of receipts at the plant from dairy farmers meeting the inspection requirements described in § 1136.12, milk diverted pursuant to § 1136.13 by the handler operating the plant and other fluid milk products, except filled milk, qualified for distribution for fluid consumption received at the plant are shipped to a plant described in paragraph (a) of this section: *Provided*, That a plant which so qualifies in each of the months of August through January as a pool plant shall be a pool plant in each of the following months of February through July unless the operator requests in written notice to the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such notice and thereafter until the plant qualifies as a pool plant on the basis of shipments.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt plant; and

(3) Any plant described in paragraph (c)(3)(i) or (ii) of this section shall be exempt from paragraph (a) or (b) of this section, unless the Secretary determines otherwise, if it would be fully regulated subject to the classification and pooling provisions of another order issued pursuant to the Act if not so subject to this part:

(i) Any plant from which there is less route disposition, except filled milk, in the Great Basin marketing area than in the marketing area regulated pursuant to such other order if not so subject to this part; or

(ii) Any plant during the months of February through July which qualifies as a pool plant only pursuant to the proviso of paragraph (b) of this section.

§ 1136.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a fluid milk plant that is neither an other order plant, a producer-handler plant, nor an exempt plant from which there is route disposition in consumer-type packages or dispenser units (other than to a pool plant) in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant which is neither an other order plant, a producer-handler plant nor an exempt plant from which fluid milk products qualified for fluid consumption are shipped during the month to a pool plant.

(e) "Exempt plant" means a governmental agency, Brigham Young University or any approved plant from which the total route disposition is to individuals or institutions for charitable purposes and is without remuneration from such individuals or institutions.

§ 1136.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to the milk of its member producers which it causes to be diverted for its account pursuant to § 1136.13.;

(c) A cooperative association with respect to the milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association, if the cooperative association notifies the market administrator and the handler to whom

the milk is delivered, in writing prior to the first day of the month in which the milk is delivered, that it wishes to be the handler for the milk. In this case the milk is received from producers by the cooperative association;

(d) Any person who operates a partially regulated distributing plant; and

(e) Any other person who operates a fluid milk plant described in § 1136.5(a).

§ 1136.10 Producer-handler.

"Producer-handler" means any person who is an individual, partnership or corporation and who meets all the following conditions:

(a) Operates a dairy farm(s) from which the milk produced thereon is supplied to a plant operated by him in accordance with the conditions set forth in paragraph (b) of this section, and provides proof satisfactory to the market administrator that:

(1) The full maintenance of milk-producing cows on such farm(s) is his sole risk and under his complete and exclusive management and control;

(2) Each such farm is owned or operated by him, at his sole risk, and under his complete and exclusive management and control; and

(3) Only he and no other person (except a member of his immediate family or a stockholder in the case of a corporate farm) employed on such farm(s) own, fully or partially, either the cows producing the milk on the farm or the farm on which it is produced;

(b) Operates a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and from which there is route disposition during the month in the marketing area: *Provided,* That:

(1) No fluid milk products are received at such plant or by him at any other location except:

(i) From dairy farm(s) as specified in paragraph (a) of this section; and

(ii) From pool plants or other order plants in an amount that is not in excess of the larger of 3,000 pounds, or 5 percent of his Class I sales, during the month;

(2) Such plant is operated under his complete and exclusive management and control and at his sole risk, and is not used during the month to process, package, receive, or otherwise handle fluid milk products for any other person; and

(3) For the purpose of this section, all fluid milk products disposed of as route disposition or at the stores operated by him or by any person (including the operator of a plant, or a vendor) who controls or is controlled by him (e.g., as an interlocking stockholder) or in which he (including, in the case of a corporation, any stockholder therein) has a financial interest, shall be considered as having been received at his plant; and the utilization for such plant shall include all such route and store dispositions; and

(c) Disposes of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk.

§ 1136.11 [Reserved]

§ 1136.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means a dairy farmer who produces milk in compliance with the inspection requirements of a duly constituted health authority for fluid consumption (as used in this subpart, compliance with inspection requirements shall include production of milk acceptable for fluid consumption of agencies of the United States Government located in the marketing area) which milk is delivered to a pool plant during the month or diverted to a nonpool plant within the limits set forth in § 1136.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1136.44(a)(8)(iii) and the corresponding step of § 1136.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1136.13 Producer milk.

"Producer milk" means only that skim milk and butterfat contained in milk from producers (in an amount determined by weights and measurements for individual producers, as taken at the farm in the case of milk moved from the farm in a tank truck) which is:

(a) Received from the producers at a pool plant but not including milk received from a handler described in § 1136.9(c);

(b) Received by a handler described in § 1136.9(c); or

(c) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant or an exempt plant, subject to the following conditions:

(1) Such milk shall be deemed to have been received by the diverting handler at the location of the plant to which diverted;

(2) Not less than 6 days' production of the producer whose milk is diverted is physically received at a pool plant;

(3) A cooperative association may divert for its account only the milk of member producers: *Provided,* That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at all pool plants from member producers in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;

(4) The operator of a pool plant other than a cooperative association may divert for his account only the milk of producers who are not members of a cooperative association: *Provided,* That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at such plant from producers who are not members of a cooperative association in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;

(5) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to paragraph (c)(3) and (4) of this section. If the handler fails to make such designation, no milk diverted by him shall be producer milk; and

(6) Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their members if each association has filed such a request in writing with the market administrator on or before the 1st day of the month the agreement is effective. The request shall specify the basis for assigning over-diverted milk to the producer members of each cooperative association according to a method approved by the market administrator.

§ 1136.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1136.40(b)(1) from any source other than producers, handlers described in § 1136.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1136.40(b)(1);

(c) Products (other than fluid milk products, products specified in

§ 1136.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1136.40(b)(1)) for which the handler fails to establish a disposition.

§ 1136.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1136.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent of more butterfat, with or without the addition of other ingredients.

§ 1136.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1136.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales, or marketing milk or its products for its members; and

(c) To have its entire activities under the control of its members.

§ 1136.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1136.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except, national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices use shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simply average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simply average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

Handler Reports

§ 1136.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for the month to the market adminstrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1136.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1136.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1136.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1136.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1136.9(a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1136.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1136.32 Other reports.

In addition to the reports required pursuant to §§ 1136.30 and 1136.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

Classification of Milk

§ 1136.40 Classes of utilization.

Except as provided in § 1136.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1136.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage chesse, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragrah (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1136.15; and

(6) In shrinkage assigned pursuant to § 1136.41(a) to the receipts specified in § 1136.41(a)(2) and in shrinkage specified in § 1136.41(b) and (c).

§ 1136.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1136.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1136.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1136.9(b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1136.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1136.44(a)(12) and the corresponding step of § 1136.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1136.44(a)(7) or the corresponding step of § 1136.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I untilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1136.44(a) (11) or (12) or the corresponding steps of § 1136.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocted under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1136.40.

(c) *Transfers to producer-handlers and to exempt plants.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order or an exempt plant shall be classified:

(1) As Calss I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant or an exempt plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1136.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and

butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

(e) *Transfers by a handler described in § 1136.9(c) to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1136.9(c) to another handler's pool plant shall be classified pursuant to § 1136.44 pro rata with producer milk received at the transferee-plant and the value thereof at the class prices shall be included in his value of milk pursuant to § 1136.60.

§ 1136.43 General classification rules.

In determining the classification of producer milk pursuant to § 1136.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1136.30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1136.9 (b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1136.40, 1136.41, and 1136.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1136.9 (b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1136.9(b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1136.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1136.9(a) for each of his pool plants separately the classification of producer milk and milk received from a handler described in § 1136.9(c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1136.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Clas III milk, the lesser of the poudns remaining or 2 prcent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1136.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1136.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1136.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1136.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order or from an exempt plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be substracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1136.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1136.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III conbined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subpargraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and the Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to

paragraphs (a)(7)(vi) and (8)(iii) of this section:

(i) 'Subject to the provisions of paragraph (a)(12) (ii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and Class II and Class III combined, with the quantity prorated to Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1136.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of availablel utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Clas I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1136.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk received from a handler described in § 1136.9(c), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk received from a handler described in § 1136.9(c) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1136.45 Market administrator's reports and announcements concerning classification.

The market adminsitrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1136.44(a)(12) and the corresponding step of § 1136.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1136.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant, the class to which such shipments were allocated by the market administrator of the other order on the basis of the report of the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such association to each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

Class Prices

§ 1136.50 Class prices.

Subject to the provisions of § 1136.52, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.90.

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1136.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1136.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1136.51a.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1136.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1136.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1136.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1136.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

§ 1136.52 Plant location adjustments for handlers.

(a) For milk which is received from producers as a pool plant, or is diverted therefrom, or is delivered by a handler described in § 1136.9(c) to a pool plant and which is assigned to Class I milk, subject to the limitations pursuant to paragraph (b) of this section, the price computed pursuant to 1136.50(a) shall be reduced as follows:

Distance (miles)	Rate per hundredweight (cents)
150 but not more than 160	22.0
For each additional 10 miles or fraction thereof in excess of 160	1.5

Such distance to be the shortest hard-surfaced highway distance as determined by the market administrator from the plant to the County Courthouse of Salt Lake County, Utah;

(b) In applying such credit to transfers of fluid milk products between pool plants, a Class I location adjustment credit for the transferor-plant shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) From pounds of skim milk remaining in Class I at the transferee-plant after the computations are made pursuant to § 1136.44(a)(12) subtract the pounds of skim milk in receipts of milk at the transferee-plant from producers and handlers described in § 1136.9(c);

(2) Assign any remaining pounds of skim milk in Class I at the transferee-plant to the skim milk in receipts of fluid milk products from other pool plants, first to the transferor-plants at which no location adjustment applies and then in sequence beginning with the plant at which the least location adjustment applies;

(3) Compute the total amount of location adjustment credits to be assigned to transferor-plant pursuant to paragraph (b)(2) of this section by the applicable adjustment rate for each such plant, and add the resulting amounts;

(4) Assign the total amount of location adjustment credits computed pursuant to paragraph (b)(3) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1136.42(a), in sequence beginning with the plant at which the least location adjustment applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the applicable location adjustment rate for such plant. If the aggregate of this computation for all plants having the same location adjustment rate exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I transfers received from such plants; and

(5) Class I location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraph (b) (1) through (4) of this section.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1136.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for

the following month, the Class III price of the preceding month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

§ 1136.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1136.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1136.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk received from a handler described in § 1136.9(c) that were classified in each class pursuant to §§ 1136.43(a) and 1136.44(c) by the applicable class prices, and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1136.44(a)(14) and the corresponding step of § 1136.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1136.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1136.44(a)(9) and the corresponding step of § 1136.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1136.44(a)(7) (i) through (iv) and the corresponding step of § 1136.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1136.44(a)(7) (v) and (vi) and the corresponding step of § 1136.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1136.44(a)(11) and the corresponding step of § 1136.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classifed and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1136.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1136.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1136.60 for all handlers who filed the reports prescribed by § 1136.30 for the month and who made the payments pursuant to § 1136.71 for the preceding month;

(b) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1136.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1136.60(f); and

(e) Subtract not less than 5 cents nor more than 6 cents per hundredweight. The result shall be known as the uniform price.

§ 1136.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1136.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1136.71, 1136.76, and 1136.77, subject to the provision of § 1136.78 and out of which he shall make all payments pursuant to §§ 1136.72 and 1136.77: *Provided,* That any payments due to any handler shall be offset by any payments due from such handler.

§ 1136.71 Payments to the producer-settlement fund.

(a) On or before the 14th day after the end of the month, each handler shall pay to the market administator the amount, if any, by which the total amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1136.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1136.75, of such handler's receipts of producer milk and milk received from a handler described in § 1136.9(c). In the case of a cooperative association which is a handler, less the amount due from other handlers pursuant to § 1136.73(d), exclusive of differential butterfat values; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1136.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or

more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1136.72 Payments from the producer-settlement fund.

On or before the 15th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1136.71(a)(2) exceeds the amount computed pursuant to § 1136.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1136.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraphs (b), (d), or (e) of this section, each handler shall make payment to each producer from whom milk is received as follows:

(1) On or before the last day of each month, for producer milk received during the first 15 days of the month, at not less than 1.2 times the Class III price for the preceding month; and

(2) On or before the 17th day of the following month, for producer milk received during the month, at not less than the uniform price pursuant to § 1136.61 adjusted by the butterfat differential specified in § 1136.74 and location adjustment specified in § 1136.75, subject to the following adjustments:

(i) Less deductions for marketing services pursuant to § 1136.86;

(ii) Less the payment made pursuant to paragraph (a)(1) of this section;

(iii) Plus or minus adjustments for errors made in previous payments to such producer and proper deductions authorized in writing by such producer; and

(iv) If by the date specified, such handler has not received full payment from the market administrator pursuant to § 1136.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(b) In the case of a cooperative association which is authorized by its members to collect payment for their milk and which has requested such payment from any handler in writing and has so notified the market administrator, payment for milk received during the month by such handler(s) from producer-members of such association shall be accomplished as follows:

(1) On or before the third day prior to the last day of each month such handler shall pay to such cooperative association not less than 1.2 times the Class III price for the preceding month for the hundredweight of such milk received during the first 15 days of the month; and

(2) On or before the 16th day of the following month such handler shall pay to such cooperative association the sum of the payments computed at the appropriate uniform price with respect to deliveries by producer-members of such association to handlers from whom payments have been requested, less the amounts of payments made to such association pursuant to paragraph (b)(1) of this section, and less the amount retained by handlers as authorized deductions.

(c) Each handler who received milk from producers for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section shall report to such cooperative association and to the market administrator on or before the 7th day of the following month, as follows:

(1) The total pounds of milk received during the month, and if requested, the pounds received from each member-producer;

(2) The amount of payment made pursuant to paragraph (b)(1) of this section and the quantity of milk to which such payment applied; and

(3) The amount or rate and nature of any proper deductions authorized to be made from payments.

(d) Each handler shall pay a cooperative association for milk received by him from such cooperative in its capacity as a handler described in § 1136.9(c) as follows:

(1) On or before the second day prior to the last day of each month, for milk received during the first 15 days of the month an amount per hundredweight not less than 1.2 times the Class III price for the preceding month; and

(2) On or before the 15th day of the following month for milk received during the month, not less than the value of such milk at the applicable uniform price, less payment made pursuant to paragraph (d)(1) of this section.

(e) Each handler shall pay a cooperative association for milk received by him from a pool plant operated by such association as follows:

(1) On or before the second day prior to the end of each month, for milk received during the first 15 days of the month an amount per hundredweight not less than 1.2 times the Class III price for the preceding month; and

(2) On or before the 15th day of the following month for milk received during the month, not less than an amount computed by multiplying the minimum prices for milk in each class subject to the applicable location adjustment provided in § 1136.52 and the butterfat differential provided by § 1136.74, by the hundredweight of milk in each class pursuant to § 1136.44, such amount to be reduced in the amount of the payment made pursuant to paragraph (e)(1) of this section.

§ 1136.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1136.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price to be paid for milk received at a pool plant shall be reduced according to the location of the pool plant, at the rates set forth in § 1136.52; and

(b) For purposes of computations pursuant to §§ 1136.71 and 1136.72 the uniform price shall be adjusted at the rates set forth in § 1136.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price).

§ 1136.76 Payments by a handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph

(a) of this section. If the handler submits pursuant to § 1136.30(b) and § 1136.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1136.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1136.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1136.60 for such handler shall include, in lieu of the value of other source milk specified in § 1136.60(f) less the value of such other source milk specified in § 1136.71(a)(2)(ii), a value of milk determined pursuant to § 1136.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1136.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§ 1136.30(b) and 1136.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1136.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1136.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1136.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpol supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1136.77 Adjustment of accounts.

Whenever audit by the market administrator of any reports, books, records, or accounts or other verification discloses errors resulting in moneys due (a) the market administrator from a handler; (b) a handler from the market administrator; or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 1136.78 Charges on overdue accounts.

The unpaid obligation of a handler pursuant to §§ 1136.71, 1136.76, 1136.77 and 1137.85, shall be increased 1 percent for each month or portion thereof beginning with the third day following the date by which such obligation was payable: *Provided*, That:

(a) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously made pursuant to this section; and

(b) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

Administrative Assessment and Marketing Service Deduction

§ 1136.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 14th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including milk received from a handler described in § 1136.9(c) but excluding in the case of a cooperative association which is a handler pursuant to § 1136.9(c), milk which was received at the pool plant of another handler) and such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1136.44(a) (7) and (11) and the corresponding steps of § 1136.44(b), except such other source milk that is excluded from the computations pursuant to § 1136.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant during the month that exceeds the skim milk and butterfat subtracted pursuant to § 1136.76(a)(2).

§ 1136.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk pursuant to § 1136.73, (other than milk of his own production) shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 14th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such services from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members. On or before the 15th day after the end of each month, the handler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deductions and the quantity of milk on which the deduction was computed from each producer.

Signed at Washington, D.C., on June 18, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-16987 Filed 6-23-82; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Parts 1137, 1006, 1012, 1013, 1033, 1036, 1040, 1124, 1125, 1133, 1134, 1135, 1136 and 1139

[Docket Nos. AO-326-A21-R01, et al.]

Milk in the Eastern Colorado and Certain Other Marketing Areas; Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments To Tentative Marketing Agreements and Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

7 CFR part	Marketing area	AO Nos.
1137	Eastern Colorado	AO-326-A21-R01.
1106	Upper Florida	AO-356-A18.
1012	Tampa Bay	AO-347-A21.
1013	Southeastern Florida	AO-286-A29.
1033	Ohio Valley	AO-166-A50.
1036	Eastern Ohio-Western Pennsylvania.	AO-179-A45.
1040	Southern Michigan	AO-225-A34.
1124	Oregon-Washington	AO-368-A11.
1125	Puget Sound, Washington	AO-226-A29-R01.
1133	Inland Empire	AO-275-A32-R01.
1134	Western Colorado	AO-301-A17-R01.
1135	Southwestern Idaho-Eastern Oregon.	AO-380-A2.
1136	Great Basin	AO-309-A23-R01.
1139	Lake Mead	AO-374-A7.

SUMMARY: This decision recommends the establishment of a new procedure for announcing Class II prices under the 14 milk orders involved in this proceeding. As recommended, a tentative Class II price for a particular month would be announced by the 15th day of the preceding month. The final Class II price would be announced by the 5th day after the month and would reflect, if applicable, the use of the Class III (or Minnesota-Wisconsin) price for that month as a "floor" under the Class II price. The proposed procedure is based on industry proposals considered at a public hearing held on February 3, 1982.

DATE: Comments are due on or before July 9, 1982.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Marting J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202-447-7311.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding: Notice of Hearing: Issued January 4, 1982, published January 7, 1982 (47 FR 814).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the aforesaid specified marketing areas. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C., 20250, on or before July 9, 1982. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The hearing notice specifically invited interested persons to present evidence concerning the probable regulatory and informational impact of the proposals on small businesses. Most parties subject to a milk order are considered to be a small business. No participants at the hearing testified about any potentially adverse impacts of the proposals on small businesses as a group.

Further, William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that the amendments adopted herein, which are based on the hearing record, would not have a significant economic impact on a substantial number of small entities. The amendments would promote orderly marketing of milk by producers and regulated handlers.

The proposed amendments set forth below are based on the record of a public hearing held at Denver, Colorado, on February 3, 1982, pursuant to the notice thereof issued January 4, 1982 (47 FR 814).

The material issue on the record of the hearing is whether to provide advance Class II price notice for the 14 milk orders included in the hearing proceeding.

Findings and Conclusions

The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

Class II price announcement. The 14 milk orders in this proceeding should provide that on or before the 15th day of the month the market administrators of the respective orders shall announce the tentative Class II price that is to be effective the following month. The Class II price for the month should be the Minnesota-Wisconsin (M–W) price for the second preceding month, as adjusted by an "updating" formula, plus a Class II differential computed from a 12-month moving average of past Class II differentials. The Class II price for any month should not be less than the Class III price for the month, except that in the Upper Florida, Tampa Bay, and Southeastern Florida orders the Class II price should not be less than the basic formula price for the month. The Class II differential, over time, should average out to about the Class III (or basic formula) price plus the current Class II differential of the respective orders. The use of the Class III (or basic formula) price as a floor would require that a final Class II price be announced by the respective market administrators on or before the 5th day of the following month when the Class III (or basic formula) price for the month is known and it can be determined whether such price would apply as a "floor."

Except for the few instances noted herein, the procedures adopted are identical to those that were provided for 29 markets in a decision issued July 8, 1981, and published in the **Federal Register** on July 14, 1981 (46 FR 36151).

In the Oregon-Washington, Puget Sound and Inland Empire orders, where the Class II and Class III prices may be affected by a so-called butter-powder price snubber, a further adjustment should be made in the final Class II price. Whenever the Class III price in these three orders is based on the butter-powder snubber price, the final Class II price should be reduced by the amount that the Class III price is less than the basic formula price, but only to the extent such reduction does not cause the Class II price to be less than the Class III price. This adjustment should result in Class II prices in those three orders that approximate the same relationship between Class II and Class III prices that exists under the present orders.

To achieve the foregoing, the respective orders should provide for a "basic Class II formula price" for the month, which would be the order's basic formula price (i.e., the M–W price) for the second preceding month plus or minus an amount computed from the "updating" formula. In essence, a tentative estimate of the M–W price for the preceding month would be derived from the mechanics of the updating formula. This would permit the Class II price to be based on selected dairy industry data for that month rather than for the second preceding month.

The updating formula would determine first the amounts by which the gross values of milk used to manufacture cheddar cheese and butter-nonfat dry milk for the first 15 days of the preceding month are greater than or less than the respective values of such milk for the first 15 days of the second preceding month using yield factors provided by the Dairy Price Support Program. Then, the relative proportions of milk used in Minnesota and Wisconsin combined in the manufacture of cheddar cheese and butter-nonfat dry milk would be determined from data reported by the Department. From the foregoing data, a weighted average of the changes in gross values per hundredweight of milk would be computed.

The Class II price for the month would be the basic Class II formula price for the month plus a differential that would be the amount by which a 12-month moving average of the basic formula price plus the respective Class II differential of each order exceeds a 12-month moving average of the basic Class II formula prices. This should result in Class II prices that on the average exceed Class III (or basic formula) prices by the respective Class II differential now in each order.

The basic Class II formula price and the tentative Class II price would be computed by the Dairy Division, AMS, and transmitted to the market administrators of the respective orders on or before the 15th day of the preceding month, enabling each market administrator to announce by that time the tentative Class II price for the following month. The final Class II price would be announced on or before the 5th of the following month when it is determined whether such price would be "floored" by the Class III (or basic formula) price for the month and, in the 3 Pacific Northwest orders, whether or not the final Class II price would need to be reduced to reflect the effect of the butter-powder snubber.

At present, the 14 milk orders provide for the market administrator of each order to announce publicly on or before the 5th day of each month the Class II price for the preceding month. The present orders provide for Class II prices that are:

5 cents above the M–W price in Western Colorado.

10 cents above the M–W price in Ohio Valley, Eastern Ohio-Western Pennsylvania and Southwestern Idaho-Eastern Oregon.

15 cents above the M–W price in Southern Michigan, Eastern Colorado, Great Basin, Lake Mead, Upper Florida, Tampa Bay and Southeastern Florida. The Upper Florida and Tampa Bay orders provide for only two classes of utilization.

25 cents above the Class III price in Oregon-Washington, Puget Sound and Inland Empire. In these 3 orders the the Class III price is the lower of the M–W price or a butter-powder snubber price.

Milk Industry Foundation, the International Association of Ice Cream Manufacturers, and the National Milk Producers Federation proposed a procedure for announcing the Class II prices of the 14 milk orders that was largely the same as the procedure provided herein.

The Milk Industry Foundation (MIF) is a trade association representing fluid milk processors, some of which are regulated by the 14 milk orders in this proceeding. Members of the MIF operate some 750 milk processing plants and process about 75 percent of the fluid milk packaged in the United States. The MIF also represents members who manufacture various Class II products, including cottage cheese, yogurt, dips, dressings, and cream.

The International Association of Ice Cream Manufacturers (IAICM) is a trade association that represents manufacturers of frozen desserts, including some who are regulated by the 14 orders in question. Products processed include ice cream, ice milk, sherbets, mellorine, milkshakes and other Class II products. Members operate some 600 plants and manufacture about 85 percent of the frozen desserts manufactured in the United States.

The National Milk Producers Federation (NMPF) is an organization which represent dairy cooperative associations and federations of such associations. At the hearing NMPF

represented 12 member cooperatives that market milk under 8 of the 14 milk orders in this proceeding.

The proposals. The MIF/IAICM proposed that the Class II prices of the 14 milk orders in this proceeding be announced by the market administrators of the respective orders on or before the 15th day of the month prior to the month in which they apply. The associations proposed that the Class II price be based on a formula that updates the M–W price of the second preceding month, plus a Class II differential computed from a 12-month moving average of past Class II differentials to maintain a Class II price that averages the respective order Class II differential over the M–W price. Also, the resulting Class II price of any month could not be less than the Class III (or basic formula) price for that month.

The NMPF proposed a procedure for announcing Class II prices that was largely the same as the procedure proposed by the MIF/IAICM.

A witness for the MIF/IAICM said that the 14 milk orders need to be changed as proposed because handlers are having difficulty in making price changes under the prevailing marketing conditions. He outlined how price changes are made beginning with the notification of a milk price change by a handler and ending with a retail price change at a store. The witness said that the entire process requires at least 15 days from the time the Class II price is changed until it is reflected in the prices of Class II products at stores.

The witness said that providing advance notice of Class II prices has been an objective of the MIF/IAICM for many years. He noted that advance Class II pricing is now being provided for 29 federal milk orders and should be provided for the 14 milk orders in this proceeding. He said that the proposal for the 14 orders is identical to that which is already provided for the 29 orders except for some technical differences to accommodate certain pricing procedures such price snubbers and Class II differentials in some of the 14 orders.

The witness said that one aspect of the proposed formula is that a month's Class II price should not be lower than the same month's Class III or basic formula price. He said that for most of the orders that provide for 3 classes of utilization the Class III price and the basic formula price are identical (the M–W price). However, he noted, the Southeastern Florida milk order has a special Class III price, which is the Chicago Grade A butter price times 1.25, plus four cents, times 3.5. To be consistent with the provisions of the 29 milk orders, the handler groups proposed that for the Southeastern Florida order the floor be the basic formula price instead of the unique Class III price now provided for the order.

The second handler modification of the 29-market procedure involves the Puget Sound, Inland Empire and Oregon-Washington milk orders. Persently, the Class III price formulas for these orders contain a butter-powder snubber. The Class II prices are equal to the Class III prices plus 25 cents. In the computation of the Class II differential, the present 29-market procedure uses the term "basic formula price" rather than the Class III price in the calculation of the 12-month moving average. However, the basic formula price does not reflect the butter-powder snubber price. Accordingly, in the calculation of the 12-month moving average the handlers proposed that the term "basic formula price" be changed to "Class III price." The proponents would also have this change apply to the Western Colorado milk order which also provides for a butter-powder snubber.

The witness testified further that during the summer of 1981 a hearing was held to consider merging the Puget Sound and Inland Empire milk orders. He said that one of the proposals at that hearing would eliminate the snubber from the Class III price. The witness said that the MIF/IAICM takes no position in this reopened hearing on whether the snubber should or should not be eliminated. He said that if the Department decides to eliminate the snubber, it should also be removed from the pricing of Class II milk under those orders, which would require a further modification of the order language proposed in this proceeding.

Concerning the need for advance Class II price notice, the spokesman for MIF/IAICM said that raw dairy product cost makes up from 30 percent to well over 80 percent of handlers' total cost for most of the products classified as Class II. He said that any change in this cost element is extremely important to handlers. He noted that currently the cost of milk bought at the beginning of the month is not known to the handler until up to 36 days later. The witness said that handlers have most often bought the raw milk, manufactured the various Class II products from it and sold them to their customers without even knowing the cost of the most important ingredient—the raw milk. In his view, this creates undue business risks and difficulties without generating any benefit to consumers or anyone else.

The spokesman for the MIF/IAICM said that regulated handlers would not be disadvantaged by the proposed advance Class II price notice. He said that it would provide a Class II price almost identical with the present Class II price. In his view, the variance in the price that would prevail under the proposed formula would be quite minimal. He stressed that the use of the moving average adjustment to the Class II differential would assure that over time the new formula and the present Class II pricing method would render almost identical results.

The witness testified that the proposed Minnesota-Wisconsin "floor" price would prevent regulated handlers from having any possible advantage over unregulated handlers. In his view the "floor" is akin to the present pricing practice wherein the Class III price is the minimum price level throughout the federal milk order system.

Another witness representing a proprietary handler testified in favor of the MIF/IAICM proposal. The handler operates six fluid milk plants regulated by orders included in the hearing. The plants are located at Miami, Winter Haven and Jacksonville, Florida; Cleveland and Findlay, Ohio; and Colorado Springs, Colorado. The plants are regulated by the Southeastern Florida, Tampa Bay, Upper Florida, Eastern Ohio-Western Pennsylvania, Ohio Valley and Eastern Colorado milk orders, respectively.

The witness said that advance Class II price notice is needed for a handler to know the cost of the raw material used to make a product in order to determine the selling price intelligently. He said that under present order provisions the handler must estimate the following month's price. He said that this has resulted in customers being undercharged at times and overcharged at other times relative to raw milk costs. He said further that in his view the fact that advance Class II price notice is now provided in 29 milk orders provides further reason for adopting it in the 14 milk orders in this hearing. He testified that handlers regulated by the 29 milk orders have one basic advantage over handlers who are not regulated by those orders. They know the cost of Class II milk 15 days before the first sale of Class II products in a month instead of 35 days after. He testified further that month-to-month variations in the advance Class II prices relative to the present Class II prices were anticipated when the system was proposed and adopted for the 29 markets. He said that they can be expected to continue.

A third witness representing a proprietary handler testified in favor of the MIF/IAICM proposal. The handler distributes milk and dairy products in eight of the markets included in the hearing. He said that adoption of the proposal would be a great improvement over the 35-day "retroactive" announcement procedure that is now provided for the 14 milk orders in this hearing. He said that the practice of giving reasonable advance notice of impeding cost changes is universally followed in the sale and purchase of goods. He said that in their operation such practice provides for adequte time to prenotify their retail outlets to allow for necessary changes in advertising and pricing programs that affect the retail outlets and their customers. He wants the proposal to be adopted to prevent the artificial distortions that arise when any segment of an interdependent supply system operates on the basis of incomplete or inaccurate data.

The witness is associated with a proprietary handler that produces Class II dairy products at a regulated plant and then distributes them through retail stores to consumers. He presented testimony about the procedure. For example, on shipments of yogurt from a Salt Lake City plant to store outlets in Denver, the plant must compute the new product cost when a change in the raw milk price in announced. The new price is then applied to yogurt to be shipped to Denver. When the yogurt is received in Denver, the new price must be transmitted to the buying office. That office, in turn, transmits the new price information to the computer section where new price lists are printed. The new price lists are then mailed to retail stores. At the store, prices are changed on new inventory received; it is not changed on existing stock. Stores get twice-a-week shipments of yogurt, so they may have 3 days' inventory on hand. The witness testified that the entire process takes about two weeks.

A spokesman for another proprietary handler testified in favor of the MIF/IAICM proposal. The handler operates 12 dairy plants in six of the federal milk order markets in this hearing. Many of the plants are significant distributors of Class II products. The witness said that the adoption of the proposal would help all the handler's plants in knowing their costs accurately and in making price changes on a timely basis. The spokesman testified that the handler's plants that are operating under the 29 orders with advance Class II notice are enthusiastic about the benefits that have resulted from advance Class II price notice. He said that the plants had operated under the change for about 5 months and unanimously supported the provisions that were adopted. He said that the handler's plants at Topeka, Kansas, Champaign, Illinois, and Tulsa, Oklahoma, process substantial quantities of Class II products and have found that advance Class II price notice has been especially helpful for them.

The witness testified that adoption of the MIF/IAICM proposal will contribute to orderly marketing because handlers will be able to plan and effectuate production and marketing decisions more accurately than is now the case. He sail that while the proposal will benefit handlers particularly, it will not be detrimental to producers or consumers.

A proprietary handler who is regulated by the Eastern Colorado milk order testified in favor of the MIF/IAICM proposal for advance Class II price notice. He said that it is now very difficult to determine costs and to price Class II products. He said that with the present order provisions concerning Class II price notice and requirements of the State of Colorado concerning advance notice of prices to customers, he has to project sales prices considerably into the future without knowing actual costs.

A witness for the National Milk Producers Federation testified on behalf of 12 member cooperatives that supply milk to eight of the 14 marketing areas in this proceeding. The witness supported the proposal to include advance Class II price notice in the eight orders. He expressed no position on the issue relative to the other six orders.

The witness said that a number of factors, such as class prices, utilization, and differentials, go into determining the farm price of milk. He indicated that most of the factors are not known to a dairy farmer when he is making his production decision, or to his cooperative when making its marketing decisions. The witness said that advance Class II price notice will give dairy farmers and their cooperatives an additional piece of factual information to use in making their management decisions. He said that if the proposal is adopted dairy farmer income would not be changed by it.

The representative of a cooperative that supplies milk to the Southwestern Idaho-Eastern Oregon market testified in favor of advance Class II price notice. The cooperative manufactures Class II products and considers the present delayed pricing of up to 35 days as a serious problem in timing price changes to customers. The witness said that since the provisions can be changed with no disadvantage to producers the proposal should be adopted. He testified that the provisions of the formula should not be different from those provided in the 29 orders. He indicated that if it is found later that a change in the formula is desirable it can be made for all the orders affected. The witness said that regardless of the month-to-month price changes that can occur from the formula, the provision for advance Class II price notice overrides whatever Class II price variation is likely to occur.

A witness for a cooperative that supplies milk to the Great Basin market also testified in favor of the proposal to provide advance Class II price notice. The cooperative manufacturers Class II products and believes it is important to know the cost of raw milk used in Class II products before the products are priced to customers. In his view present provisions are not adequate in this respect.

A spokesman testified on behalf of three cooperatives that are the major suppliers of milk to the Upper Florida, Tampa Bay and Southeastern Florida milk orders. He said that the cooperatives do not have any strong objection to advance Class II price notice but that they have some reservations about it. The witness said that adoption of the proposal would interject a considerable degree of price instability into the program that is not the case with the Minnesota-Wisconsin price series. He said that the formula results would give false signals which would be more important to the major processors of Class II products than to dairy farmers because the quantity of Class II milk represents a small proportion of the total amount of milk sold. The witness said that a price series which shows much more volatility and much more movement plus and minus than the Minnesota-Wisconsin price series may not serve the purposes of the Act. Also, he stated, there is a risk factor involved in the reliability of what the new pricing formula would do in the future. He said that producers ought not to assume that responsibility.

The witness noted that the cooperatives he represents are not Class II manufacturers. He said that adoption of the formula would not affect blend prices to producers in any significant way. This is because Class II is such a minor element in the three markets. He said that the important issue is how reliable the formula will be, not whether the farmers are going to get a penny less or two cents more. He testified that handlers have a right to a relatively stable price, and that has been one of the benefits of the program over the

years. The witness stated that if the proposed formula is adopted for the 14 orders, the final Class II price under the three Florida orders should be not less than the M–W price plus 15 cents.

A witness appeared on behalf of a federation of cooperatives supplying milk to markets in Oregon, Washington, Idaho and Montana, and a marketing agency for the federation. Also, he represented a cooperative association that supplies milk to the Puget Sound, Oregon-Washington and Inland Empire markets. The marketing agency operates a pool plant under the Puget Sound milk order, two pool plants under the Inland Empire milk order and four pool plants under the Oregon-Washington order.

The witness testified in opposition to the proposal to provide advance Class II price notice for the three Northwest orders. He said that the limited experience with advance Class II pricing in the 29 milk markets where it was recently adopted demonstrates its undesirability. He claims that the procedure was a failure in August and September of 1981 when the tentative Class II price exceeded the M–W plus 10 cents by 26 cents and 19 cents, respectively. He argued that there was no need to rush into a nationwide adoption of a procedure that, in his opinion, has such obvious weaknesses.

The witness said that the cooperative association handlers he represents feel more strongly about the need to know the Class III price in advance. In his view it makes no sense to predict one and not the other. He urged the Department to delay consideration of the proposal, at least in the three Northwest milk orders, until such time as a proposal can be developed for determining and announcing Class III prices in advance so the Class I and Class II prices can be determined from that price.

In opposing adoption of the MIF/IAICM proposal for the three Northwest milk orders, the witness said that the pricing and announcement provisions of the three orders are satisfactory and are not causing undue hardship to any handlers. In his view it is possible for handlers to estimate accurately the level of the Class II price for use in determining Class II product costs.

The witness testified that if the Department adopts advance Class II pricing for the three Northwest orders, some alternative provisions should be included. He said that any amended order shoud provide a Class II price at the same approximate level—Class III price plus 25 cents—as is currently provided by these three orders. He said that the butter-powder snubber price should be retained in the computation of the Class II price. He said that the M–W price for the past 33 months has been less than the snubber price and it is expected to continue that way for the foreseeable future. (The three orders provide that the Class III price shall be the lower of the M–W price or the snubber price.) The witness testified further that the three orders should provide that the Class II price shall be not less than the Class III price plus 15 cents per hundredweight.

The witness also opposed the modification of the Class II formula price that was made at the hearing by handlers for the three Northwest orders. As described previously, proponents stated that in calculating the monthly Class II differential for these three orders, the 12-month moving average should be based on the average Class III price plus 25 cents rather than the average basic formula (M–W) price plus 25 cents. The witness opposing this change claimed that the modification would have a "double-lowering" effect upon Class II prices in these three orders whenever the butter-powder snubber price was the Class III price. He said the butter-powder snubber price not only would reduce the Class II price for the month in which it was the effective price but that it also would reduce tentative Class II prices for the next 12 months if it was used in the calculation of the Class II differential.

Discussion of the issue. It is concluded from the testimony and data submitted by witnesses that the adoption of the proposal for advance notice of the Class II price is a reasonable means of assisting handlers in the marketing of milk. It was the view of most of the hearing witnesses that the dairy industry is somewhat unique in that regulated handlers process and sell products without knowing the cost of the raw materials. This causes them problems in adjusting resale prices to changes in ingredient costs. To them this is an unwarranted and unnecessary situation which creates undue business risks and other difficulties without any real benefit to others.

The provision for advance price notice under these orders will contribute to more orderly marketing for the processors of Class II products. They will be in a better position to plan their processing and marketing strategies with the advance knowledge of their raw milk costs. Also, the advance price notice will enable the handlers to establish and adjust resale prices of Class II products more currently relative to changes in ingredient costs. This is in contrast to the present system whereby a multitude of handlers make numerous estimates with varying results of how anticipated milk costs should be reflected in the resale prices.

Concern was expressed by representatives of several cooperative associations in Florida and in the three Northwest markets that the advance price notice procedure would not maintain orderly marketing conditions for the industry. Their testimony was based on alleged price volatility that might result if the advance price notice procedure were adopted. In this connection, for 1981 the total fluctuation (21 cents) under the formula that was adopted for the 29 markets, as mentioned previously, would have been 1.6 percent of the average final Class II price in both the 15-cent and 25-cent differential markets, which encompass the Florida orders and those in the Northwest. The present Class II price formulas in these orders had the same 21-cent total fluctuation for 1981. This fluctuation was 1.6 percent of the average Class II price in the 25-cent differential markets and 1.7 percent of the average Class II price in the 15-cent differential markets. This cannot be considered the severe volatility or price instability about which the two witnesses were apprehensive.

There is no persuasive evidence in the record that the adoption of the procedures provided herein would adversely affect any handlers, producers or consumers in the 14-market area. The advance price notice will not impair the continued maintenance of orderly marketing conditions for producers and handlers. Instead, it will tend to effectuate the declared policy of the Act.

Adopted procedure. The procedure provided herein for announcing a tentative Class II price for a month on or before the 15th day of the previous month is the same as that proposed by most of the witnesses in this proceeding. It provides that the market administrator shall announce publicly on or before the 15th day of each month a tentative Class II price for the following month. Such price would be provided to the administrators of the respective orders by the Dairy Division and would be determined from the method of computation specified in the orders.

As provided in the attached order, the announced tentative Class II price for the month would be the sum of the following price components: (A) The basic Class II formula price; and (B) the Class II differential.

A. *Basic Class II formula price.* The basic Class II formula price, which would be used in computing the Class II price that is announced for the month, would be determined by the Dairy

Division, AMS, on or before the 15th day of the preceding month. Under the formula provided herein, it would be computed by increasing or decreasing the M–W price of the second preceding month by an amount that reflects changes in the gross value of milk used to produce cheddar cheese (including returns from whey fat and whey solids-not-fat), butter, nonfat dry milk and edible whey powder during the first 15 days of the preceding month compared to the first 15 days of the second preceding month. The gross value of milk used to produce these products would be determined by multiplying the price of each product by a yield factor which represents the pounds of product that results from the manufacturer of a hundredweight of milk. The yield factors used in the formula adopted herein would be those that are used under the Dairy Price Support Program for determining similar gross values. Whenever the yield factors are changed, the new yield factors would be used in the formula beginning with the effective date of the announced support price or announced purchase prices.

The yield factors used under the Price Support Program are for milk of average butterfat content of 3.67 percent, while prices under the Federal milk order program are announced for milk containing 3.5 percent butterfat. Milk containing higher proportions of butterfat yield more pounds of product per hundredweight of milk than does milk containing a lower butterfat content. However, using the Price Support Program yield factors in the adopted formula should not appreciably affect the basic Class II formula prices. Only changes in gross values of milk from one month to another would raise or lower the basic Class II formula price. Those changes in gross values of milk should not be much different whether they are based on milk containing 3.67 percent butterfat or 3.5 percent butterfat.

The product prices that are used in the formula adopted herein would be those that are reported and published each week by the Dairy Division, AMS. The butter price would be that of the Chicago Mercantile Exchange for Grade A (92-score) butter. The cheddar cheese price would be that of the National Cheese Exchange for cheddar cheese in 40-pound blocks. The nonfat dry milk price would be the average price per pound (using the midpoint of any price range as one price) for high heat, low heat and Grade A nonfat dry milk for the Central States production area. If any of these nonfat dry milk prices are not reported at some future date, the price used in the formula would be the average of the remaining prices that are reported. The price for whey powder would be the average price per pound (using the midpoint of any price range as one price) reported for edible whey powder (nonhygroscopic) for the Central States production area.

Based on yield factors used currently under the Price Support Program, a hundredweight of milk used to produce cheddar cheese yields 10.1 pounds of cheddar cheese, 0.25 pounds of butter and 5.5 pounds of whey powder. At the time of the hearing, under the Price Support Program, the price of whey powder increased the gross value of milk used to produce cheddar cheese only to the extent of that portion of the price of powder that exceeded 13.5 cents per pound. This was because the processing cost of drying the whey into powder was 13.5 cents. If the price of whey powder were less than 13.5 cents per pound, the processing costs would be absorbed in the price of cheddar cheese. If the price exceeded 13.5 cents, only that portion of the price that exceeded 13.5 cents would contribute to the gross value of milk. Accordingly, in the formula adopted herein the gross value of a hundredweight of milk used to produce cheddar cheese would be the sum of the following computations:

1. The average daily price per pound of cheddar cheese during the first 15 days of each respective month would be multiplied by 10.1. The National Cheese Exchange meets on Friday morning for trading in cheddar cheese. Generally, the prices reported for each session establish the prices of cheddar cheese sold by the dairy industry during the following week. When Friday is a holiday, the Exchange meets on Thursday morning. In the formula adopted herein, a price reported for Friday (or Thursday) would be applied to that day plus each work-day of the following week prior to the day the Exchange meets. When there are work-days in a month that precede the first Friday of the month, the last price reported in the previous month would be applied to each such work-day that precedes the first Friday. A work-day would be each Monday through Friday, except national holidays. This definition of work-day would apply also to the other product prices described in the following paragraphs. During a week that the Exchange does not meet, the price applied for the following week would be the last Exchange price that was established.

2. The average daily price per pound of butter during the first 15 days of each respective month would be mutiplied by 0.25. The Chicago Mercantile Exchange also meets on Friday morning for trading in butter. When Friday is a holiday, the Exchange meets on Thursday morning. Generally, the prices reported for each session establish the prices of butter sold by the dairy industry in the following week. In the formula provided herein, a price reported on Friday (or Thursday) would be applied to that day plus each work-day of the following week prior to the day the Exchange meets. When there are work-days in a month that precede the first Friday of the month, the last price reported in the previous month would be applied to each such work-day that precedes the first Friday. During a week that the Exchange does not meet, the price applied for the following week would be the last Exchange price that was established.

3. The average daily price per pound of edible whey powder during the first 15 days of each respective month would be reduced by 13.5 cents and any amount remaining would be multiplied by 5.5. The whey powder price is determined by the Department on Thursday of each week and reflects the selling price of whey powder during the preceding 7-day period. When Thursday is a holiday, the price is determined on Wednesday. In the formula adopted herein, a price determined on Thursday (or Wednesday) would be applied to that day plus each previous work-day through the preceding Friday, or Thursday if the previous price reported had been on a Wednesday.

The gross value of a hudredweight of milk used to produce butter and nonfat dry milk would be determined in the following manner. The yield factors presently used by the Price Support Program indicate that one hundredweight of milk yields 4.48 pounds of butter and 8.13 pounds of nonfat dry milk. Thus, the average daily butter price per pound during the first 15 days of each respective month, as determined by the method described in (2) above, would be multiplied by 4.48.

Added to this value would be the value of milk used to produce nonfat dry milk. This would be computed by multiplying the average of the daily prices per pound of high heat, low heat and Grade A nonfat dry milk during the first 15 days of each respective month by 8.13. As with the whey powder prices, the prices of nonfat dry milk are determined on Thursday of each week and reflect the selling prices of nonfat dry milk during the preceding 7-day period. When Thursday is a holiday, the prices are determined on Wednesday. In the formula provided herein, the average of the prices of high heat, low heat and

Grade A nonfat dry milk determined for Thursday (or Wednesday) would be applied to that day plus each previous work-day through the preceding Friday, or Thursday if the previous price reported had been on Wednesday. As described previously, if any of these nonfat dry milk prices are not reported at some future date, the price used in the formula would be the average of the remaining prices that are reported.

The next computation in the formula adopted herein determines the amounts by which the gross values of milk used to produce cheddar cheese and used to produce butter-nonfat dry milk during the first 15 days of the preceding month exceed or are less than the respective gross values during the first 15 days of the second preceding month. This would be done by subtracting the respective gross values during the first 15 days of the second preceding month from the respective gross values during the first 15 days of the preceding month.

The quantity of milk used to produce cheddar cheese in the States of Minnesota and Wisconsin greatly exceeds the quantity used to produce butter-nonfat dry milk. Accordingly, the changes in gross values described in the previous paragraph should be weighted by the relative proportions of milk used to produce cheddar cheese and butter-nonfat dry milk in these two States. This would be done by converting the quantity of American cheese (cheddar cheese accounts for over 70 percent of all American cheese) and, separately, the quantity of nonfat dry milk[1] produced in the two States combined, as reported and published by the Statistical Reporting Service of the Department, into their respective milk equivalents (i.e., dividing the two-State quantity of American cheese produced by the 10.1 yield factor for cheddar cheese and dividing the corresponding quantity of nonfat dry milk produced by its yield factor of 8.13). The percentage that the milk equivalent for each separate product is of the total for the two products combined would be multiplied by the respective change in gross values, as described in the previous paragraph, to determine a weighted change in gross values for milk used to produce cheddar cheese and used to produce butter-nonfat dry milk. The weighted changes in gross values would be combined and this combined value would be used to adjust the second preceding month's M–W price. If the combined value for the first 15 days of the preceding month exceeds the corresponding value for the second preceding month, the M–W price would be increased. If it is lower, the M–W price would be reduced. The adjusted M–W price would be the basic Class II formula price for the month.

The amendatory language accompanying this decision contains a slight revision in the computation of the weighting factors described in the previous paragraph from that proposed at the hearing. Under the hearing proposal, as indicated in § .51a(c) (1) and (2) of the proposed order language, the total American cheese production and nonfat dry milk production for the States of Minnesota and Wisconsin for the third preceding month, as reported by the USDA Statistical Reporting Service (SRS), would have been used in computing the basic Class II formula price for a particular month. In that same section of the attached order language, the words "most recent preceding period" are used rather than the words "third preceding month". This revision is necessary because on March 10, 1982, SRS announced that the Dairy Products report, which had been issued monthly, will be issued quarterly in the future.[2] The unavailability of these milk production data on a monthly basis necessitates the above revision in the computation of the weighting factors. Based on data contained in the hearing record, this change would have had virtually no impact on the level of basic Class II formula prices.

B. *Class II differential.* In the formula adopted herein, the Class II differential would be an amount added to the basic Class II formula price each month to yield a Class II price that, on average, would approximate the amount that the present Class II price in each order exceeds the respective order's Class III (or basic formula) price. It would be computed on or before the 15th day of the preceding month for use in determining the announced Class II price for the month. The differential would be the amount that the average M–W price during the most recent 12-month period plus the current Class II differential of the order exceeds the average basic Class II formula price during the same 12-month period.

In this regard, the provisions adopted herein reflect proposed changes in the levels of the current Class II differentials of the Eastern Colorado, Western Colorado and Great Basin milk orders. The changes are based on the record of a hearing held at Denver, Colorado, on February 2, 1982, under Docket Nos. AO–326–A21, AO–301–A17, and AO–309–A23. The findings and conclusions concerning the changes are discussed in a decision issued concurrently with this decision. The changes involved, which would establish a uniform Class II differential of 10 cents under each order, are noted in this decision for the convenience of interested parties.

For the 45-month period of February 1978 through October 1981, Class II differentials based on the 12-month average comparison that was proposed by proponents (using the M–W price plus 10 cents) would have ranged from a low of 11 cents to a high of 27 cents (a spread of 16 cents), with an average of 18 cents. The 18 cent average Class II differential results in part from inflation and from the updating techniques adopted herein, which caused the 12-month average of the M–W prices during this period to exceed the 12-month average of the basic Class II formula prices by 8 cents. The basic Class II formula price for a particular month is based on data for the preceding month and second preceding month and updates the Minnesota-Wisconsin price to only the 15th day of the preceding month. If inflation subsides in the future, the monthly Class II differentials would approach the intended Class II differential.

The proposed modification of the 29-market formula for the three Northwest orders that would use the 12-month average of the Class III price plus 25 cents in the calculation of the Class II differential rather than the 12-month average of the basic formula price plus 25 cents should be denied. As adopted herein, whenever the Class III price in these three orders is based on the butter-powder snubber price, the final Class II price would be reduced by the amount that the Class III price is less than the basic formula price, but only to the extent such reduction does not cause the Class II price to be less than the Class III price. If the Class III price that was based on the butter-powder snubber price was also used in the calculation of the Class II differential, it would tend to reduce the tentative Class II prices for the next 12 months. This would result in an overall reduction in Class II prices in these orders as compared to the present Class II-Class III price relationship. Such a reduction would be contrary to the intent of the proposed formula that over the long run it neither raise nor lower the Class II price level. Accordingly, the proposal is denied.

The proposed modification of the 29-market formula for a similar butter-powder price adjustment in the Western

[1] Nonfat dry milk is used in the computation because butterfat that is excess to fluid milk operations also is made into butter.

[2] Official notice is taken of the press release (No. 272–82, 8608) issued by the U.S. Department of Agriculture on March 10, 1982, relative to the reporting changes by SRS.

Colorado order also should not be adopted. The Class II price in the present Western Colorado order is not affected by the butter-powder snubber price because the monthly Class II price is the basic formula price for the month, plus 5 cents. It is noted, also, that the butter-powder snubber price would be deleted from the Class III price computation under changes based on the record of a hearing held at Denver, Colorado, on February 2, 1982, under Docket Nos. AO–326–A21, AO–301–A17 and AO–309–A23. A concurrent decision for that hearing was noted herein earlier.

The proposal by cooperative associations in the Northwest that the Class II prices in the three Northwest orders be floored at the Class III price plus 15 cents should be denied. There are no compelling reasons to floor the Class II price at any level except the Class III price level. The record evidence indicates that Class II prices should be floored at the Class III price level to assure handlers that supplies will be made available for Class II use. It is only at the Class III price level that producers lose this incentive to sell milk for Class II uses.

The suggestion by the cooperative associations in Florida that the monthly Class II price in the Florida orders not be less than the M–W price plus 15 cents should not be adopted. Such a provision would represent an increase in the Class II price level for these orders because Class II prices would never be less than the present prices but whenever the tentative Class II price exceeded the M–W price by more than 15 cents the tentative Class II price would be the final Class II price. There is no basis on this record to increase the Class II price level in these three orders. Accordingly, the suggestion is denied.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforsaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

List of Subjects in 7 CFR Parts 1137, 1006, 1012, 1013, 1033, 1036, 1040, 1124, 1125, 1133, 1134, 1135, 1136 and 1139

Agricultural Marketing Service, Milk Marketing Orders, Milk, Dairy Products.

Recommended Marketing Agreements and Order Amending the Orders

The recommended marketing agreements are not including in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following order amending the orders, as amended, regulating the handling of milk in each of the respective marketing areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

PART 1137—MILK IN THE EASTERN COLORADO MARKETING AREA

1. A new § 1137.17 is added to read as follows:

§ 1137.17 Product prices.

The following product prices shall be used in calculating the basic Class II price pursuant to § 1137.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dariy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such

average shall be the daily price for the day that such pricess are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simply average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1137.22(i) is revised to read as follows:

§ 1137.22 Additional duties of the market administrator.

* * * * *

(i) Publicly announce on or before:

(1) The 5th day of each month:

(i) The Class I price for the following month;

(ii) The Class I butterfat differential for the current month;

(iii) The Class III price for the preceding month;

(iv) The Class II and Class III butterfat differential for the preceding month; and

(v) The final Class II price for the preceding month;

(2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month; and

(3) The 15th day of each month, the tentative Class II prices for the following month.

* * * * *

3. Section 1137.51(b) is revised to read as follows:

§ 1137.51 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1137.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1137.50 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1137.51a.

* * * * *

4. A new § 1137.51a is added to read as follows:

§ 1137.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1137.50 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1137.17 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

1. A new § 1006.19 is added to read as follows:

§ 1006.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1006.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following

work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1006.50(b) is revised to read as follows:

§ 1006.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1006.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the basic formula price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1006.51 and add 15 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1006.51a.

3. A new § 1006.51a is added to read as follows:

§ 1006.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1006.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1006.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 says of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for deterining the butterfat component of the whey value in the cheese price computation; and

(iii) Substract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply and positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross value for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the date included in each of the following subparagaphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1006.53 is revised to read as follows:

§ 1006.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1012—MILK IN THE TAMPA BAY MARKETING AREA

1. A new § 1012.19 is added to read as follows:

§ 1012.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1012.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does to meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1012.50(b) is revised to read as follows:

§ 1012.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1012.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the basic formula price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1012.51 and add 15 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1012.51a.

3. A new § 1012.51a is added to read as follows:

§ 1012.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1012.50 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar chesse and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1012.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the chesse price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is

of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1012.53 is revised to read as follows:

§ 1012.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1013—MILK IN THE SOUTHEASTERN FLORIDA MARKETING AREA

1. A new § 1013.19 is added to read as follows:

§ 1013.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1013.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were peviously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily priced per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1013.50(b) is revised to read as follows:

§ 1013.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class III formula price computed pursuant to § 1013.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the basic formula price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1013.51 and add 15 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1013.51a.

* * * * *

3. A new § 1013.51a is added to read as follows:

§ 1013.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1013.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1013.19 and yield factors in effect under the Dairy Price Support program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the

butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1013.53 is revised to read as follows:

§ 1013.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1033—MILK IN THE OHIO VALLEY MARKETING AREA

1. A new § 1033.21 is added to read as follows:

§ 1033.21 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1033.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) Edible whey price. "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1033.27(k) is revised to read as follows:

§1033.27 Additional duties of the market administrator.

* * * * *

(k) Publicly announce on or before:

(1) The 5th day of each month:

(i) The Class I price for the following month;

(ii) The final Class II price for the preceding month;

(iii) The Class III price for the preceding month; and

(iv) The butterfat differential for the preceding month;

(2) The 12th day of each month, the uniform price for the preceding month; and

(3) The 15th day of each month, the tentative Class II price for the following month.

* * * * *

3. Section 1033.519b) is revised to read as follows:

§ 1033.51 Class prices.

(b) *Class II price.* A tentative Class II price shall be computed by the Director

of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1033.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average 9rounded to the nearest cent) of the basic formula prices comptued pursuant to § 1033.50 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1033.51a.

* * * * *

4. A new § 1033.51a is added to read as follows:

§ 1033.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1033.50 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1033.21 and yield factors in effect under the Dairy Price Support program authorizd by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

1. A new § 1036.20 is added to read as follows:

§ 1036.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1036.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall

be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Diary Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1036.50(b) is revised to read as follows:

§ 1036.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1036.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1036.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1036.51a.

* * * * *

3. A new § 1036.51a is added to read as follows:

§ 1036.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1036.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1036.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1036.53 is revised to read as follows:

§ 1036.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1040—MILK IN THE SOUTHERN MICHIGAN MARKETING AREA

1. A new § 1040.21 is added to read as follows:

§ 1040.21 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1040.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92–score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40–pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the months, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1040.50(b) is revised to read as follows:

§ 1040.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1040.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1040.51 and add 15 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1040.51a.

* * * * *

3. A new § 1040.51a is added to read as follows:

§ 1040.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1040.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed using price data determined pursuant to § 1040.21 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1040.53 is revised to read as follows:

§ 1040.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1124—MILK IN THE OREGON-WASHINGTON MARKETING AREA

1. A new § 1124.20 is added to read as follows:

§ 1124.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1124.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and

published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1124.22(i) is revised to read as follows:

§ 1124.22 Additional duties of the market administrator.

* * * * *

(i) Publicly announce on or before:

(1) The 5th day of each month:

(i) The Class I price for the following month;

(ii) The Class I butterfat differential for the current month;

(iii) The Class III price for the preceding month;

(iv) The Class II and Class III butterfat differentials for the preceding month; and

(v) The final Class II price for the preceding month;

(2) The 14th day of each month, the uniform prices and the producer butterfat differential, both for the preceding month; and

(3) The 15th day of each month, the tentative Class II price for the following month;

* * * * *

3. Section 1124.51(b) is revised to read as follows:

§ 1124.51 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1124.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price. If the Class III price for the month is computed pursuant to paragraph (c) (1) through (3) of this section, the final Class II price shall be reduced by the amount that the Class III price is less than the basic formula price to the extent such reduction does not cause the Class II price to be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1124.50 and add 25 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1124.51a.

* * * * *

4. A new § 1124.51a is added to read as follows:

§ 1124.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1124.50 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross value per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1124.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month, and separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Substract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for

the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

PART 1125—MILK IN THE PUGET SOUND, WASHINGTON MARKETING AREA

1. A new § 1125.19 is added to read as follows:

§ 1125.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1125.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1125.50(b) is revised to read as follows:

§ 1125.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price. If the Class III price for the month is computed pursuant to paragraph (c)(1) through (3) of this section, the final Class II price shall be reduced by the amount that the Class III price is less than the basic formula price to the extent such reduction does not cause the Class II price to be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1125.51 and add 25 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1125.51a.

* * * * *

3. A new § 1125.51a is added to read as follows:

§ 1125.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1125.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1125.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1125.53 is revised to read as follows:

§ 1125.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1133—MILK IN THE INLAND EMPIRE MARKETING AREA

1. A new § 1133.19 is added to read as follows:

§ 1133.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1133.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding word-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1133.50(b) is revised to read as follows:

§ 1133.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price. If the Class III price for the month is computed pursuant to paragraph (c)(1) through (3) of this section, the final Class II price shall be reduced by the amount that the Class III price is less than the basic formula price

to the extent such reduction does not cause the Class II price to be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1133.51 and add 25 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1133.51a.

* * * * *

3. A new § 1133.51a is added to read as follows:

§ 1133.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1133.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1133.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1133.53 is revised to read as follows:

§ 1133.53 Announcement of class prices and handler butterfat differentials.

The market administrator shall announce publicly on or before:

(a) The 5th day of each month:

(i) The Class I price for the following month;

(ii) The Class I butterfat differential for the current month;

(iii) The Class III price for the preceding month;

(iv) The Class II and Class III butterfat differential for the preceding month; and

(v) The final Class II price for the preceding month; and

(b) The 15th day of each month, the tentative Class II price for the following month.

PART 1134—MILK IN THE WESTERN COLORADO MARKETING AREA

1. A new § 1134.20 is added to read as follows:

§ 1134.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1134.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those fo the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1134.22(i) is revised to read as follows:

§ 1134.22 Additional duties of the market administrator.

* * * * *

(i) Publicly announce on or before:

(1) The 5th day of each month:

(i) The Class I price for the following month;

(ii) The Class I butterfat differential for the current month;

(iii) The Class III price for the preceding month;

(iv) The Class II and Class III butterfat differentials for the preceding month; and

(v) The final Class II price for the preceding month;

(2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month; and

(3) The 15th day of each month, the tentative Class II price for the following month.

* * * * *

3. Section 1134.51(b) is revised to read as follows:

§ 1134.51 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1134.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the basic formula price:

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1134.50 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1134.51a.

* * * * *

4. A new § 1134.51a is added to read as follows:

§ 1134.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1134.50 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross value per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1134.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month, and separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry mild production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

PART 1135—MILK IN THE SOUTHWESTERN IDAHO-EASTERN OREGON MARKETING AREA

1. A new § 1135.19 is added to read as follows:

§ 1135.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1135.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dariy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the

Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Divsion, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1135.50(b) is revised to read as follows:

§ 1135.50 Class prices.

* * * * *

(b) *Class II price.* A tenative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tenative Class II price shall be the basic Class II formula price computed pursuant to § 1135.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basis formula prices computed pursuant to § 1135.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basis Class II formula prices computed pursuant to § 1135.51a

* * * * *

3. A new § 1135.51a is added to read as follows:

§ 1135.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1135.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1135.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) determine the amounts by which the gross value per hundredweight of milk used to maufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nofat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this secton in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1135.53 is revised to read as follows:

§ 1135.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth

day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1136—MILK IN THE GREAT BASIN MARKETING AREA

1. A new § 1136.19 is added to read as follows:

§ 1136.19 Product prices.

The following product prices shall be used in calculating the basic Class II price pursuant to § 1136.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1136.22(k) is revised to read as follows:

§ 1136.22 Additional duties of the market administrator.

* * * * *

(k) Publicly announce on or before:

(1) The 5th day of each month:

(i) The Class I price for the following month;

(ii) The Class I butterfat differential for the current month;

(iii) The Class III price for the preceding month;

(iv) The Class II and Class III butterfat differential for the preceding month; and

(v) The final Class II price for the preceding month;

(2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month; and

(3) The 15th day of each month, the tentative Class II price for the following month.

* * * * *

3. Section 1136.50(b) is revised to read as follows:

§ 1136.50(b) Class prices.

* * * * *

(b) *Class II price.* A tenative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1136,51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1136.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the Basic Class II formula prices computed pursuant to § 1136.51a.

* * * * *

4. A new § 1136.51a is added to read as follows:

§ 1136.51a Basic Class II furmula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1136.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1136.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following

computations: (i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat day milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changs in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

PART 1139—MILK IN THE LAKE MEAD MARKETING AREA

1. A new § 1139.19 is added to read as follows:

§ 1139.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1139.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Merchantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each proceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1139.50(b) is revised to read as follows:

§ 1139.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1139.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1139.51 and add 15 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1139.51a.

* * * * *

3. A new § 1139.51a is added to read as follows:

§ 1139.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1139.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1139.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for Cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1139.53 is revised to read as follows:

§ 1139.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

Signed at Washington, D.C., on June 8, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-16986 Filed 6-23-82; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1807, 1872, 1901, 1910, 1940, 1941, 1943, 1944, 1945, 1962 and 1990

Truth in Lending—Real Estate Settlement Procedures

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to revise, redesignate and amend its regulations concerning Truth in Lending disclosure requirements and Real Estate Settlement Procedures. This action is taken to implement provisions of a public law. The intended effect is to exempt all credit transactions primarily for agricultural purposes from the requirements of the Truth in Lending Act, to reduce the number and complexity of the disclosures, to provide for early disclosure in residential mortgage transactions and to make minor nonsubstantive clarifications in the real estate settlement procedures.

DATES: Comments must be received on or before August 23, 1982.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, South Agriculture Building, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT: Joyce M. Halasz, Loan Specialist, Single Family Housing Processing Division, Room 5341-S, South Agriculture Building, 14th and Independence Avenue, SW., Washington, D.C. 20250, Telephone: 202-382-1480.

SUPPLEMENTARY INFORMATION: This revision implements the Truth in Lending Simplification and Reform Act (Pub. L. 96-221) as required by Regulation Z of the Federal Reserve System and is consistent within the Agency's authority. This proposed rule has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 which implements Executive Order 12291 and has been determined to be nonmajor. The reasons for this determination are that this action will not have an annual effect on the economy of $100 million or more; or cause a major increase in costs or prices for consumers; individual industries, Federal, State or local government agencies, or geographic regions, or have 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.

Options and projected rules considered were:

1. Leave the present regulation as it stands, in which case FmHA would not be in full compliance with the Truth in Lending Act, as amended, and would be disclosing more credit information than is required by the act, or is necessary for consumers to make credit decisions.

2. Change only those items to bring the present regulation into compliance with the Truth in Lending Act, as amended, with regard to format and timing of credit and rescission disclosure, but to continue making complete, detailed disclosure to applicants and borrowers. The complex and numerous disclosures previously required have been shown to be confusing and of no real benefit to credit consumers. In addition, the cost to FmHA of the time for preparation and explanation to applicants would be excessive for actions not required by law and of no benefit to applicants.

3. Completely revise the present regulation to comply with but not to exceed the requirements of the Truth in Lending Act, as amended. This will implement the maximum benefits intended by the Truth in Lending Simplification and Reform Act (Pub. L. 96-221) to both credit consumers and the Agency. This option was selected to comply with the act, as amended, and for the other reasons stated above.

It has been determined that this change is cost effective since it exempts loans for agricultural purposes from the Truth in Lending requirements and reduces the number and complexity of disclosures for non-exempt loans, thereby substantially reducing the paperwork burden imposed on FmHA, as a lending agency. Simplified disclosures will benefit consumers by providing a more useful basis for credit decisions. This instruction does not directly affect any FmHA programs or projects which are subject to A–95 clearinghouse review.

The Catalog of Federal Domestic Assistance programs affected are 10.404, Emergency Loans, 10.406, Farm Operating Loans, 10.407, Farm Ownership Loans, 10.410, Low to Moderate Income Housing Loans, 10.413, Recreation Facility Loans, 10.415, Rural Rental Housing Loans, 10.416, Soil and Water Loans, 10.417, Very Low-Income Housing Repair Loans and Grants, and 10.432, Biomass Energy and Alcohol Fuels Loan and Loan Guarantees.

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

FmHA proposes to revise and redesignate Subpart I of Part 1901 to a new Subpart I of a new Part 1940 and to amend various sections of Part 1807, Subpart A of Part 1872, Subparts A and B of Part 1910, Subpart A of Part 1941, Subparts A, B, and C of Part 1943, Subparts A and E of Part 1944, Subparts B, C, and D of Part 1945, Subpart A of Part 1962, and Subpart A of Part 1990, Chapter XVIII, Title 7, Code of Federal Regulations. These revisions are made to implement the provisions of the "Truth in Lending Simplification and Reform Act," Pub. L. 96–221, which was enacted on March 31, 1980, and to make minor editorial clarifications.

List of Subjects in 7 CFR Part 1901

Administrative practice and procedure,
Credit,
Federal reserve system,
Legal services,
Mortgages,
Truth in lending.

Therefore, as proposed, Chapter XVIII of Title 7, Code of Federal Regulations, is amended as follows:

PART 1807—TITLE CLEARANCE AND LOAN CLOSING

§ 1807.1 [Amended]

1. Section 1807.1(j) is amended by changing the reference from "§ 1901.406(c)" to "§ 1940.406(c)".

PART 1872—REAL ESTATE SECURITY

Subpart A—Servicing and Liquidation of Real Estate Security for Loans to Individuals and Certain Note—Only Cases

2. Section 1872.18 (g)(2)(iii) is amended by removing the reference to Form FmHA 440–41, "Disclosure Statement for Loans Secured by Real Estate", and inserting the reference to Form FmHA 1940–41, "Truth in Lending Disclosure Statement," and by removing the reference to Form FmHA 440–43, "Notice of Right to Rescind," and inserting the reference to Form FmHA 1940–43, "Notice of Right to Cancel," by adding a reference to footnote 3 beside Form FmHA 1940–43, and by revising footnotes 7 and 8 to read as follows:

§ 1872.18 Transfer of real estate security.

* * * * *

(g) *Processing transfer by assumption of indebtedness.* * * *

(2) *Preparation and distribution of transfer docket.* * * *

(iii) *Distribution of transfer docket forms.* * * *

[7] In right to cancel cases, original and sufficient copies for each person who has the right to cancel in accordance with Part 1940.

[8] Original and 1 copy to transferee: 2 copies to each other person who has the right to cancel in accordance with Part 1940. If the person exercises the right to cancel, she/he will sign one copy of the form and return it to the County Office. * * *

* * * * *

PART 1901—PROGRAM RELATED INSTRUCTIONS

Subpart I—Truth in Lending—Real Estate Settlement Procedures [Reserved]

3. Subpart I is removed and reserved.

PART 1910—GENERAL

Subpart A—Receiving and Processing Applications

4. In § 1910.3, paragraph (k) is added and reads as follows:

§ 1910.3 Receiving applications.

* * * * *

(k) For loans, assumptions and credit sales to individuals for household purposes and subject to the Real Estate Settlement Procedures Act (RESPA), Form FmHA 1940–41, "Truth in Lending Disclosure Statement," completed with "good-faith" estimates, will be delivered or placed in the mail to the applicant within 3 business days of receipt of the written application in the County Office.

Subpart B—Credit Reports (Individual)

§ 1910.62 [Amended]

5. Section 1910.62(a) is amended by removing the reference to Form FmHA 440–41, "Disclosure Statement for Loans Secured by Real Estate," and inserting the reference to Form FmHA 1940–41, "Truth in Lending Disclosure Statement" and in the last line changing the word "Issue" to "Insert."

PART 1940—GENERAL

6. Title 7, Chapter XVIII is amended to add a new Part 1940—General.

7. A new Subpart I is added to Part 1940, and reads as follows:

Subparts A–H [Reserved].

Subpart I—Truth in Lending—Real Estate Settlement Procedures

Sec.
1940.401 Truth in lending.
1940.402–1940.405 [Reserved]
1940.406 Real estate settlement procedures.
1940.407–1940.450 [Reserved]

Subparts A–H [Reserved]

Subpart I—Truth in Lending—Real Estate Settlement Procedures

§ 1940.401 Truth in lending.

(a) *General.* This section provides instructions for compliance with the Truth in Lending Act, as implemented by Regulation Z of the Federal Reserve System, to assure that individual Rural Housing (RH) applicants are informed of:

(1) The cost and terms of credit, and

(2) Their right to cancel certain credit transactions resulting in a lien or mortgage on their home.

(b) *Scope.* This section applies to all individuals who apply for loans, assumptions, or credit sales (hereafter described as transactions) for household purposes.

(1) Special rules for the right to cancel transactions not for purchase, acquisition or initial construction of a home broaden the scope of this section to include individuals who have an ownership interest in, and reside in as a principal dwelling, property which will be security for a mortgage, even though they may not execute the promissory note or assumption agreement. Such persons have the right to receive credit disclosures and the notice of the right to cancel and may cancel the transaction.

(2) This section does not apply to:

(i) Applicants who are corporations, associations, cooperatives, public bodies, partnerships, or other organizations;

(ii) Individual applicants for multiple family housing transactions (rural rental or labor housing), unless for a two-family dwelling in which the applicants will reside, and other business and commercial type loans; or

(iii) Applicants involved in credit transactions primarily for agricultural purposes.

(c) *Disclosure of the cost and terms of credit.* (1) *Form and content.* Form FmHA 1940–41, "Truth in Lending Disclosure Statement", will be used to provide the following required disclosures:

(i) Annual percentage rate;

(ii) Finance charge;

(iii) Amount financed;

(iv) Total of payments;

(v) Total sale price (required for credit sales only);

(vi) Payment schedule;

(vii) A separate itemization of the amount financed, if the applicant requests it. Normally this required disclosure will have been met in transactions subject to the Real Estate Settlement Procedures Act (RESPA) by providing the applicant with Form FmHA 440–58, "Estimate of Settlement Costs";

(viii) The lender's identity;

(ix) Prepayment or late payment penalties;

(x) Security interest;

(xi) Insurance requirements;

(xii) Assumption policy; and

(xiii) Referral to other loan documents.

(2) *Timing, use of estimates and required redisclosure.* (i) In transactions for the purchase or construction of a home subject to RESPA, Form FmHA 1940–41, completed using "good faith" estimates based on the best information available, will be delivered or placed in the mail to the applicant no later than three (3) business days after receipt of a written application in the County Office.

(ii) In transactions not subject to RESPA, such as RH section 502 transactions for repairs or refinancing or RH section 504 transactions, Form FmHA 1940–41, completed using the actual terms of the transaction, will be delivered to each applicant (and in transactions which are subject to cancellation, each non-applicant with the right to cancel) at the time of approval.

(iii) In the event of a change in rates and terms between the time of initial disclosure and closing, whereby the annual percentage rate varies by more than one-eighth of one percent, redisclosure must be made. This may be done by entering the changes on all copies of the initial Form FmHA 1940–41, or by preparing a new Form FmHA 1940–41. When required, redisclosure may be made at the time the transaction is approved or at the time of the change, but the form must be delivered to the applicant before the signing of the promissory note or assumption agreement.

(3) *Special instructions for assumption, reamortization, refinancing and multiple transactions.* (i) Assumptions, within the scope of paragraph (b) of this section, at new rates and terms or of existing obligations which were for purchase, acquisition or initial construction of a residence, require new credit disclosure before the assumption occurs. Since assumptions are not subject to RESPA, early disclosure is not required.

(ii) Reamortization, as described in § 1944.37(g) of Subpart A of Part 1944 and § 1951.314 of Subpart G of Part 1951 of this chapter when the borrower is in default or delinquent, does not require new credit disclosure. In all other cases reamortization requires new credit disclosure.

(iii) Refinancing of debts in accordance with § 1944.22 of Subpart A of Part 1944 of this chapter, though not subject to RESPA or early disclosure, does require credit disclosure at the time the transaction is approved.

(iv) Multiple transactions.

(A) When a subsequent loan is financed along with another transaction and both transactions require credit disclosure, a separate Form FmHA 1940–41 will be prepared for each transaction.

(B) transactions with multiple advances will be treated as one transaction for the purpose of credit disclosure, in accordance with the Forms Manual Insert (FMI) for Form FmHA 1940–41.

(d) *Notice of the right to cancel.* The right to cancel applies only to transactions within the scope of paragraph (b) of this section, which are not for purchase, acquisition or initial construction of and which result in a mortgage on an individual's principal residence such as RH Section 502 transactions for refinancing, repairs or rehabilitation or RH Section 504 transactions.

(1) *Form and Content.* Form FmHA 1940–43, "Notice of Right to Cancel", will be used to notify individuals of their right to cancel those transactions, within the scope of paragraphs (b) and (d) of this section, which result in a mortgage on their principal residence except when the transaction is for its purchase or initial construction. This notice will identify the transaction and disclose the following:

(i) The acquisition of a security interest in the individual's principal residence.

(ii) The individual's right to cancel the transaction.

(iii) How to exercise the right to cancel the transaction, with a form for that purpose.

(iv) The effects of cancellation.

(v) The date the cancellation period expires.

(2) *Timing.*

(i) Two copies of Form FmHA 1940–43, and one copy of Form FmHA 1940–41, in accordance with the Forms Manual Inserts (FMI's), will be given to each individual entitled to cancel, not later than loan closing.

(ii) Any entitled individual may cancel the transaction until midnight of the third business day following whichever of the following events occurs last:

(A) The date the transaction is closed.

(B) The date Truth in Lending credit disclosures were made.

(C) The date notice of the right to cancel was received.

(3) *Disbursement of funds.* In a transaction subject to cancellation funds will not be disbursed, other than to a designated attorney or title insurance company preparatory to closing, until:

(i) Forms FmHA 1940–43 have been given to the appropriate individuals,

(ii) The three-day cancellation period has expired, and

(iii) The loan approval official is reasonably assured that the transaction has not been cancelled. This assurance may be obtained by:

(A) Waiting a reasonable period of time after the expiration of the cancellation period to allow for the delivery of a mailed notice, or

(B) Obtaining a written statement from each individual entitled to cancel that the right has not been exercised.

(iv) This delay may be waived in cases of a bonafide personal financial emergency, which must be met within the cancellation period, when the individual submits a signed and dated statement describing the nature of the emergency and waiving the right to cancel. Such a statement must be signed by all individuals entitled to cancel.

(4) *Effects of cancellation.*

(i) When an individual cancels a transaction, the mortgage securing the transaction becomes void and the borrower will not be liable for any amount, including any finance charge.

(ii) Within twenty (20) calendar days after receipt of a notice of cancellation the loan approval official will:

(A) Notify all interested parties of the cancellation;

(B) Return, and/or request the return of any money or property given to anyone in connection with the transaction; and

(C) Take the necessary action to terminate the mortgage.

(iii) Once evidence has been presented to the borrower that the mortgage has been terminated, the borrower must return any funds advanced by FmHA to the FmHA County Office or surrender any property at his/her residence within twenty (20) calendar days.

(e) *Advertisements.* An "advertisement" is defined as a commercial message in any medium that promotes, directly or indirectly, a credit transaction. Advertisements for credit sales of Government inventory property, within the scope of paragraph (b) of this section, are subject to the following requirements.

(1) If an advertisement states specific credit terms, it shall state only those terms that actually are or will be arranged or offered.

(2) If an advertisement states a rate of finance charge, it shall state the rate as an "annual percentage rate," using that term.

(3) Terms requiring additional disclosures.

(i) If any of the following terms is set forth in an advertisement:

(A) The amount of percentage of any down payment,

(B) The number of payments or period of repayment,

(C) The amount of any payment, or

(D) the amount of any finance charge,

(ii) The advertisement must also state:

(A) The amount or percentage of the down payment,

(B) The terms of repayment, and

(C) The "annual percentage rate," using that term.

§§ 1940.402–1940.405 [Reserved]

§ 1940.406 Real estate settlement procedures.

(a) *General.* This setion provides the instructions for compliance with the Real Estate Settlement Procedures Act (RESPA), as amended, and regulation X of the Department of Housing and Urban Development.

(b) *Scope.* (1) This section applies to loans and credit sales, including section 502 Rural Housing, 1–4 family Rural Rental Housing, 1–4 family Labor Housing, and Farm Ownership involving tracts of less than 25 acres, whether made to an individual, corporation, partnership, association or other entity, which meet the following requirements:

(i) The proceeds of the loan or the credit extended are used in whole or in part to finance the purchase and transfer of title of the property to be mortgaged by the borrower, and

(ii) The loan or credit sale is secured by a first lien covering real estate on which is located a structure designed principally for the occupancy of from 1–4 families, or on which a structure designed principally for the occupancy of from 1–4 families is to be constructed using proceeds of the loan.

(2) Exempt transactions include:

(i) Loans for repairs, improvements, or refinancing if the proceeds are not used to finance the purchase of the property.

(ii) Loans to finance the construction of a 1–4 family structure if the tract of land is already owned by the applicant/borrower.

(iii) Asumptions or transfers.

(c) *Actions required.* (1) The information booklet entitled "Settlement Costs," will either be given to the applicant at the time the completed application is received, or mailed to the applicant no later than three (3) business days after receipt of the application in the County Office.

(i) Form FmHA 440–58, "Estimate of Settlement Costs", is to be used to provide a "good faith" statement of estimated closing costs. Form FmHA 440–58 will be completed by the County Supervisor and mailed or delivered to the applicant with the Settlement Costs booklet. Costs will vary between geographic areas; therefore, information supplied on this form must be based upon (A) the County Supervisor's best estimate of charges the borrower will pay for each service in connection with the transaction, or (B) a range of charges at which such service is available to the borrower from all providers in the area.

(ii) Form FmHA 440–58 does not replace Truth-in-Lending forms. Appropriate forms listed in § 1940.401 will be used for Truth in Lending purposes.

(2) Form FmHA 440–59 (HUD–1), "Settlement Statement," will be completed as indicated in the form and FMI by the designated attorney or title company for all transactions described in paragraph (b) of this section. The purpose of this form is to provide a uniform settlement statement prescribed by RESPA.

(i) During the business day immediately preceding the date of settlement, the closing agent, if requested by the applicant, must permit the applicant to inspect the settlement statement, completed for those items which are then known to the closing agent.

(ii) A copy will be given to both the borrower and seller at the time of closing or settlement or will be mailed as soon as practicable if the borrower or seller are not present at closing.

§§ 1940.407–1940.450 [Reserved]

PART 1941—OPERATING LOANS

Subpart A—Operating Loan Policies, Procedures and Authorizations

§ 1941.23 [Amended]

8. § 1941.23 (a)(4) is removed.

Exhibit A [Amended]

9. In EXHIBIT A, the paragraph entitled "Docket Preparation" is amended by removing the references to Forms FmHA 440–41, FmHA 440–41A, and FmHA 440–43.

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

Subpart A—Insured Farm Ownership Loan Policies, Procedures, and Authorizations

10. In § 1943.23, paragraphs (e) and (g)(1) are revised to read as follows:

§ 1943.23 General provisions

* * * * *

(e) *Real Estate Settlement Procedures Act.* The provisions of the Real Estate Settlement Procedures Act outlined in § 1940.406 of Subpart I of Part 1940 apply when FO funds are used involving tracts of less than 25 acres, if:

(1) Any part of the loan is used to purchase all or part of the land to be mortgaged, and

(2) The loan is secured by a first lien on the property where a dwelling is located.

* * * * *

(g) *Compliance with special laws and regulations.* (1) Applicants will be required to comply with applicable Federal, State and local laws and regulations governing building construction; diverting, appropriating, and using water including use domestic or nonfarm enterprise purposes; installing facilities for draining land; and making changes in the use of land affected by zoning regulations.

* * * * *

§ 1943.32 [Amended]

11. Section 1943.32(a) is amended by removing reference to Forms FmHA 440–41, FmHA 440–42, and FmHA 440–43.

Subpart B—Insured Soil and Water Loan Policies, Procedures, and Authorizations

12. Section 1943.73(e) is removed, paragraphs (f) and (g) are redesignated to (e) and (f) respectively, and (f)(1) is revised to read as follows:

§ 1943.73 General provisions.

* * * * *

(f) *Compliance with special laws and regulations.* (1) Applicants will be required to comply with applicable Federal, State and local laws and regulations governing construction; diverting, appropriating, and using water including use for domestic purposes; installing facilities for draining land; and making changes in the use of land affected by zoning regulations.

* * * * *

§ 1943.82 [Amended]

13. Section 1943.82(a) is amended by removing references to Forms FmHA 440–41, FmHA 440–42, and FmHA 440–43.

Subpart C—Insured Recreation Loan Policies, Procedures, and Authorizations

14. Section 1943.123 (e) and (g)(1) are revised to read as follows:

§ 1943.123 General provisions.

* * * * *

(e) *Real Estate Settlement Procedures Act.* The provisions of the Real Estate Settlement Procedures Act outlined in § 1940.406 of Subpart I of Part 1940 apply to any applicant when Recreation Loan (RL) funds are used and less than 25 acres of land are involved, if:

(1) Any part of the loan is used to purchase all or part of the land to be mortgaged, and

(2) The loan is secured by a first lien on the property where a dwelling is located.

* * * * *

(g) *Compliance with special laws and regulations.* (1) Applicants will be required to comply with applicable Federal, State and local laws and regulations including those governing building construction; diverting, appropriating, and using water including use for domestic or recreational enterprise purposes; installing facilities for draining land; and making changes in the use of land affected by zoning regulations.

* * * * *

§ 1943.132 [Amended]

15. Section 1943.132(a) is amended by removing references to Forms FmHA 440–41, FmHA 440–42, and FmHA 440–43.

PART 1944—HOUSING

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

§ 1944.30 [Amended]

16. Section 1944.30(a) is amended by removing the reference to Form FmHA 440–41 and inserting reference to Form FmHA 1940–41, "Truth in Lending Disclosure Statement," by removing the reference to Form FmHA 440–42, and by removing the reference to Form FmHA 440–43 and inserting reference to Form FmHA 1940–43, "Notice of Right to Cancel."

Subpart E—Rural Rental Housing Loan Policies, Procedures, and Authorizations

§ 1944.233 [Amended]

17. Section 1944.233(b)(1)(iii) is amended by changing the reference from "§ 1901.406 of Subpart I of Part 1901 (FmHA Instruction 1901–I)" to "§ 1940.406 of Subpart I of Part 1940".

PART 1945—EMERGENCY

Subpart B—Emergency Loan Policies, Procedures and Authorizations for Those Applications Associated With Disaster Designations Having a Beginning Incidence Period Date Prior to May 26, 1981

18. Section 1945.73 (f) and (h)(1) are revised to read as follows:

§ 1945.73 General provisions—compliance requirements.

* * * * *

(f) *Real Estate Settlement Procedures Act.* The provisions of the Real Estate Settlement Procedures Act outlined in § 1940.406 apply when EM funds are used involving tracts of less than 25 acres, if:

(1) Any part of the loan is used to purchase all or part of the land to be mortgaged, and

(2) The loan is secured by a first lien on the property where a dwelling is located.

* * * * *

(h) *Compliance with special laws and regulations.* (1) Applicants will be required to comply with applicable Federal, State and local laws and regulations governing building construction; diverting, appropriating, and using water including use for domestic or nonfarm enterprise purposes; installing facilities for draining land; and making changes in the use of land affected by zoning regulations.

* * * * *

Exhibit A [Amended]

19. Exhibit A, paragraph IV.D., is amended by removing the references to Forms FmHA 440–41, FmHA 440–41A, and FmHA 440–43.

Subpart C—Economic Emergency Loans

20. In Exhibit A to Subpart C of Part 1945, the paragraph entitled Docket Preparation is amended by removing the references to Forms FmHA 440–41, FmHA 440–41A, and FmHA 440.43.

PART 1945—EMERGENCY

Subpart D—Emergency Loan Policies, Procedures, and Authorizations for Applications Associated with FmHA Disaster Designations Having a Beginning Incidence Period Date On or After 26, 1981

§ 1945.173 [Amended]

21. § 1945.173(f) is amended by changing the reference from "1901.406" to "1940.406".

PART 1962—PERSONAL PROPERTY

Subpart A—Servicing and Liquidation of Chattel Security

§ 1962.34 [Amended]

22. In § 1962.34, paragraphs (f) (10) and (11) are removed and subparagraphs (12) and (13) are redesignated to (10) and (11), respectively.

PART 1990—BIOMASS ENERGY AND ALCOHOL FUELS LOANS AND GUARANTEES

Subpart A—General Provisions

23. Section 1990.23(g) is revised to read as follows:

§ 1990.23 Compliance with statutes and regulations.

* * * * *

(g) *Real Estate Settlement Procedures Act.* Procedures for compliance with the Real Estate Settlement Procedures Act stated in § 1940.406 of Subpart I Part 1940 will apply to this part.

* * * * *

(Pub. L. 96–221, 7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: June 1, 1982.

Ruth A. Reister,

Acting Under Secretary for Small Community and Rural Development, Farmers Home Administration.

[FR Doc. 82-17116 Filed 6-23-82; 8:45 am]

BILLING CODE 3410-07-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-32]

Ohio Citizens for Responsible Energy Filing of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of petition for rulemaking from Ohio Citizens for Responsible Energy.

SUMMARY: The Commission is publishing for public comment this notice of receipt of a petition for rulemaking filed before the Commission on March 22, 1982, by Ohio Citizens for Responsible Energy. The petition, which has been assigned Docket No. PRM-50-32, requests that the Commission amend its regulations in 10 CFR Part 50 to require applicants for construction permits and operating licenses for nuclear power plants to provide for design features to protect against the effects of electromagnetic pulse (EMP).

DATE: Comment period expires August 23, 1982.

ADDRESSES: A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All persons who desire to submit written comments concerning any portion, substantive or procedural, of the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: John D. Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: (301) 492-7086, or Toll Free: 800-368-5642.

SUPPLEMENTARY INFORMATION: The petitioner states that electromagnetic pulses are generated by high altitude nuclear explosions and can induce current or voltage through electrically conducting materials, thereby either destroying or temporarily disrupting control systems in a nuclear power plant that are essential for safety.

The petitioner requests that 10 CFR Part 50 be revised in the following manner:

1. *"Section 50.13*

This section should be amended to read as follows:

Attacks and destructive acts by enemies of the United States; and defense activities

(a) An applicant for a license to construct and operate a production or utilization facility, or for an amendment to such license, is not required, with the exception of (b) below, to provide for design features or other measures for the specific purpose of protection against the effects of (*i*) attacks and destructive acts, including sabotage, directed against the facility by an enemy of the United States, whether a foreign government or other person, or (*ii*) use of deployment of weapons incident to U.S. defense activities.

(b) Such applicant must, however, provide for design features to protect against the effects of electromagnetic pulse from whatever source."

"Appendix A of Subpart 50

This portion of the regulations should be amended to read as follows:

Criterion 4—Environmental and missle design bases. Structures, systems, and components important to safety shall be designed to accommodate the effects of and to be compatible with the environmental conditions associated with normal operation, maintenance, testing, and postulated accidents, including loss-of-coolant accidents. These structures, systems, and components shall be appropriately protected against dynamic effects of missiles, pipe whipping, and discharging fluids, that may result from equipment failures and from events and conditions outside the nuclear power unit including, but not limited to electromagnetic pulses."

In support of its proposed amendments, the petitioner indicates that if OCRE's proposed regulations are adopted a serious loophole in nuclear power plant safety design would be closed with little hardship worked upon applicants since EMP-hardening circuitry can be incorporated without great expense.

Finally, the petitioner is an intervenor party in a nuclear power plant licensing proceeding currently before the Commission's Atomic Safety and Licensing Board Panel (*In the Matter of Cleveland Electric & Illuminating Co. et al.*—Perry Nuclear Power Plant, Docket Nos. 50-440 and 50-441). The petitioner requests that the Commission, pursuant to § 2.802(d) of its regulations, suspend those portions of the Perry licensing proceeding related to safety pending disposition of petition for rulemaking PRM-50-32.

List of Subjects in Part 50

Administrative practice and procedure, Antitrust, Classified information, Emergency medical services, Fire prevention, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting Requirements.

Dated at Washington, D.C., this 18th day of June, 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-17067 Filed 6-23-82; 8:45 am]

BILLING CODE 7590-01

10 CFR Part 50

Mandatory Property Insurance for Decontamination of Nuclear Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: On March 31, 1982 the Nuclear Regulatory Commission (NRC) published in the **Federal Register** (47 FR 13750) an interim final rule requiring utility licensees to purchase on-site property insurance to be used for decontamination expenses arising from an accident. The NRC subsequently published a report on property insurance prepared by Dr. John D. Long, Professor of Insurance at Indiana University (NUREG-0891). This advance notice of proposed rulemaking requests comments on that report and other questions relating to property insurance for nuclear utilities.

DATES: Comment period expires September 22, 1982. Comments received after the expiration date will be considered if it is practical to do so but assurance of consideration cannot be given except as to comments filed on or before that date.

ADDRESSES: Written comments should be submitted to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of the comments may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Copies of the report entitled "Nuclear Property Insurance: Status and Outlook," NUREG-0891, may be obtained under the NRC/GPO Sales

Program at a cost of $6.00 by writing to the Director, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, DC 20555. This report is also available for inspection and copying at the NRC Public Document Room, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Robert S. Wood, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492–9885.

SUPPLEMENTARY INFORMATION: Recently, the NRC published a report, "Nuclear Property Insurance: Status and Outlook" (NUREG–0891), by Dr. John D. Long, Chairperson and Professor of Insurance at Indiana University. This report was written as an outgrowth of the Three Mile Island–2 accident after it became apparent that nuclear utilities may need more property insurance than has been available. The NRC staff asked Dr. Long to write the report, in part, to answer six questions as follows:

1. What has been the development of each principal source of nuclear property insurance used as of early 1982 by nuclear utilities in the United States?

2. What are some of the distinguishing features of nuclear property insurance as offered by the principal sources?

3. How much nuclear property insurance was offered by each of these sources as of January 1, 1982?

4. Assuming that present plans come to fruition, how much nuclear property insurance is likely to be offered by each of these sources as of January 1, 1983.

5. What, if any, principal sources of nuclear property insurance are likely to emerge in the private sector by January 1, 1983?

6. What problems serious enough to warrant action of the U.S. Nuclear Regulatory Commission exist with respect to nuclear property insurance and what action should NRC take in response to each problem?

While this report was being prepared, the NRC issued an interim final regulation which, for the first time, requires utility licensees to purchase on-site property damage insurance to be used for decontamination expenses and other expenses arising from an accident. The new regulation, 10 CFR 50.54(w), was published in the **Federal Register** on March 31, 1982 (47 FR 13750) and requires electric utility licensees to carry both the maximum amount of property insurance offered as primary coverage by either American Nuclear Insurers/ Mutual Atomic Energy Reinsurance Pool (ANI/MAERP) or Nuclear Mutual Limited (NML) plus any excess coverage in an amount no less than that offered by either ANI/MAERP or Nuclear Electric Insurance Limited (NEIL). Insurance will be required to be carried as of June 30, 1982. Electric utility licensees will be required on April 1, 1983 and annually thereafter to report on their coverage.

Because of matters raised in the report that were not addressed in the final rule and because the NRC desires the widest possible public input on the issues raised in NUREG–0891, we encourage interested parties to respond to the following questions. We also welcome comments on any other issues relating to property insurance for nuclear utilities, whether or not they have been raised in NUREG–0891. The comments will be considered by the Commission as it develops a proposed rule.

The NRC is particularly interested in receiving comments on the following questions:

1. What dollar limits of property insurance coverage should the NRC require? Professor Long recommended that the NRC require its commercial reactor licensees to carry whatever primary on-site coverage is offered both by ANI/MAERP and by NML plus whatever excess coverage is offered in the markets. Currently, if the capacities offered by these sources were simply added together, they would exceed $1.2 billion. Another possibility would be to require primary coverage either from ANI/MAERP or NML plus the total of whatever excess coverage is offered in the markets. At the present time, such a proposal would result in coverage of about $860 million, an amount between Dr. Long's recommendation and the current NRC property insurance requirement.

Alternatively, the NRC could retain its current property insurance requirements, and in addition, could publish annually the amount of coverage carried by each commercial reactor licensee. (The present regulation requires each licensee to report its insurance coverage to NRC annually (10 CFR 50.54(w)(4)). This information could then serve as a focus for decision-making by State regulatory bodies and other interests on the management judgment exercised by each utility regarding the purchase of nuclear property insurance coverage. Thus, after meeting a given minimum property insurance requirement of the NRC (i.e. the current requirement of the regulations), the decision to purchase any further property insurance could be resolved through the market mechanism by the licensee, its insurers, its customers, public utility commissions, equity and debt holders, and other interested parties. This approach raises the question of whether the NRC should increase the frequency of its reporting requirements relating to property insurance coverage. Comments are invited on how well these proposed mechanisms, or alternatives to them, will result in arriving at the proper level of coverage.

Finally, should the amount of insurance required be based on TMI-type accident recovery cost estimates or on some other technical basis?

2. If the NRC changes its requirements for property insurance, should there be special provisions for certain types of licensees? For example, should all power reactors regardless of authorized power level be required to purchase the same amount of insurance? Should the NRC exempt from applicable portions of property insurance requirements those utilities prohibited by state law from obtaining coverage from certain types of insurers? Should utilities with multiple-reactor sites be required to obtain coverage for each unit separately or is site coverage sufficient?

3. To what extent, if any, should the NRC become involved with the structure and terms and conditions of the property insurance offered? The regulations currently in effect are limited to NRC licensees and license applicants. So far, the NRC has imposed no requirements impinging on the business operations of the insurers. However, Professor Long has made certain recommendations that would put the NRC in the position of requiring utility licensees to maintain property insurance coverage acceptable to the NRC. As an example, Professor Long cites the practice of one insurer that does not discount its premiums when an insured buys co-extensive coverage both from it and another insurer. He recommends that the NRC accept no insurance that does not include such discounted premium provisions. Would that and similar NRC policies represent an unreasonable burden on insurers?

Professor Long suggests that the use of retroactive assessments may be reaching the limits of sound insurance practice and recommends that retroactive insurance be eliminated from any future coverage.

Should the NRC refuse to accept such coverage to satisfy its requirements? Is concern with overuse of retroactive assessments warranted?

As a corollary issue, should the NRC address the issue of whether, as a matter of public policy, it should require that all proceeds from property insurance be used to pay for

decontamination after an accident before claims of creditors and owners are satisfied? What would be the legal basis for such a requirement?

4. Should the NRC become involved in regulating the replacement power insurance program as currently offered by NEIL and described in NUREG–0891? Would more capacity for property insurance become available if replacement power insurance were no longer issued? Is replacement power insurance necessary, or is it sufficient and relatively equitable to collect such charges through rates?

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting equirements.

(Sec. 161, Pub. L. 83–703, 68 Stat. 948, as amended, 42 U.S.C. 2201)

Dated at Bethesda, Maryland this 15th day of June 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82–17101 Filed 6–23–82; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 82–ANE–23]

Designation of Federal Airways, Area Low Routes, Controlled Airspace and Reporting Points; Proposed Amendment to Description of Block Island, R.I., Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to amend the Block Island, Rhode Island 700-foot transition area to provide additional airspace protection for aircraft executing Very High Frequency Omni Range (VOR) Runway 10 or VOR Runway 28 original Standard Instrument Approach Procedure (SIAP). This amendment is needed to provide controlled airspace for aircraft executing an approach to land at Block Island State Airport, Block Island, Rhode Island.

DATE: Comments must be received on or before July 30, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Operations, Procedures and Airspace Branch, ANE–530, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. The docket may be examined at the following location: Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: David Hurley, Operations, Procedures and Airspace Branch, ANE–530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7285.

Comments Invited

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Chief, ANE–530, Operations, Procedures and Airspace Branch, ANE–530, Air Traffic Division, Federal Aviation Administration, 12 New England Excutive Park, Burlington, Massachusetts 01803. All communications received on or before July 30, 1982, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8085. Communications must identify the number of this NPRM.

Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the 700-foot transition area at Block Island State Airport, Block Island, Rhode Island. This action will provide additional controlled airspace protection for aircraft executing the VOR Runway 10 or VOR Runway 28 Standard Instrument Approach Procedure.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) by amending the 700-foot transition area at Block Island State Airport, Block Island, Rhode Island, as follows:

Block Island, Rhode Island

Delete:

"within a 5 mile radius."

Insert in lieu thereof:

"within a 6.5 mile radius."

(Sec. 307(a) of the Federal Aviation Act of 1958 [49 U.S.C. 1348(a); section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c); § 11.61 of the Federal Aviation Regulations [14 CFR 11.61)])

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Mass., on June 10, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82–17036 Filed 6–23–82; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 82–ANE–22]

Designation of Federal Airways, Area Low Routes, Controlled Airspace and Reporting Points; Proposed Amendment to Description of Mansfield, Mass., Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to amend the Mansfield, Massachusetts 700-foot transition area to provide additional controlled airspace to protect aircraft executing the Non-Directional Beacon (NDB) Runway 32 original Standard Instrument Approach

Procedure (SIAP) at Mansfield Municipal Airport, Mansfield, Massachusetts.

DATE: Comments must be received on or before July 30, 1982.

ADDRESS: Send comments on the proposal in triplicate to: Chief, Operations, Procedures and Airspace Branch, ANE–530, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. The docket may be examined at the following location: Federal Aviation Administration, 12 New England Executive Park, Burlington Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: David Hurley, Operations, Procedures and Airspace Branch, ANE–530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7285.

Comments Invited

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Chief, ANE–530, Operations, Procedures and Airspace Branch, ANE–530, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before July 30, 1982, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8085. Communications must identify the number of this NPRM.

Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the 700-foot transition area at Mansfield Municipal Airport, Mansfield Massachusetts. This action will provide additional controlled airspace protection for aircraft executing the NDB Runway 32 Standard Instrument Approach Procedure.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) by amending the 700-foot transition area at Mansfield Municipal Airport, Mansfield, Massachusetts, as follows:

Mansfield, Massachusetts

Delete:

"excluding that portion that coincides with the Boston, Massachusetts transition area." After "to the VOR" insert:

"and within 3 miles each side of the 327 magnetic bearing (312 true) from the Mansfield (IHW) NDB extending from the 5-mile radius area to 8.5 miles southeast of the Mansfield NDB excluding those portions that coincide with the Boston and Taunton, Massachusetts transition area."

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a); section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); § 11.61 of the Federal Aviation Regulations (14 CFR 11.61)))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Mass., on June 11, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82–17038 Filed 6–23–82; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 82–ASW–37]

Proposed Designation of Transition Area; Grove, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes designation of a transition area at Grove, OK. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing new instrument approach procedures to the Grove Airport, OK. This action is necessary to provide protection for aircraft executing RNAV approaches to Runways 18 and 36 and a VOR/DME approach using the Neosho VORTAC. Coincident with this action, the airport is changed from visual flight rules (VFR) to instrument flight rules (IFR).

DATES: Comments must be received by July 26, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: James L. Owens, Airspace and Procedures Branch, ASW–536, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 624–4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, § 71.181 as republished in Advisory Circular AC 70–3 dated January 29, 1982, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Designation of the transition area at Grove, OK, will necessitate an amendment to this subpart. This amendment will be required at Grove, OK, since there are proposed new IFR procedures to the Grove Airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications sould identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82–ASW–37." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 624–4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

Index Terms

List of Subjects in 14 CFR Part 71

Control zones, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Grove, OK [New]

That airspace extending from 700 feet above the surface within a 6.5-mile radius of the Grove Airport (latitude 36°34'14"N., longitude 94°44'19"W.) and within 2 miles each side of the Neosho VORTAC 226° radial extending from the 6.5-mile radius to 7.5 miles northeast of the airport and within 2.5 miles each side of a 180° bearing and 360° bearing from the runway thresholds extending from the 6.5-mile radius to 8.5 miles south and 8.5 miles north of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

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

Issued in Fort Worth, TX, on June 15, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82–17093 Filed 6–23–82; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 1, 3, 375 and 381

[Docket No. RM82–35–000]

Fees Applicable to General Activities

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations to establish fees for services and benefits provided by the Commission under its jurisdictional statutes. The Commission is authorized by the Independent Offices Appropriations Act of 1952 (IOAA) to establish fees for services and benefits it provides. The fees are being proposed in a series of proposed rules, each rule relating to a different type of regulated entity or jurisdictional subject area.

This proposed rule would establish fees for general activities in Part 381 of the Commission's regulations. The rule would require the payment of a fee upon the filing of (1) a petition for a declaratory order, (2) a request for interpretation by the Office of the Chief Accountant, (3) a request for review of a DOE remedial order, and (4) a request for review of a DOE denial of adjustment.

DATE: Comments must be submitted to the Secretary of the Commission by July 30, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, Room 9310, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8400.

Issued: June 15, 1982.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations to establish fees for services and benefits provided by the Commission in the administration of its statutory responsibilities. The fees are being proposed in a series of proposed rules, each relating to a different type of regulated entity, or jurisdictional subject area. By proposing fees in a series of individual rulemakings, the Commission intends to identify clearly each category of fees and to focus public comments. Nevertheless, the proposals are the product of a comprehensive examination of potential fees structures associated with all the different functions and services performed by the Commission. The Commission will consider issuing a consolidated final rule establishing fees for all services and benefits.

This proposed rule would establish fees in a new Part 381, other than fees for FOIA requests. Specifically, the rule would require the payment of a fee upon the filing of (1) a petition for a declaratory order, (2) a request for interpretation by the Office of the Chief Accountant, (3) a request for review of a DOE denial of adjustment, and (4) a request for review of a DOE remedial order. In addition, the proposal would amend the fees to be charged for Freedom of Information Act requests to provide for an annual adjustment to reflect changes in average personnel costs.

The Commission is authorized by the Independent Offices Appropriations Act of 1952 (IOAA) [1] to establish fees for services and benefits it provides. The IOAA provides in pertinent part:

> [A]ny work, service, publication, report, document, benefit, privilege, authority, use, franchise, license permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency * * * to or for any person * * * shall be self-

[1] 31 U.S.C. 483a.

sustaining to the full extent possible, and the head of each Federal agency is authorized by regulation * * * to prescribe therefore such fee, charge, or price, if any, which he shall determine, in case none exists, or redetermine, in case of an existing one, to be fair and equitable taking into consideration the direct and indirect costs to the Government, value to the recipient, public policy or interest served, and other pertinent facts, and any amounts so determined or redetermined shall be collected and paid into the Treasury as miscellaneous receipts * * *

The principal agency interpretation of the IOAA is Bureau of the Budget Circular A-25 [2] which states that a fee should be assessed against each identifiable recipient of a measurable unit or amount of Government service or property from which such recipient derives a special benefits.[3]

In accordance with the IOAA and authoritative interpretations of that statute, the Commission, in establishing any fee, must:[4]

A. Identify the service for which the fee is to be assessed;

B. Explain why that particular service benefits an identifiable recipient more than it benefits the general public;

C. Base the fee on as small a category of service as practical; and

D. Demonstrate what direct and indirect costs are incurred by the Commission in rendering the service, and show those costs are incurred in connection with the service rendered the beneficiary.

[2] Bureau of the Budget Circular A-25 (September 23, 1959). This interpretation has been quoted by the U.S. Supreme Court as "the proper construction of the act," in FPC v. New England Power Co., 415 U.S. 345, 351 (1974).

[3] Budget Circular A-25 at 1-2:

General Policy. A reasonable charge * * * should be made to each identifiable recipient for a measurable unit or amount of Government service or property from which he derives a special benefit.* * * For example, a special benefit will be considered to accrue and a charge should be imposed when a Government-rendered service:

a. Enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than which accrue to the general public (*e.g.*, receiving a patent, crop insurance, or a license to carry on a specific business); or

b. Provides business stability or assures public condidence in the business activity of the beneficiary (*e.g.*, certificates of necessity and convenience for airline routes, or safety inspections of craft). * * *

[4] *See* National Cable Television Association, Inc. v. United States, 415 U.S. 336 (1974); FPC v. New England Power Co., 415 U.S. 345 (1974); Mississippi Power & Light v. NRC, 601 F.2d 223 (5th Cir. 1979) *cert. denied*, 444 U.S. 1102 (1980); National Cable Television Association, Inc. v. FCC, 554 F.2d 1094 (D.C. Cir. 1976); Electronic Industries Association v. FCC, 554 F.2d 1109 (D.C. Cir. 1976); National Association of Broadcasters v. FCC, 554 F.2d 1118 (D.C. Cir. 1976); Capital Cities Communications, Inc. v. FCC, 554 F.2d 1135 (D.C. Cir. 1976).

II. Discussion

The Commission believes that the fees set forth in this proposed rule would meet the four requirements outlined above.

A. *Identification of Services.* The categories of services and benefits for which the Commission would propose a fee are the following:

1. Declaratory orders requested in accordance with § 1.7;

2. Interpretations rendered by the Office of the Chief Accountant requested in accordance with § 3.8;

3. Review of appeals from DOE denial of adjustments requested in accordance with § 1.40; and

4. Review of appeals from DOE remedial orders requested in accordance with § 1.41.

B. *Special Benefits to Identifiable Recipients.* The IOAA provides that an agency may collect fees for "any work, service, publication, report, document, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency * * * to or for any person * * *"

In delineating the services or benefits for which agencies are permitted to charge under the terms of the IOAA, Budget Circular A-25 state that a fee may be charged to an identifiable recipient who derives a special benefit from a Government service." [5] In addition, the circular indicates that a "special benefit" has accrued if the recipient obtains "more immediate or substantial gains or values * * * than those which accrue to the general public." [6] Any fee charged under the IOAA is not rendered invalid because the public may also enjoy incidental benefits which flow from the service provided the recipient by the agency.[7] However, an agency may not charge for its services "when the identification of the ultimate beneficiary is obscure and the service can be considered as benefitting broadly the general public." [8]

The proposed rule complies with these requirements because the services for which the Commission proposes fees would be charged under this rule provide special benefits to the applicants who invoke the Commission's procedures. A declaratory order is issued in the discretion of the Commission and provides the applicant with the assurance that the Commission will act in accordance with what is set forth in the declaratory order.

An interpretation by the Office of the Chief Accountant is made only at the request of the applicant and benefits the applicant by providing a staff opinion as to the application of the Commission's Uniform Systems of Accounts, reporting requirements, and records retention requirements to the particular facts or circumstances raised by the applicant.

A review of a DOE denial of adjustment by the Commission provides the applicant with another opportunity to seek relief from otherwise applicable rules or orders. In addition, section 504(b) of the Department of Energy Organization Act (42 U.S.C. 7194(b)) requires any person aggrieved by the denial of a request for adjustment to seek review of such a denial by the Commission before that person seeks judicial review. Therefore, such reviews by the Commission are made only upon request and afford the requester with either the relief being sought or an opportunity for judicial review.

A review of a DOE remedial order by the Commission provides the applicant subject to the remedial order with an opportunity to obtain revocation or modification of the remedial order. In addition, section 503(c) of the Department of Energy Organization Act (42 U.S.C. 7193(c)) requires Commission review of the remedial order before judicial review may be sought. Therefore, the Commission review provides the requester with either relief from the remedial order or an opportunity for judicial review.

In these cases, the Commission believes that each identifiable applicant for these kinds of Commission services derive more substantial benefits than those benefits accruing to the general public. The Commission will assess against any individual or entity seeking these services a fee designed to recover the costs associated with providing the service.

The Commission is not proposing in this rulemaking to charge fees for other general actions it takes relating to its jurisdictional statutes. These actions include preliminary and formal enforcement investigations, settlement and administrative litigation, news releases, and litigation in the courts. Generally, the recipients of these services are not readily identifiable.[9]

[5] Budget Circular A-25 at 1-2.

[6] *Id.* at 2.

[7] *See* Mississippi Power & Light v. NRC, 601 F.2d 223, 227-28 (5th Cir. 1979) *cert. denied*, 444 U.S. 1102 (1980); Electronic Industries Association v. FCC, 554 F.2d 1109, 1115 (D.C. Cir. 1976).

[8] Budget Circular A-25 at 2; quoted with approval in FPC v. New England Power Co., 415 U.S. 345, 350 (1974).

[9] The Commission is considering, in other rulemakings, fees which recover the costs of certain rulemakings. In these cases where a fee is proposed, the Commission believes that there are special benefits provided to identifiable recipients.

C. *Smallest practical unit.* In designing a fee schedule, the IOAA requires the Commission to base the fees on the smallest unit of category of service or benefit practical. In remanding fees estalished by the Federal Communications Commission, the Court of Appeals for the D.C. Circuit set forth the general rule:

> [W]e interpret the statute and the Supreme Court decisions to require reasonable particularization of the basis for the fees, accomplished by an allocation of costs to the smallest unit that is *practical.* In most cases, we expect this unit will be classes of carriers or applicants or grantees or services which the Commission has already singled out for separate treatment in its 1975 fee schedule. Classification is always a difficult problem, involving as it does the drawing of lines; but the solution is not to group dissimilar entities together. The Commission must examine its expenses and set forth the maximum particularization of costs which it conveniently can make, so that the correctness of its actions can be reviewed.
> * * *
> Many of the expenses will no doubt separate naturally among classes of carriers and services * * * (emphasis added).[10]

The Commission recognizes that there may be significant differences in the costs incurred for individual petitions or requests which are submitted for Commission action. Some filings are more complex or controversial than others or may require more time to process. The Commission is proposing to establish fees based on categories of activities sharing common charateristics. Fee categories are generally delineated according to the nature of the service or benefit provided. For example, petitions for declaratory orders are not grouped with requests for review of DOE remedial orders, or with requests for interpretations by the Office of the Chief Accountant.

A fundamental consideration in developing a fee structure under the IOAA is the practicality of establishing fees which relate, not just to categories of services, but also to subcategories of services or even individual agency services. This problem relates to the accessibility of cost data and the expense incurred in collecting the data. The Commission believes it has the authority to establish separate fees for any filing, that initiates a proceeding and any filing, that requires the Commission to undertake additional steps in a proceeding, such as petitions for rehearings, interventions or appeals. However, because the time spent in subsequent stages of a proceeding is not separately recorded by the Commission, the Commission does not have data at this time which is detailed enough to permit it to establish a separate fee for each stage of a proceeding. Therefore, the Commission is proposing here to establish only one fee for a proceeding or application process because the Commission believes that the entire process is the smallest unit practical on which to base a fee. It nevertheless requests comments on whether the fee categories should be established for smaller classes of applicants, or separate stages of a proceeding and the nature of the data which would be necessary to support such fee categories.

D. *Basis of Cost Recovery.* 1. *Direct and indirect costs included.* The fee schedule proposed by the Commission will be designed to account for all types of recoverable costs associated with the processing of the specified petitions, applications, and requests. The costs attributable to a particular Commission service are not merely the salaries of the employees who review the petitions, applications, and requests. As the Fifth Circuit observed, in *Mississippi Power and Light* v. *NRC,* employees "must be supplied working space, heating, lighting, telephone service and secretarial support. Arrangements must be made so that [they are] hired, paid on a regular basis and provided specialized training courses. Those and other costs such as depreciation and interest on plant and capital equipment are all necessarily incurred in the process of reviewing an application."[11] The following description indicated what actual costs are incurred when the Commission supplies the identified services and benefits.

The processing of petitions for declaratory orders requires an analysis by staff of the facts presented in the petition. If the facts presented are inadequate, more information is requested. Then, based on an analysis of the facts and the particular issues raised, the Office of the General Counsel, in consultation with other Commission offices, drafts a proposed order. The order drafted by the Office of the General Counsel must then be considered and evaluated by the Commission and is placed on the Commission's agenda in order that the Commission may act on it. If the order is issued, the Commission notices it in the **Federal Register.**

The processing of a request for an interpretation from the Office of the Chief Accountant requires that office to research and analyze the particular issues raised by the request. Then, it must draft a formal response advising the requester how the Uniform Systems of Accounts or other regulations pertain to a particular situation.

Appeals of DOE denials of adjustments and appeals of DOE remedial orders are considered and processed similarly in the Commission's Office of Opinions and Review (OOR). Upon receipt, both types of appeals require a review of the filing by OOR to determine if it is complete. If complete, the filing is noticed in the **Federal Register.** During the course of reviewing both requests, OOR staff must review and analyze arguments and may be requested to conduct discovery, an evidentiary hearing or an oral argument. After all evidence and arguments are presented and considered, OOR staff must prepare and issue a proposed order for comment by the parties. If comments on the proposed order are filed, OOR staff must consider them and prepare a final order. This final order is then considered and evaluated by the full Commission which determines whether or not to issue it.

Commission review of DOE remedial orders is a phase of DOE enforcement proceeding and the Commission is not proposing to establish fees for any phase of its own enforcement proceedings. The Commission is, nevertheless, proposing a fee for review of DOE remedial orders. However, it requests comments on how the Commission might reduce the fee in specific circumstances so that it would not substantially discourage appeals of remedial orders.

2. *Methodology.* The Commission's calculation of the costs incurred to perform each of the services for which a fee is proposed is directly related to the amount of Commission time spent on providing each of these services. The proposed rule relies on information obtained through the Commission's management information system (MIS), which provides the amount of time spent on all the Commission functions. This data is recorded on a periodic basis. The functions are grouped into categories which represent the Commission's various programs, including gas wellhead pricing, gas pipeline rates, gas pipeline certificates, gas producer rates, gas producer certificates, oil pipeline regulation, hydropower regulation and electric power regulation.

The supervisor in each organizational unit periodically reports to the MIS the amount of time spent by staff on each function, in terms of "work-months". A "work-month" is the unit of work represented by one employee's devotion of 100% of his or her time for one month. With respect to each function, the

[10] Electronic Industries Association v. FCC, 554 F.2d 1109, 1116–17 (D.C. Cir. 1976).

[11] 601 F.2d at 232.

supervisor records the number of projects intiated (receipts) and completed (completions) in a particular time period, insofar as the nature of the function involves the intiation and completion of projects. Most Commission functions can be measured in terms of the number of projects initiated and completed. In accordance with Commission practice, these projects are generally assigned docket numbers and, for purposes of this discussion, will be referred to as "docketed activities".

Other support functions regularly undertaken, with respect to any program, may not be measured in terms of receipts and completions and are not docketed. The nature of these functions makes impractical any measurements in terms of receipts and completions, but staff time is nevertheless spent performing these functions. This time is also allotted and reported by unit supervisors.

These support functions will be referred to as "support activities" and can be divided into three categories. First, there are activities that involve general supervision, personnel management, and routine administrative functions such as maintenance of time and leave records, the handling of property and supplies, staff meetings, and the planning and organizing of leave.

Second, support staff responds to requests for information that do not contribute directly to the completion of a docketed activity. Examples include requests for information from the public, from the Congress, from the General Accounting Office, and from other governmental agencies.

Third, support staff establishes or reviews certain Commission operations and procedures. These activities include work on the Commission's budget, management information systems, and program development functions such as special studies or briefings not identified with a docketed activity.

As previously discussed, the Commission engages in approximately 9 docketed activities which fulfill general functions—that is, they are undertaken with respect to the administration of any of the Commission's statutory responsibilities. The activities for which a fee is proposed in this rulemaking are declaratory orders, interpretations by the Office of the Chief Accountant, review of DOE denials of adjustments, and review of DOE remedial orders. The other docketed activities, for the which the Commission is not proposing to establish fees, include preliminary investigations, formal investigations, Federal litigation, news releases, and settlements and administrative litigation.

In addition, there are general functions performed by the Commission, such as reviewing applications for rehearing, petitions for waiver and interventions, motions, protests, and complaints which are not separately classified as either docketed activities or support activities but are performed in the process of considering a docketed activity. The costs incurred in considering petitions, motions and complaints will be considered in the context of the docketed activity for which a fee is proposed.

The Commission's proposed fee schedule is based on the direct costs (reflected by the number of work-months reported for each docketed activity), as well as a pro-rata share of indirect costs (reflected by the work-months reported for support activities) incurred by the Commission in performing each function represented by the above-mentioned fee categories.

The Commission uses the following method to determine the cost of providing any service or benefit.

First, the work-months or WM's reported for a specific docketed activity are added to a pro-rata share of the work-months reported for the relevant support activities.[12] This figure, representing the total number of work-months dedicated to a given function for a year, is divided by the number of completions for that year for the given activity. The resulting quotient represents the average number of work-months required to complete each activity.

Second, the Commission uses the following figures provided by the Office of Program Management to derive the average cost of a work-month, based on the Commission's FY 1982 budget.

Average annual salaries and fringe benefits (including the overhead for retirement and benefit insurance.)	$37,518
Administrative overhead for one year per employee (including printing, communication, office space, rent, etc.)	8,468
Contracts for overhead services for one year per employee (microfilm, etc.)	2,406
Estimated average cost per employee for FY 1982	$48,392

The total is divided by 12 to yield an average work-month cost of $4,032.67.

Third, in order to determine the cost of the activity, the Commission multiplies the average cost per work-month by the average number of work-months required to complete the activity.

The Commission proposes to update the fees each year so that the computations reflect current Commission costs. An updated fee schedule would be published in the **Federal Register** each year. The updated fee would be the product derived by multiplying each fee that is effective for the current fiscal year by the ratio of the average budgeted costs per employee for the next fiscal year to the average budgeted costs per employee for the current fiscal year. An applicant would be obliged to pay either the updated fee or, if the updated fee is not yet effective, the fee that is currently effective at the time of filing.

In addition, the Commission is proposing to update annually the fees contained in the final rule establishing fees relating to Freedom of Information Act (FOIA) requests, Docket No. RM81-40, issued May 19, 1982. This update of FOIA fees would be made in accordance with the same methodology, described above, as would be employed to update the fees established in this proposal.

E. *Exceptions to Full-Cost-Recovery.* As a general policy, the Commission intends to establish fees which include all the recoverable costs associated with a particular benefit or service provided by the Commission. The Commission recognizes, however, that there may be instances in which a fee has an undesired effect on an applicant or other person requesting a service or benefit or otherwise proves unfeasible. In such cases, the Commission may exercise discretion to reduce the fee for a category of services. Generally speaking, the Commission does not expect this issue to arise with regard to any service which is necessary to participation in a regulated business and continues to consider the possiblity of full-cost recovery for each category of service for which it proposes fees. The Commission specifically requests comments on this fundamental approach.

The primary concern presented by the establishment of fees is to ensure that the benefits and services provided by the Commission under its jurisdictional statutes remain reasonably available to interested persons. Any consideration of whether to establish a less than full-cost-recovery fee under new Part 381 for a category of service would initially depend on a threshold determination that a full-cost-recovery fee may discourage use of the service for which the fee is assessed. If it appears to the Commission that a full-cost-recovery fee would discourage filings or use of

[12] The Commission has excluded from its cost calculations the work-months associated with the second category of support activities because those functions do not constitute a part of the total cost of providing a special benefit.

Commission services, it would then consider a reduction in the relevant fee. The determination of how far to reduce a fee will depend on four specific factors.

1. *Disproportionate economic burden.* The Commission may reduce the fee by a factor of forty to sixty-five percent, if it is shown that the individuals or entities the Commission expects to predominate in the potential class of payers are of the type on which the full-cost-recovery fee could be expected to impose a disproportionate economic burden. If the Commission service does not pertain to small entities or involve any particular economic hardship, but would nevertheless impose a full-cost-recovery fee that would discourage use of service, the Commission would be inclined to reduce the fee by a smaller amount, not to exceed fifty percent of the full cost of the service, depending upon other considerations which may arise.

2. *Encouraging use of a service.* The Commission may reduce the fee by twenty percent, if a service or procedure is of a type that the Commission wishes to encourage or if the Commission prefers that service or procedure to be used more often than others which would provide essentially the same benefit.

3. *Use of Commission time.* Related to the consideration of encouraging one service over another is a consideration of whose time and effort is required to provide the particular service. Commission time is more valuable and limited than staff time. Therefore, a reduction of five percent may be made if a service requires only staff time in the normal course of processing, not including appeals to the Commission.

4. *Reduction of processing time.* There may be some services the Commission provides with which the Commission has had little experience. Therefore, its data may not be as indicative of the average costs of providing that service over a longer period of time as its data for the costs of services it has been providing for many years. As the Commission gets more familiar with the processing or review of such an application of filing, processing the application or otherwise providing the service may become more efficient, thereby reducing the amount of time required to provide service. To reflect this possibility, the Commission may reduce the fee by five percent if the service requested is one with which the Commission has had little experience.

III. Fees Proposed

The following table summarizes the average number of work-months (WM's) and average costs incurred in rendering the services for which the Commission proposes fees:[13]

Service	Total WM's	Total completions	Average number WM's per completion	Average cost per completion
Declaratory orders	116.34	29	4.000	$16,130.68
Interpretations by the Office of the Chief Accountant	5.5	40	.138	556.51
Review of DOE denials of adjustments and review of DOE remedial orders	148.3	156	0.95	[1]3,831.04

[1] Review of DOE Denials of Adjustments and Remedial Orders involve similar classes of applicants, similar proceedings, and consideration of similar issues. MIS reports on these two activities are based on the assumption that, on the average, they take the same amount of time and expense to process. Because the two activities involve the same class of applicants, the same proceedings, consideration of similar issues, and, essentially the same costs, the data for the two activities has been combined to arrive at an average cost per completion.

The Commission believes that the cost of a declaratory order is such that to revover it fully through fees would substantially discourage the use of this service. Declaratory orders may be requested by a broad spectrum of regulated entities, and there are a substantial number of small businesses and other organizations within this class. The Commission, therefore, has reduced the fee for declaratory orders from costs by appoximately fifty-five percent.

The following fees are therefore proposed:[14]

Service:	Fee
Declaratory orders	$7,600
Interpretations by the Office of the Chief Accountant	500
Review of DOE denial of adjustments	3,800
Review of DOE remedial orders	3,800

Furthermore, the Commission is proposing procedures whereby the Commission may waive or reduce fees prescribed by this proposal. These procedures would give the Commission the discretion to waive or reduce fees in order to avoid imposing an undue economic burden.

IV. Procedures for Paying Fees

In order to be consistent with the assessment of fees relating to general activities, the Commission proposes to amend its current regulations regarding the procedures applicable to each of the petitions and applications covered by the proposed fee schedule. The amended procedures would require that a certified check for the appropriate amount, made payable to the United States Treasury, be included with each petition and application. In addition, the proposal provides that any application or petition which is not accompanied by the appropriate fee will not be processed by the Commission.

Furthermore, in the areas where the Commission presently charges fees, it follows a policy of no refunds, with minor exceptions. The Commission expects to apply this no refund policy to all fees proposed under the IOAA, in this series of rulemakings as well.

V. Direct Billing Alternative

As discussed above, the methodology that would be used to establish the proposed fees is based on the average cost of processing the average filing. The Commission occasionally receives filings which are not representative of these average filings. These filings may be so extensive in scope and present issues of such complexity of difficulty that the Commission must devote an extraordinary amount of time and effort to processing them. The standard fees would bear no reasonable relationship to the actual cost of processing these extraordinary filings. Moreover, if the costs of processing these extraordinary filings were included in the average costs associated with average filings, persons submitting the extraordinary filings. Therefore, the Commission is proposing that in the case of an extraordinary filing, it would order a direct billing procedure.

Under this direct billing procedure, the Commission would periodically bill the person who submitted the filing for all the direct and indirect costs incurred by the Commission in processing the filing. The filing would then be processed like other filings, but the manpower devoted to processing the filing would be separately recorded and would not be averaged with the time devoted to processing the average filing.

VI. Summary of Proposed Rule

This proposed rule would establish fees for general activities in proposed

[13] The Commission is placing in the public file for this docket more detailed data relating to the costs incurred by the Commission which form the basis of the proposed fees.

[14] Fees are established by taking actual costs and rounding *down* to: (1) The nearest $5 increment, if the total cost is $100 or less and (2) The nearest $100 increment, if the total cost is more than $100.

Part 381 of Chapter 1 of Title 18 of the code of Federal Regulations.

Proposed § 381.103 provides that each filing must be accompanied by the proper fee or the filing will be considered deficient, which could result in rejection of the filing. Section 381.103 also provides that if a filing for one service or benefit may be considered as falling within two or more fee categories, the higher or highest the applicable fees must be paid.

Proposed § 381.104 requires the Commission to publish a revised fee schedule each year to reflect an increase or decrease in costs.

Proposed § 381.106 provides that the Commission may waive or reduce fees if to do so is necessary to prevent undue economic burden.

Proposed § 381.107 provides that the Commission may order any filing, the processing of which requires an extraordinary amount of time and staff resources, to be assessed fees under a direct billing procedure. Any fees paid under Part 381 upon submission of the filing would be credited against the direct bill.

Proposed § 381.201 establishes a $7,600 fee payable upon submission of a petition for the issuance of a declaratory order.

Proposed § 381.202 establishes a $500 fee payable upon request for an interpretation of the Uniform Systems of Accounts by the Office of the Chief Accountant.

Proposed § 381.203 establishes a $3,800 fee payable upon submission of an appeal from a DOE denial of adjustment.

Proposed § 381.204 establishes a $3,800 fee payable upon submission of an appeal from a DOE remedial order.

This proposed rule also amends Parts 1 and 3 of the Commission's regulations [15] relating to the above-mentioned categories of services, to require each petitioner, applicant, or requester to file the proper fee with the petition, application, or request.

In addition, this proposed rule amends § 3.8 of Chapter 1 of Title 18 CFR by adding a new paragraph (k)(7) in order to provide for the annual updating of fees relating to FOIA requests.

VII. Initial Regulatory Flexibility Analysis

Whenever the Commission is required by section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553, to publish a general notice of proposed rulemaking, it is also required by section 603 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, to prepare and make available for public comment an initial regulatory flexibility analysis if the proposed rule will have a significant economic impact on a substantial number of small entities. The broad purpose of the RFA is to ensure more carefull and informed agency consideration of rules that may significantly affect small business and small government entities and to encourage consideration of alternative approaches that may better resolve any unnecessarily costly or adverse effects on these small entities.

Under section 603, an initial regulatory flexibility analysis must set forth the reasons, objectives, and legal basis for the proposed rule. The analysis must describe the impact the proposed rule will have on small entities, and any significant alternatives minimizing the impact. The analysis must also examine any compliance requirements of the proposed rule, and any other rules that duplicate, overlap, or conflict with the proposed rule.

In this preamble the Commission presents its reason for this agency action, its objectives, and the legal basis for this rulemaking. As discussed, the proposed rule would establish a schedule of fees to be paid to the Commission for certain benefits it provides. The proposed rule would not impose any reporting, recordkeeping or compliance requirements, nor are there other conflicting, overlapping, or duplicative rules.

During the past year, approximately 40 petitions for declaratory orders, 40 requests for interpretations of the Uniform System of Accounts, 77 requests for review of DOE remedial orders, and 77 requests for review of DOE denials of adjustment were filed with the Commission. These requests and petitions have been submitted by all types of entities regulated by the Commission as well as entities and individuals which are not regulated by the Commission. The Commission regulates oil pipelines, natural gas pipelines, natural gas producers, electric utilities, and hydroelectric facilities.

The Small Business Administration's (SBA) regulations do not establish specific size standards for each of the entities regulated by the Commission that would be subject to the proposed rule. *See* 13 CFR 121.3–10(d)(1), (d)(11). Most natural gas and oil pipelines and electric utilities are large businessses, yet a small proportion of this group would probably be considered small. A majority of natural gas producers and hydroelectric facility licensees, however, would most likely be classified as small businesses. In addition, within the class of individuals and entities not regulated by the Commission but which could be expected to seek the services covered by this proposal, there may be a significant number of small businesses. For instance, this proposal will also affect those individuals and entities which seek Commission review of DOE denials of adjustment and DOE remedial orders. These entities include retailers, resellers, refiners, and oil producers, and within these various classes of entities the Commission believes there may be a significant number of small businesses. Therefore, the Commission believes this rule may have a significant economic impact on a certain, but not necessarily substantial, number of small entities, that is, small producers, small electric utilities, small hydroelectric licensees, permittees, small retailers, small resellers, and small refiners.

Where a proposal may have a significant economic impact on a substantial number of small entities, RFA section 603(c) requires the Commission to discuss significant alternatives to the proposal. The Commission has already attempted to minimize any disproportionate burden the proposal would have on a small entities. The fee for declaratory orders has been reduced from costs by more than fifty percent because the potential class of payers is expected to include a number of smaller businesses. The proposal also contains a provision for waiver or reduction of those fees to further protect any individuals or entities subject to the fees from economic hardship. The Commission could, of course, consider reducing the fees further, or even eliminating the fees, with respect to small businesses. However, in proposing the present fee schedule, the Commission is also attempting to satisfy the statutory directive of the IOAA to be "self-sustaining to the full extent possible." The Commission believes the rule, as proposed, represents a fair balance which will satisfy the purposes of both the IOAA and the RFA. The Commission also requests comments on the above initial regulatory flexibility analysis.

VIII. Written Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before July 30, 1982. Each

[15] On April 28, 1982, the Commission issued, in Docket No. RM78–22, revised Rules of Practice and Procedure which establish the Commission's procedural rules in a new Part 385. 47 Fed. Reg. 19014 (May 3, 1982). A final rule in this docket will be conformed to that change.

person submitting a comment should indicate that the comments are being submitted in Docket No. RM82–35–000, and should give reasons, including any supporting data, for any recommendations. Comments should also indicate the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Commission. All comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. during business hours.

(Department of Energy Organization Act, 42 U.S.C. 7101–7; E.O. 12009, 3 CFR 142 (1978); Independent Offices Appropriations Act, 31 U.S.C. 483a)

List of Subjects

18 CFR Part 1

General definitions, Rules of construction.

18 CFR Part 3

Administrative practice and procedure, Freedom of information, Freedom of information fees, Organization and functions (Government agencies).

18 CFR Part 375

Authority delegations, Seals and insignia, Sunshine Act.

18 CFR Part 381

General fees.

In consideration of the foregoing, the Commission proposes to amend Chapter I, Title 18 Code of Federal Regulations as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

1. Chapter 1 is amended in its table of contents by adding in the appropriate numerical order, a new part and heading, to read as follows:

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION

* * * * *

SUBCHAPTER W—REVISED GENERAL RULES

Part

* * * * *

381 Fees

* * * * *

PART 1—RULES OF GENERAL APPLICABILITY

2. Section 1.7 is amended in paragraph (c) by adding a new sentence at the end thereof to read as follows:

§ 1.7 Petitions.

* * * * *

(c) *For declaratory orders.* * * * Each Petition for issuance of a declaratory order must be accompanied by the fee prescribed by § 381.201 of this chapter.

* * * * *

3. Section 1.38 is amended in paragraph (f)(2)(i) by adding a new sentence at the end thereof, to read as follows:

§ 1.38 Commission review of remedial orders.

* * * * *

(f) *Pleadings* * * *

(2) *By the petitioner.* (i) * * * Each answer filed with the Secretary of the Commission by the petitioner, in accordance with this paragraph, must be accompanied by the fee prescribed by § 381.204 of this chapter.

* * * * *

4. Section 1.40 is amended by adding new paragraphs (d)(3) and (d)(4), to read as follows:

§ 1.40 Commission review of adjustment request denials.

* * * * *

(d) *Commencement of proceedings.* * * *

(3) Each petition for review filed with the Secretary of the Commission must be accompanied by the fee prescribed by § 381.203 of this chapter.

(4) Upon receiving a petition for review and the fee required in paragraph (d)(3) of this section, the Commission or its designee will designate a presiding officer for the proceedings.

* * * * *

PART 3—ORGANIZATION; OPERATION; INFORMATION AND REQUEST

5. Section 3.8 is amended in paragraph (h) by adding a new sentence at the end thereof, to read as follows:

§ 3.8 Public information and submittals.

* * * * *

(h) * * * Each inquiry directed to the Chief Accountant which requires a formal written response interpreting the Uniform Systems of Acounts must be accompanied by the fee prescribed by § 381.202 of this chapter.

* * * * *

6. Section 3.8 is amended by adding a new paragraph (k)(7) at the end thereof to read as follows:

§ 3.8 Public information and submittals.

* * * * *

(k) *Fees for Freedom of Information Act requests.* * * *

(7) *Annual Adjustment of fees.*

(i) *Definition.* For purposes of this section, "work year cost" means the ratio of the Commission's budgeted expenses for salaries during any given fiscal year to the authorized full time equivalent staff level for that fiscal year.

(ii) *Update and Publication.* Beginning in fiscal year 1983, fees established in this section are updated annually, in accordance with this section. Updated fees are published in the **Federal Register** and as an appendix to this part.

(iii) *Payment of updated fees.* Any person who, after fiscal year 1982, submits a Freedom of Information Act request for which a fee is established in this section must pay the updated fee under this section or, if the fee has not been updated at the time of the filing of the request, the currently effective fee.

(iv) *Formula.* The fee applicable to any Freedom of Information Act search in each fiscal year is the fee for the previous fiscal year for a Freedom of Information Act search, multiplied by the ratio of the work year cost for the fiscal year for which the fee is determined to the work year cost for the previous fiscal year.

(v) *Effective date of fee.* Any fee updated under this section is effective on the thirtieth day after publication in the **Federal Register** of the revised appendices to this part, or the first day of the fiscal year for which the fee is updated, whichever is later.

7. Subchapter W is amended by adding a new Part 381 to read as follows:

SUBCHAPTER W—REVISED GENERAL RULES

PART 381—FEES

Subpart A—General Provisions

Sec.

381.101 Purpose.
381.102 Definitions.
381.103 Filings.
381.104 Annual adjustment of fees.
381.105 Method of payment.
381.106 Reductions and waivers.
381.107 Direct billing.

Subpart B—Fees Applicable to General Functions

381.201 Declaratory orders.
381.202 Interpretations by the Office of the Chief Accountant.
381.203 Review of DOE denials of adjustment.

Sec.
381.204 Review of DOE remedial orders.

Subpart C—Fees Applicable to the Natural Gas Policy Act of 1978 [Reserved]

Subpart E—Fees Applicable to the Federal Power Act [Reserved]

Subpart F—Fees Applicable to the Public Utility Regulatory Policies Act of 1978 [Reserved]

Subpart G—Fees Applicable to the Interstate Commerce Act and Related Authorities [Reserved]

Authority: Department of Energy Organization Act (42 U.S.C. 7101–7352); E.O. 12009, 3 CFR Part 442 (1978); Independent Offices Appropriations Act (31 U.S.C. 483a).

Subpart A—General Provisions

§ 381.101 Purpose.

The purpose of this Part is to set forth the fees that the Commission has established for services and benefits provided by the Commission.

§ 381.102 Definitions.

For purposes of this part, the following definitions apply.

(a) "Person" means any person, group, association, organization, partnership, corporation, or business, except those engaged in the transaction of official business of the Government.

(b) "Work year cost" means the ratio of the Commission's budgeted expenses during any given fiscal year to the authorized staff level for that fiscal year.

(c) "Filing" means any application, petition, request, or motion submitted to the Commission in connection with any of the services or benefits for which a fee is established in this part.

§ 381.103 Filings.

(a) *Submittal of fees.* Except as provided in § 381.106, a fee in the amount set forth in this part must accompany each filing for which a fee has been established.

(b) *Deficiencies.* (1) Any filing that is not accompanied by either the fee established for that filing or a request for reduction or waiver in accordance with § 381.106 is deficient.

(2) The Secretary will inform any person who submits a deficient filing that:

(i) Such filing will be rejected, unless the appropriate fee is submitted within a specified time;

(ii) The Commission will not process any filing that is deficient under this paragraph; and

(iii) The date of filing will be deemed the date on which the Commission receives the appropriate fee.

(3) This provision does not preclude a determination that a filing is deficient for any other reason.

(c) *Choice of two fees.* If a filing for one service or benefit may be considered as falling within two or more categories of service for which a fee is established, that filing must be accompanied by the higher or highest of the applicable fees.

§ 381.104 Annual adjustment of fees.

(a) *Update and publication.* Beginning in fiscal year 1983, fees established in this part are updated annually, in accordance with this section. Updated fees are published in the **Federal Register** and as an appendix to this part.

(b) *Payment of updated fees.* Any person who, after fiscal year 1982, submits a filing for which a fee is established in this part must pay the updated fee under this section or, if the fee has not been updated at the time of the filing, the currently effective fee.

(c) *Formula.* The fee applicable to a fee category in each fiscal year is the fee for the previous fiscal year for that category, multiplied by the ratio of the work year cost for the fiscal year for which the fee is determined to be the work year cost for the previous fiscal year. The fee is rounded to the nearest five dollar increment.

(d) *Effective date of fee.* Any fee updated under this section becomes effective on the thirtieth day after publication in the **Federal Register** of the revised appendices to this part, or the date of the fiscal year for which the fee is updated, whichever is later.

§ 381.105 Method of payment.

Fee payments must be made by certified check or money order payable to the Treasurer of the United States.

§ 381.106 Reductions and waivers.

(a) *When to request.* At the time that a filing is submitted to the Commission, the applicant may request a waiver or reducton of the fee prescribed in this part.

(b) *Basis.* The applicant must show that waiver or reduction of the fee is necessary to prevent imposition of an undue economic burden.

(c) *Commission action.* The Commission or its delegatee will notify the applicant within 21 days of the decision to grant or deny the request for waiver or reduction. The filing will not be processed until disposition of the waiver request.

§ 381.107 Direct billing.

(a) *Applicability.* If a filing presents issues of fact or law, procedural difficulty, or technical complexity, which require an extraordinary amount of Commission time and effort to be devoted to processing that filing, the Commission will institute a direct billing procedure for that filing. Fees assessed by a direct billing procedure in accordance with this section will supersede the fees established in this part for the appropriate category of service.

(b) *Procedures.* (1) If the Commission determines that a filing meets the standards prescribed in paragraph (a), the Commission may order that the full cost of processing the filing be recovered under a direct billing procedure. The Commission will make a direct billing determination under this paragraph not later than one year after the filing is accepted for filing by the Commission.

(2) Direct billing will not be instituted with respect to any filing until the person who submitted the filing is notified that direct billing will be applied to the filing in lieu of the fees established under this part.

(3) Any fee submitted with the filing will be applied, as a credit, to the amount billed directly for processing costs. The Secretary will thereafter periodically bill the person who submitted the filing for the actual direct and indirect costs of processing the filing which are incurred after the Commission orders the direct billing procedure instituted.

Subpart B—Fees Applicable to General Functions

§ 381.201 Declaratory orders.

The fee established for a petition for a declaratory order is $7,600.00 for fiscal year 1982 and, for subsequent fiscal years, is the fee established by § 381.104. Such fee must be submitted in accordance with Subpart A of this part and § 1.7(c).

§ 381.202 Interpretations by the Office of the Chief Accountant.

The fee established for an inquiry directed to the Chief Accountant which requires a formal written response interpreting the Uniform Systems of Accounts is $500.00 for fiscal year 1982 and, for subsequent fiscal years, is the fee established by § 384.104. Such fee must be submitted in accordance with Subpart A of this part and § 3.8.

§ 381.203 Review of DOE denials of adjustment.

The fee established for a petition for

review of a DOE adjustment request denial is $3,800.00 for fiscal year 1982 and, for subsequent fiscal years, is the fee established by § 381.104. Such fee must be submitted in accordance with Subpart A of this part and § 1.40.

§ 381.204 Review of DOE remedial orders.

The fee established for an answer filed for review of a DOE remedial order is $3,800.00 for fiscal year 1982 and, for subsequent fiscal years, is the fee established by § 381.104. Such fee must be submitted in accordance with Subpart A of this part and § 1.38(f)(2).

Subpart C—Fees Applicable to the Natural Gas Policy Act of 1978 [Reserved]

Subpart D—Fees Applicable to the Natural Gas Act and Related Authorities [Reserved]

Subpart E—Fees Applicable to the Federal Power Act [Reserved]

Subpart F—Fees Applicable to the Public Utility Regulatory Policies Act of 1978 [Reserved]

Subpart G—Fees Applicable to the Interstate Commerce Act and Related Authorities [Reserved]

PART 375—THE COMMISSION

8. Section 375.302 is amended by adding a new paragraph (u) at the end thereof, to read as follows:

§ 375.302 Delegations to the Secretary

* * * * *

(u) Waive or reduce the fees prescribed by § 381.201 of this chapter.

9. Section 375.303 is amended by adding a new paragraph (g) at the end thereof, to read as follows:

§ 375.303 Delegations to the Chief Accountant.

* * * * *

(g) Waive or reduce the fees prescribed by § 381.202 of this chapter.

10. Section 375.310 is amended by adding a new paragraph (b) at the end thereof, to read as follows:

§ 375.310 Delegations to the Director of the Office of Opinions and Review.

* * * * *

(b) Waive or reduce the fees prescribed by §§ 381.203 and 381.204 of this chapter.

[FR Doc. 82-17095 Filed 6-23-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

Permanent State Regulatory Program of Oklahoma

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

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is considering modifying the deadline for the State of Oklahoma to meet conditions of its approved State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Oklahoma requested an extension of its schedule to meet the conditions of its approval because the State needs addtional time to complete the necessary legislative and rulemaking procedures. Based on Oklahoma's request, the Secretary is proposing to extend the schedule for Oklahoma to comply with the Secretary's conditions of its program approval. In addition, Oklahoma has provided a set of Rules of Practice and Procedure submitted toward meeting the requirements of one of its conditions. OSM is requesting public comment at this time on the adequacy of those rules.

DATE: Comments on the proposed extension and the Oklahoma Rules of Practice and Procedure must be received on or before 4:00 p.m. c.s.t. on July 26, 1982 at the address below.

ADDRESSES: Written comments must be mailed or hand-delivered to: Office of Surface Mining Reclamation and Enforcement, Oklahoma State Office, 333 West Fourth Street, Room 3432, Tulsa, Oklahoma 74103.

See "Supplementary Information" below for addresses where copies of Oklahoma's extension request and Rules of Practice and Procedure are available for public inspection and copying.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Markey, Director, Oklahoma State Office, Office of Surface Mining Reclamation and Enforcement, 333 West Fourth Street, Room 3432, Tulsa, Oklahoma 74103, Telephone: (918) 581-7927.

SUPPLEMENTARY INFORMATION:

I. Availability of Copies

Copies of Oklahoma's extension request, Rules of Practice and Procedure and the administrative record of this rulemaking are available for public inspection and copying during normal business hours at:

Office of Surface Mining Reclamation and Enforcement, 333 West Fourth Street, Room 3432, Tulsa, Oklahoma 74103

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 L Street, N.W., Washington, D.C. 20240

Oklahoma Department of Mines, 4040 N. Lincoln Blvd., Suite 107, Oklahoma City, Oklahoma 73105

II. Background on the Oklahoma Program and Conditional Approval

Under 30 CFR 732.13(i), the Secretary may conditionally approve a State permanent regulatory program which contains minor deficiencies where the deficiencies are of such a size and nature as to render no part of the program incomplete, the State has initiated and is proceeding with steps to correct the deficiencies, and the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval.

The Oklahoma program was approved on January 19, 1981 (46 FR 4902). In that document the Secretary published a schedule for resolving the four conditions of approval. However, a series of events, including the rescission of the State's approved rules, necessitated an extension of time from the schedule outlined at the time of the Secretary's approval. On February 18, 1982, OSM extended the deadlines for Oklahoma to meet its four conditions until May 15, 1982.

On April 8, 1982, the Oklahoma Departmet of Mines indicated in a letter to OSM that additional time will be needed by the State to meet the conditions and requested that the deadlines be extended to May 15, 1983. (See OK-409). On April 27, 1982, the Oklahoma Department of Mines provided OSM additional information concerning actions Oklahoma has taken thus far, and expects to take in the future, to meet each condition (See OK-414).

Based on the information provided by the State, it is apparent that Oklahoma needs additional time to complete the necessary legislative and rulemaking procedures to meet its conditions.

Accordingly, the Secretary proposes to allow the State until May 15, 1983, to meet all four conditions.

The Secretary is continuing to review with Oklahoma all of the outstanding conditions of its program. The final revised deadline may, in response to public comment, be different than the one proposed today.

III. Details of Public Comments on Oklahoma's Rules of Practice and Procedure

On May 13, 1982, Oklahoma provided OSM a copy of a set of Rules of Practice and Procedure intended to meet the requirement of one of its conditions (30 CFR 936.11(b)). *See* OK–415. OSM is presently reviewing the adequacy of these rules and is inviting public comment on them at this time. The details for the public comment period are provided above under the **"DATE"** and **"ADDRESSES"** sections of this notice. If these rules are found to meet the requirements of 30 CFR 936.11(b), the Secretary will consider removing that condition. If the rules are found to be incomplete, or to contain deficiencies, the Secretary would then proceed, as outlined above, to provide Oklahoma an extension (until May 15, 1983) to resubmit its rules. In that event, an additional opportunity for public comment would also be provided.

IV. Other Information

On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining (OSM) an exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve, State regulatory programs, actions, or amendments. Therefore, this action is exempt from preparation of a Regulatory Impact analysis and regulatory review by OMB.

The Secretary has determined that pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this action.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 30 CFR 936

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

PART 936—OKLAHOMA

Accordingly, 30 CFR Part 936 is proposed to be amended as set forth herein.

Dated: June 16, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

1. The Authority Citation for Part 936 is

(Sec. 503, Pub. L. 95–87, 91 Stat. 407 (30 USC 1253).)

936.11 [Amended]

2. In Part 936, § 936.11 is proposed to be amended by substituting "May 15, 1983" for "May 15, 1982," each time the latter date appears.

[FR Doc. 82-17127 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-05-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[Gen. Docket 79–144]

Responsibility of the Commission To Consider Biological Effects of Radiofrequency Radiation When Authorizing the Use of Radiofrequency Devices; Potential Effects of a Reduction in the Allowable Level of Radiofrequency Radiation on FCC Authorized Communications Services and Equipment; Order Extending Time for Filing Comments and Replies

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comments/reply period.

SUMMARY: In response to a filed motion, the Office of Science and Technology has extended the period for comments and reply comments in Docket 79–144, concerning "Responsibility of the Federal Communications Commission to consider biological effects of radiofrequency radiation when authorizing the use of radiofrequency devices; Potential effects of a reduction in the allowable level of radiofrequency radiation on FCC authorized communications services and equipment."

DATES: Comments must be submitted on or before August 16, 1982. Reply comments must be submitted on or before October 18, 1982.

ADDRESS: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Dr. Robert F. Cleveland, Federal Communications Commission, Office of Science and Technology, 2025 M Street, N.W., Room 7336, Washington, D.C. 20554, (202) 632–7073.

In the matter of Responsibility of the Federal Communications Commission to consider biological effects of radiofrequency radiation when authorizing the use of radiofrequency devices. Potential effects of a reduction in the allowable level of radiofrequency radiation on FCC authorized communications services and equipment.

Order Extending Time for Filing Comments and Reply Comments

Adopted: June 14, 1982.

Released: June 15, 1982.

1. On June 7, 1982, the Association for Broadcast Engineering Standards, Inc. (ABES), pursuant to § 1.46 of the Commission's Rules and Regulations, 47 CFR 1.46, filed a motion to extend the time for filing comments and reply comments to August 16, 1982 and October 18, 1982, respectively, in the above-captioned matter.

2. The petitioner indicates that "[b]ecause of the magnitude and scope of the underlying technical studies and the demands on the time of ABES officers of other, equally presssing proceedings, we find it necessary to request this brief extension. ABES believes that the grant of the extension requested herein will not unduly delay Commission action in this rule making proceeding. On the contrary, the additional time can be well used by ABES and other interested parties in the preparation of comments which will be more concise and of greater value to the record herein."

3. Although not mentioned by the petitioner, another matter has arisen which justifies an extension of time for comments. On May 28, 1982, the Occupational Safety and Health Administration (OSHA) of the U.S. Department of Labor published in the **Federal Register** (47 FR 23477) a notice of its proposal to revoke its advisory standard for exposure of workers to nonionizing radiation. Since the Commission's Notice of Proposed Rule Making in the above-captioned matter relies on the OSHA standard for guidance, this recent development could impact the Commission's proceeding. Therefore, it is reasonable that respondents be given additional time to modify their comments, if necessary, to reflect this recent development.

4. It is not the policy of the Commission routinely to grant extensions of time. However, we believe that the complexity and far-reaching consequences of this matter require full and complete comments to guide the Commission in its decision.

5. Accordingly, it is ordered, pursuant to § 0.241(d) of the Commission's Rules and Regulations, that the date for filing comments in this proceeding be extended to August 16, 1982. The date for filing reply comments is extended to October 18, 1982.

Federal Communications Commission.

Robert S. Powers,

Deputy Chief Scientist.

[FR Doc. 82-17074 Filed 6-23-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-321; RM-4051]

FM Broadcast Stations in Canyon, Tex.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to substitute commercial FM Channel 300 for Channel 296A at Canyon, Texas, in response to a request from Canyon Broadcasting, Inc., licensee of Station KHBQ-FM in Canyon. Also the license is proposed to be modified to specify the new channel.

DATES: Comments must be filed on or before August 2, 1982, and reply comments on or before August 17, 1982.

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

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Broadcast Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (Canyon, Texas); BC Docket No. 82-321, RM-4051.

Adopted: June 14, 1982.

Released: June 17, 1982.

1. Canyon Broadcasting, Inc. ("petitioner"), licensee of Stations KHBJ(AM) and KHBQ(FM), Canyon, Texas, filed with the commission a request to substitute Class C FM Channel 300 for FM Channel 296A in Canyon and to modify the license of Station KHBQ to specify operation on Channel 300. Petitioner filed its request as a counterproposal in BC Docket No. 81-583, a rule making proceeding to add a sixth commericial FM assignment to Amarillo, Texas.

2. Petitioner states that the city limits of Canyon and Amarillo are only 9.4 miles apart and that its station provides principal city coverage to Amarillo, Texas. Petitioner further states that all of the FM stations in Amarillo are Class C stations and that for Station KHBQ to be viable and effectively compete with them it needs to be upgraded from a Class A to a Class C channel.

3. Canyon (population 10,724) [1] is the seat of Randfall County (population 75,062) and is located approximately 24 kilometers (15 miles) south of Amarillo. The population of Canyon is said to have increased 28 percent since the 1970 Census. Canyon is the home of West Texas State University with an enrollment of 6,400 students.

4. Canyon has two commercial local broadcast services, *i.e.*, KHBJ (AM daytime only) and KHBQ(FM). Canyon also receives service from stations licensed to Amarillo. Petitioner states that its existing Class A station covers an area of approximately 708 square miles with a population of 138,000, whereas operating on a Class C channel, it would cover approximately 3,509 square miles with a population of 169,078.

5. Petitioner contends that Canyon and Amarillo should be considered the same market and that a Class C channel should be assigned as petitioner proposes so that Station KHBQ can compete with the other Class C stations in the market.

6. According to petitioner, the assignment of Channel 300 to Canyon would cause preclusion on Channels 297, 298, 299 and 300 in a number of communities with a population over 1,000. Petitioner fails to name the communities or list alternative channels.

7. As for petitioner's request for a modification of license, it is the Commission's established policy that, when a superior Class C channel is substituted for a Class A channel on which it is operating the public interest is best served by affording other interested parties an equal opportunity to file an application and be given consideration for the new channel. *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976). Only in the absence of an expression of interest by the comment deadline could the modification take place.

8. In view of the petitioner's showing herein, we believe that it is appropriate to solicit comments on the proposed amendment of the FM Table of Assignments, § 73.202(b) of the Commission's Rules as follows:

City	Channel No.	
	Present	Proposed
Canyon, Texas	296A	300

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference here.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Interested parties may file comments on or before August 2, 1982, and reply comments on or before August 17, 1982, and are advised to read the Appendix for the proper procedures.

11. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 198– do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

12. For further information concerning this proceeding, contact Philip S. Cross, Broadcast Bureau, (202) 632-5414. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitute an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who file the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule

[1] Population figures are taken from the 1980 U.S. Census, Advance Report.

Making to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in the Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-17073 Filed 6-23-82; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 47, No. 122
Thursday, June 24, 1982

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

Agricultural Marketing Service

[Marketing Agreement 146]

Budget of Expenses of Administrative Committee and Rate of Assessment for the 1982 Year

Pursuant to Marketing Agreement 146, regulating the quality of domestically produced peanuts (30 FR 9402), and upon recommendation of the Peanut Administrative Committee established pursuant to such agreement and other information, it is hereby found and determined that the expenses of said Committee and the rate of assessment applicable to peanuts produced in 1982 and for the crop year beginning July 1, 1982, shall be as follows:

(a) *Administrative expenses.* The budget of expenses for the Committee for the crop year beginning July 1, 1982, shall be in the total amount of $630,000, such amount being reasonable and likely to be incurred for the maintenance and functioning of the Committee, and for such purposes as the Secretary may, pursuant to the provisions of the marketing agreement, determine to be appropriate.

(b) *Indemnification expenses.* Expenses of the Committee for indemnification payments, pursuant to the Terms and Conditions of Indemnification Applicable to 1982 Crop Peanuts, effective July 1, 1982, are estimated at, but may exceed $3.5 million, such amount being reasonable and likely to be incurred.

(c) *Rate of assessment.* Each handler shall pay to the Peanut Administrative Committee, in accordance with § 48 of the marketing agreement, an assessment of the rate of $1.42 per net ton of farmers stock peanuts received or acquired other than those described in § 31 (c) and (d) ($0.42 for administrative expenses and $1.00 for indemnification expenses).

(d) *Indemnification reserve.* Monetary additions to the indemnification reserve, established in the 1965 crop year pursuant to § 48 of the marketing agreement, shall continue. That portion of the total assessment funds accrued from the $1.42 rate and not expended in providing indemnification on the 1982 crop peanuts shall be kept in such reserve and shall be available to pay indemnification expenses on subsequent crops.

This action has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 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.

The expenses and rate of assessment are, under the agreement, on a crop year basis and will automatically be applicable to all assessable peanuts from the beginning of such crop year. The handlers of peanuts who will be affected hereby have signed the marketing agreement authorizing approval of expenses that may be incurred and the imposition of assessments; they are represented on the Committee which has submitted the recommendation with respect to such expenses and assessment for approval; and handlers have had knowledge of the foregoing in their recent industry-wide discussions and will be afforded maximum time to plan their operations accordingly.

Dated: June 18, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 82–17091 Filed 6–23–82; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

Construction and Operation of Khapra Beetle Laboratory, Hoboken, New Jesey; Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: The Animal and Plant Health Inspection Service (APHIS) has prepared and environmental assessment for the construction and operation of a Khapra Beetle Methods Development Laboratory. Construction of this laboratory will involve altering about 2,000 square feet of interior space at the APHIS-owned Hoboken Methods Development Center, 209 River Street, Hoboken, New Jersey 07030. This assessment indicates that the proposed project will not cause any significant local, regional or national impacts on the environment. Based upon this Finding of No Significant Impact (FONSI) it has been determined that the preparation and review of an Environmental Impact Statement (EIS) is not needed for this project.

Copies of the environmental assessment have been sent to the Environmental Protection Agency and other appropriate Federal, State, and local agencies.

FOR FURTHER INFORMATION CONTACT: Copies of the environmental assessment are available upon request from Mr. Frank M. Kotulak, Head, Energy and Environmental Staff, APHIS, U.S. Department of Agriculture, Room 267, 6505 Belcrest Road, Hyattsville, Maryland 20782, Area Code (301) 436–8958.

SUPPLEMENTARY INFORMATION: Since October 1980 there have been several minor infestations of khapra beetle in the United States. Currently, these infestations are treated by chemical fumigation. In order to develop improved methods of detecting and eradicating the khapra beetle, a methods development laboratory needs to be constructed in the United States. All khapra beetle investigations are now conducted outside of the United States.

In order to prevent the accidental release of khapra beetles from the proposed laboratory several quarantine measures will be taken. The khapra beetle laboratory will be in a location with a cold winter climate and far removed from the major grain production areas. The interior walls of the khapra beetle laboratory will be seamless and all outlets, switches, receptacles and fixtures will be sealed to prevent escape of beetles. The

laboratory will have a self-contained heating and cooling system with special filters on the exhaust ducts. The small quantity of khapra beetles raised in the laboratory will be carefully controlled by count beginning with the rearing phase thru disposal. Upon completion of laboratory studies, the khapra beetles will be placed in an autoclave and destroyed.

The proposed laboratory will have no significant impact on the environment because of the type and limited nature of the research being conducted. Approximately 500 khapra beetles will be reared each day and a variety of tests will be conducted using EPA approved pesticides and fumigants. Other tests will evaluate various biological control measures. All testing will be performed in a self-contained laboratory where the release of odors and chemical fumes to the outside environment will be minimal or non-existent. Disposal of residue chemicals, pesticides and other wastes will be accomplished in full compliance with Federal, State, and local regulations.

Implementation of the proposed project will not be initiated until 30 days after publication of this notice in the **Federal Register.**

Done at Washington, DC, this 17 day of June, 1982.

Harry C. Mussman,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 82-17092 Filed 6-23-82; 8:45 am]

BILLING CODE 3410-34-M

Bird Quarantine Facility; Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: The Animal and Plant Health Inspection Service (APHIS) has prepared an environmental assessment for the construction and operation of a Bird Quarantine Facility at Miami International Airport, Florida. The proposed 21,000 square foot building will be constructed by Metropolitan Dade County and leased to APHIS. This assessment indicates that the proposed project will not cause any significant local, regional or national impacts on the environment. Based upon this Finding of No Significant Impact (FONSI) it has been determined that the preparation and review of an Environmental Impact Statement (EIS) is not needed for this project.

Copies of this environmental assessment have been sent to privately owned commercial bird quarantine facilities in the Miami area, Environmental Protection Agency, and appropriate State and local agencies.

FOR FURTHER INFORMATION CONTACT: Copies of the environmental assessment are available upon request from Mr. Frank Kotulak, Head, Energy and Environmental Staff, APHIS, U.S. Department of Agriculture, Room 267, 6505 Belcrest Road, Hyattsville, MD 20782, Area Code (301) 436-8958.

SUPPLEMENTARY INFORMATION: The environmental assessment indicates that the proposed facility will have a minimal impact on traffic, utilities, and air quality; no significant social or economic impact. Odors and noise will be largely confined to the interior of the building, and liquid wastes from the facility will be discharged into the municipal sewer system. The proposed facility will fully comply with zoning codes. No endangered species of fish, wildlife, or plants will be affected by the proposed facility and there are no recorded properties in the vicinity of the proposed facility that are on or eligible to be placed on the National Register of Historic Places.

Implementation of the proposed project will not be initiated until July 26, 1982.

Done at Washington, D.C., this 17th day of June 1982.

Harry C. Mussman,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 82-17114 Filed 6-23-82; 8:45 am]

BILLING CODE 3410-34-M

CIVIL AERONAUTICS BOARD

[Docket 40759]

Altair Airlines, Inc., Enforcement Proceeding, Compliance With Parts 241 and 250; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge Ronnie A. Yoder. Future communications should be addressed to him.

Dated at Washington, D.C., June 18, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-17144 Filed 6-23-82; 8:45 am]

BILLING CODE 6320-01-M

Orders Concerning Mail Rates

Order 82-6-89, June 15, 1982, Docket 37392, proposes final international service mail rates for the last half of calendar year 1982.

Order 82-6-95, June 15, 1982, Docket 37294, proposes final domestic service mail rates for the last half of calendar year 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. 82-17145 Filed 6-23-82; 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, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

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 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00188. Applicant: Colorado State University, Solar House 2, Fort Collins, Colorado 80523. Article: Evacuated Tube Heat Pipe Solar Collector. Manufacturer: N. V. Philips, The Netherlands. Intended use of article: The article will be used to test the performance of the heating and cooling units under actual operating conditions in a real setting with variable heating and cooling loads including day/night variations. The experiment will begin with the cooling season in June 1982 and continue through several heating and cooling seasons to evaluate the long-

term/reliability and durability of solar systems. The experiments will determine the capability of the solar energy system to heat and cool a residential-size building on a daily basis as well, and the evaluations will lead to determination of the economic feasibility of these new components in future solar energy systems in the U.S. The knowledge gained from the research in solar systems is incorporated into public information through writing of technical and non-technical books which in turn are being used to educate thousands of students throughout the country. Application received by Commissioner of Customs: May 10, 1982.

Docket No. 82–00189. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. Article: Straining Stage for EM 7 Electron Microscope. Manufacturer: Materials Management, United Kingdom. Intended use of article: The article is intended to be used in an investigation to determine the mechanism(s) of the interactions of gliding dislocations with defect loops in neutron-irradiated, pure- and O-doped-Nb single crystals having two different orientations. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00190. Applicant: University of Hawaii at Manoa, Procurement and Property Management Office, Bachman Hall Annex #3, 2444 Dole Street, Honolulu, Hawaii 96822. Article: Miniature Propeller Flowmeter. Manufacturer: Delft Hydraulic Laboratory, The Netherlands. Intended use of article: The article is intended to be used for the research project entitled, "The Effects of the Wave Induced Resultant Bottom Shear Stress on Wave Set-Up." The objective of the study is to obtain scientific information and to train graduate students. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00192. Applicant: Duke University, Marine Laboratory, Pivers Island, Beaufort, NC 28516. Article: Lipoprep Apparatus, 110 Volts AC, 60 Hz. Manufacturer: Dianorm-Gerate, West Germany. Intended use of article: The article is intended to be used for studies of transport of chemicals through membranes made of phospholipids. The chemicals will include various acids, bases, drugs, hormones, and toxic chemicals. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00193. Applicant: North Carolina State University, Purchasing Department, Box 5935, Raleigh, NC 27650. Article: Digital Oxygen Electrode System. Manufacturer: Rank Brothers, United Kingdom. Intended use of article: The article is intended to be used in research on photosynthesis and photorespiration of higher plant chloroplasts. Initial experiments will involve the regulation of glycolate synthesis (photorespiratory reaction with oxygen) by selected oxygen and carbon dioxide levels, and by the nutrient environment of the chloroplast suspension. The overall objective of the research is to develop a method for quantitative partitioning of oxygen uptake by choloroplasts among several competing biochemical reactions, using oxygen-18 as a tracer. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00196. Applicant: New York State Police Crime Laboratory, Building #22, State Campus, Albany, New York 12226. Article: Video Spectral Comparator and Accessory. Manufacturer: Foster & Freeman Ltd., United Kingdom. Intended use of article: The article is intended to be used in the detection of alterations, erasers and substitutions in evidential material, in the deciphering of charred documents and in viewing obliterated text. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00198. Applicant: Community Hospital of Indianapolis, Inc., 1500 N. Ritter Avenue, Indianapolis, Indiana 46129. Article: Electron Microscope, Model EM 109. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studying the drug effects on skeletal muscle of patients with multiple sclerosis. Experimental drugs will be used to treat patients with multiple sclerosis and it will be the purpose of the laboratory to examine skeletal muscle biopsies with ultra-thin sections to study the ultrastructural variations induced in any subcellular organelle, for example, mitochondrial changes due to drug induced variation. This will be correlated with the clinical effect of the drug on the patient to try to draw a direct correlation between causes of multiple sclerosis, drug effects on skeletal muscle and the response in patients with multiple sclerosis on these drug effects. Electron microscopy will also be used to do ultra-thin sections on benign and malignant tumors which affords the pathologist the ability to mass information regarding tissues of origin of tumors. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00199. Applicant: Yale University School of Medicine, 333 Cedar Street, New Haven, CT 06510. Article: Extracellular Patch Clamp System L/M–EPC–5 and one Electrode Holder. Manufacturer: List-Electronic, West Germany. Intended use of article: The article is intended to be used to elucidate kinetic properties, and densities of excitable channels on nerve cells. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00202. Applicant: University of Tennessee Center for the Health Sciences, Charles B. Stout, Mass Spectrometry Laboratory, 800 Madison Avenue, Memphis, Tennessee 38163. Article: FAB11NF FAB–GG Field Ion Source. Manufacturer: Ion Tech, United Kingdom. Intended use of article: The article is intended to be used for studies of biologic extracts from brain tissue, tooth pulp tissue and cerebral spinal fluid tissue in order to define molecular mechanisms involved in pain. High performance liquid chromatography will produce purified peptide fractions. After characterization and identification, quantification at the part per billion level will be performed which will allow regional mapping of molecules in brain regions. The article will also be used for educational purposes in the course "Basic Mass Spectrometry of Biologically Important Compounds." The objectives of the course include introduction of the student to basic mass spectrometry; use of mass spectrometry in biochemical, clinical, chemical, biologic experimentation; gain facility to elucidate structures and rationalize basic fragmentation processes occurring in mass spectra. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00203. Applicant: Rensselaer Polytechnic Institute, 110 Eight Street, Troy, New York 12181. Article: Excimer Laser-pumped Dye Laser System. Manufacturer: Lambda Physik GmbH, West Germany. Intended use of article: The article is intended to be used on research done for the U.S. Air Force related to the further development of solid propellant and air breathing rock propulsion systems. Unique apparatus (high-temperature fast-flow reactors) is being constructed to allow study of the kinetics of refractory free radical species involved in the rocket combustion processes. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00204. Applicant: Dartmouth College, Radiophysics Laboratory, Hanover, New Hampshire 03755. Article: Ionosonde, Model LPS–42. Manufacturer: KEL Aerospace Pty., Ltd., Australia. Intended use of article: The article is intended to be used for studies of traveling ionospheric disturbances. Research has found that these disturbances propagate over long

distances and this additional ionosonde will allow extension of the station-chain to follow them to greater distances. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00205. Applicant: Loma Linda University, School of Medicine, Department of Anatomy, Loma Linda, CA 92350. Article: Electron Microscope, Model EM 10CAS. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for observing biological material which has been fixed, dehydrated, embedded and thin sectioned. This material will include the following:

(a) Rat visual cerebral cortex and optic nerve.

(b) Rat and guinea pig pineal gland.

(c) Retina and lamina ganglionaris (optic brain) of the crab *Hemigrapsus nudus.*

(d) Pons (brachium pontis) of the rat brain stem.

(e) Meissner's corpuscles in mice.

The article will also be used by students taking a course in electron microscopy (Ahatomy 546, Electron Microscopy). Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00206. Applicant: Wayne State University, 540 E. Canfield, Detroit, MI 48201. Article: Electron Microscope, Model JEM–100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to carry out both medium as well as high resolution fine structural investigation. These biological, cytochemical and biochemical studies will be carried out by a number of vision scientists in the following areas: cornea, lens retina, and the maintenance of Visual Connections. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00207. Applicant: The Aerospace Corporation, P.O. Box 92957, Los Angeles, CA 90009. Article: Model EMG 101 Excimer Multi-Gas Laser. Manufacturer: Lambda Physics, West Germany. Intended use of article: The article is intended to be used to provide a high power, repetitive pulsed short wavelength source of coherent radiation. The short pulses (15ns) will be used for "free-framing" supersonic flow fields by employing laser-induced flourescence or laser Raman spectroscopy to study laser molecules (I_2, IF, HF) or chemical laser fuels (H_2, D_2). The high repetition rate (50Hz) will be used to do signal averaging of weak 2–d flourescent images. The high peak power will be used to perform uv multiphoton ionization on polyatomic molecules in supersonic flows and to map the dissociation fragments by spontaneous emission. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00208. Applicant: University of Texas Health Science Center, 5323 Harry Hines Boulevard, Dallas, TX 75235. Article: Dermovac Suction Blister Device. Manufacturer: Laakintasahko Instrumentarium, Finland. Intended use of article: The article is intended to be used to remove cells from the surface of normal skin to evaluate for possible reimplantation into skin areas which have suffered epithelial damage. The primary function is the non-surgical removal of viable skin cells. Use of the article will be educational in that medical residents, physicians and other personnel will study its applications for harvest of living cells, by a non-surgical method for applications in tissue culture and grafting. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00210. Applicant: U.S. Department of Energy, P.O. Box 550, Richland, Washington 99352. Article: HB501 Scanning Transmission Electron Microscope with Field Emission Source and Accessories. Manufacturer: Vacuum Generators, United Kingdom. Intended use of article: The article is intended to be used for analysis of neutron irradiated alloys and ceramics in support of U.S. programs for fast breeder and fusion reactor materials development. Other applications may include development of glass/ceramic media for nuclear waste storage and analysis of nuclear materials for defense related projects. Application received by Commissioner of Customs: May 11, 1982.

Docket Number 82–00211. Applicant: University of California, Lawrence Livermore National Laboratory, 7000 East Avenue, P.O. Box 5012, Livermore, CA 94550. Article: Ceramic Resistor Assembly. Manufacturer: Allen Bradley Electronics Ltd., United Kingdom. Intended use of article: The article is intended to be used in this country's most advanced effort to demonstrate the feasibility of the generation of usable power in a controlled thermonuclear fusion reaction. Experiments will be conducted using a constructed NOVA multi-arm laser system to obtain isentropic compression of deuterium-tritium targets to greater than 10,000 times liquid density, thereby producing for the first time in any research facility thermonuclear reaction of as many as 10 neutrons per microexplosion. Application received by Commissioner of Customs: May 11, 1982.

Docket Number 82–00212. Applicant: The Medical College of Wisconsin, Inc., 8701 Watertown Plank Road, Milwaukee, Wisconsin 53226. Article: Electron Microscope, Model JEM 100CX. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to perform medium and high resolution ultrastructural studies in a variety of cell biological areas, being performed by a number of different investigators. The phenomena to be studied will include neuromuscular junction development in rat skeletal muscles, organization and connections of primate visual system, functionally related enzymatic changes in the central nervous system, and microsomal electron transport in liver and heart. The article will also be used in training graduate students in the latest "State of the Art" ultrastructural techniques for utilization in their research studies required for masters and doctoral thesis. Application received by Commissioner of Customs: May 11, 1982.

Docket Number 82–00215. Applicant: SRI International, Physical Sciences Division, 333 Ravenswood Avenue, Menlo Park, CA 94025. Article: Pulsed Gas Laser Kits. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used for studies of reactive mixtures of fuel and oxidants. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00216. Applicant: U.S. Dept. of Agriculture, Agricultural Research Service, PPI, Insect Pathology Laboratory, Building 011A, Rm. 214, BARC–W, Beltsville, Maryland 20705. Article: Electron Microscope-TEM–SEM–STEM Analytical System. Manufacturer: Philips Electron Instruments, NVD, The Netherlands. Intended use of article: The article is intended to be used to:

(a) Study and identify microorganisms causing diseases in insects;

(b) Study the pathogenesis of insect microbial control agents in insect tissues and in insect cell cultures;

(c) Monitor and develop isolation and purification procedures for insect pathogens; and

(d) Study the effects of modifications of insect cell media on the insect cells and on insect pathogen production.

Application received by Commissioner of Customs: May 14, 1982.

Docket Number 82–00219. Applicant: National Bureau of Standards, Bldg. 223, Room B266, Washington, D.C. 20234. Article: Electron Microscope, Model EM 400T with Accessories. Manufacturer: Philips Electronic Instruments, NVD, The Netherlands. Intended use of article: The article is intended to be used to study microstructural characteristics of metals and also certain non-metals including oxides, glasses and ceramics.

It will be used extensively in a program designed to develop advanced metallurgical processing techniques. A critical part of that program is concerned with the correlation between processing variables and microstructure. Additional studies will be concerned with developing and understanding of the relationships that exist between mode of deformation, crystal structure, composition, second phase constituent type and morphology, mechanical behavior (wear, fracture, fatigue, creep), chemical behavior (corrosion, oxidation) and physical properties (electrical, magnetic, elastic). Application received by Commissioner of Customs: May 14, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-17052 Filed 6-23-82; 8:45 am]

BILLING CODE 3510-25-M

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidate decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket Number 82-00100. Applicant: Howard University, Ernest E. Just Laboratory of Cellular Biology, College of Medicine, Department of Anatomy, 520 W. Street, NW., Washington, D.C. 20059. Article: Electron Microscope, Model EM 410 and Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use of article: See Notice on page 13394 in the **Federal Register** of March 30, 1982. Article ordered: November 17, 1981.

Docket Number 82-00111. Applicant: Gladstone Foundation for Cardiovascular Disease, Gladstone Foundation Labs, 2550 23rd Street, Bldg. 40, San Francisco, CA 94110. Article: Electron Microscope, Model JEM-100CXII with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 13395 in the **Federal Register** of March 30, 1982. Article ordered: October 31, 1981.

Docket Number 82-00114. Applicant: Orlando Regional Medical Center, Inc., 1414 S. Kuhl Avenue, Orlando, Florida 32806. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: See Notice on page 13396 in the **Federal Register** of March 30, 1982. Article ordered. Application receieved by Commissioner of Customs: February 18, 1982.

Docket Number 82-00115. Applicant: Lenox Hill Hospital, 100 East 77th Street, New York NY 10021. Article: Electron Microscope, Model EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: See Notice on page 13396 in the **Federal Register** of March 30, 1982. Article ordered: January 14, 1982.

Docket Number 82-00118. Applicant: North Carolina State University, Electron Microscope Center, Raleigh, North Carolina 27650. Article: Electron Microscope, Model JEM 100S. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 13393 in the **Federal Register** of March 30, 1982. Article ordered: January 27, 1982.

Docket Number 82-00120. Applicant: South Bend Medical Foundation, 531 North Main Street, South Bend, Indiana 46601 Article: Electron Microscope, Model H-300 with Accessories. Manufacturer: Hitachi Ltd., Japan. Intended use of article: See Notice on page 13393 in the **Federal Register** of March 30, 1982. Article ordered: December 23, 1981.

Docket Number 82-00121. Applicant: University Hospitals of Cleveland, University Circle, Cleveland, Ohio 44106. Article: Electron Microscope, Model JEM 100CX. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 13393 in the **Federal Register** of March 30, 1982. Article ordered: December 20, 1981.

Docket Number 82-00127. Applicant: University of Maryland School of Medicine, Department of Neurology, 655 W. Baltimore Street, Baltimore, MD 21201. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 15819 in the **Federal Register** of April 13, 1982. Article ordered: January 20, 1982.

Docket Number 82-00130. Applicant: The University of Texas at Dallas, Biology Program, Box 688, Richardson, TX 75080. Article: Electron Microscope, Model EM 10CA and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: See Notice on page 15819 in the **Federal Register** of April 13, 1982. Application received by Commissioner of Customs: March 4, 1982.

Docket Number 82-00132. Applicant: U.S. Department of Energy, Pinellas Area Office, P.O. Box 11500, Bryan Dairy Road, St. Petersburg, FL 33733. Article: Electron Microscope, Model JEM-100CX. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 15820 in the **Federal Register** of April 13, 1982. Application received by Commissioner of Customs: March 4, 1982.

Docket Number 82-00135. Applicant: Harvard University, Department of Biochemistry, 7 Divinity Avenue, Cambridge, MA 02138. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 15820 in the **Federal Register** of April 13, 1982. Article ordered: January 25, 1982.

Docket Number 82-00138. Applicant: NASA Lewis Research Center, 21000 Brookpark Rd., Cleveland, Ohio 44135. Article: Electron Microscope, Model EM 400T and Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use of article: See Notice on page 18160 in the **Federal Register** of April 28, 1982. Article ordered: December 30, 1981.

Docket Number 82-00139. Applicant: Northwestern University Medical School, Department of Cell Biology and Anatomy, 303 East Chicago, IL 60611. Article: Electron Microscope, Model JEM 200CX/SEG and Accessory. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 18161 in the **Federal Register** of April 28, 1982. Article ordered: March 30, 1981.

Docket Number 82-00141. Applicant: University of Miami, School of Medicine, Dept. of Neurology (D4-5), P.O. Box 016960, Miami, FL 33101. Article: Electron Microscope, Model EM10CA and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: See Notice on page 18161 in the **Federal Register** of April 28, 1982. Article ordered: February 17, 1982.

Docket Number 82-00146. Applicant: Temple University, School of Dentistry, 3223 N. Broad Street, Philadelphia, PA 19140. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: See Notice on page 20837 in the **Federal**

Register of May 14, 1982. Article ordered: February 4, 1982.

Docket Number 82-00148. Applicant: U.S. Army Natick Res. & Dev. Labs., Directorate for Procurement, Attn: DRDNA-PB, Kansas St., Natick, MA 07160. Article: Analytical Electron Microscope, Model H-600-1 and Accessories. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use of article: See Notice on page 20837 in the Federal Register of May 14, 1982. Article ordered: December 29, 1981.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered.

Reasons: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-17051 Filed 6-23-82; 8:45 am]

BILLING CODE 3510-25-M

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Fair Lawn Fashions, Inc., 1424 E. Elizabeth Avenue, Linden, New Jersey 07036, producer of women's dresses, blouses, skirts, jackets and slacks (accepted May 21, 1982); (2) Plainville Engineering Specialties Corporation, 299 South Street, Plainville, Massachusetts 02760, producer of eyeglass frames (accepted May 26, 1982); (3) Allyn Manufacturing Company, Inc., Route 539, Whiting, New Jersey 08759, producer of decorative foliage products (accepted May 27, 1982); (4) Pennsylvania Wilton Carpets, Inc., 30 Galesi Drive, Wayne, New Jersey 07470, producer of woven carpeting (accepted May 28, 1982); (5) Del-Met Corporation, 44 West Street, Walton, New York 13856, producer of automotive wheel covers (accepted June 4, 1982); (6) Elm Systems, Inc., 1101 Brown Street, Wauconda, Illinois 60084, producer of machine tool components (accepted June 7, 1982); (7) Marxman Industries, Inc., 160 Georgetown Street, Hazlehurst, Mississippi 39083, producer of men's, women's and children's pants (accepted June 7, 1982); (8) Brighton-Best Socket Screw Manufacturing, Inc., 400 North Street, Teterboro, New Jersey 07608, producer of screws (accepted June 8, 1982); (9) Valtex Industries, Inc., 171 Madison Avenue, New York, New York 10016, producer of women's brassieres (accepted June 10, 1982); (10) Paul's Auto Ignition, Inc., 500 Saw Mill River Road, Yonkers, New York 10701, producer of stators for automobile alternators (accepted June 11, 1982); (11) Chelsea Clock Company, Inc., 284 Everett Avenue, Chelsea, Massachusetts 02150, producer of clocks and barometers (accepted June 14, 1982); and (12) Sol Sportswear, Inc., 4593 East 10th Avenue, Hialeah, Florida 33012 a producer of men's and boys' shirts and pants.

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Director, Certification Division, Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice. The Catalogue of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A-95 regarding review by clearinghouses do not apply.

Jack W. Osburn, Jr.,

Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 82-17056 Filed 6-23-82; 8:45 am]

BILLING CODE 3510-25-M

Certain Steel Wire Nails From the Republic of Korea; Antidumping: Final Determination of Sales at Less Than Fair Value and Exclusions From Final Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Determination of Sales at Less Than Fair Value and Exclusions from Final Determination.

SUMMARY: We have determined that certain steel wire nails from the Republic of Korea (Korea) are being, or are likely to be, sold in the United States at less than fair value. Nails manufactured by Samchok Industrial Company, Ltd., and Jin Heung Iron and Steel Co., Ltd., are excluded from this determination. The U.S. International Trade Commission ("ITC") will determine within 45 days of the publication of this notice whether these imports at less than fair value are materially injuring, or threatening to materially injure, a U.S. industry.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Steve Lim or Richard Rimlinger, Office of investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230 (202-377-1279).

SUPPLEMENTARY INFORMATION: A previous antidumping investigation on certain steel wire nails from Korea was self-initiated on April 4, 1979. The final determination made by the Department of Commerce on May 23, 1980, was that certain steel wire nails from Korea were being sold to the United States at less than fair value (45 Fed. Reg. 34941). However, on August 13, 1980, the ITC published a determination that sales of this merchandise at less than fair value were not injuring, nor were likely to injure, a U.S. industry (45 FR 53924). This ITC final negative determination ended that earlier antidumping

proceeding before the Department of Commerce.

On July 2, 1981, the Department of Commerce published a notice (46 FR 34615) announcing that, on the basis of information developed under the "Trigger Price Mechanism" (TPM) for steel mill products, we were self-initiating a new antidumping investigation to determine whether imports of certain steel wire nails from Korea are being, or are likely to be, sold at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the "Act"). The TPM was a monitoring device used by the Department of Commerce to determine those basic steel mill products most likely to be sold at less than fair value in the United States. In accordance with section 731(b) of the Act, we notified the U.S. International Trade Commission (the "ITC") of our action.

On August 17, the ITC found that there is a reasonable indication that imports of certain steel wire nails from Korea are materially injuring, or threatening to materially injure, a U.S. industry. The ITC published its determination in the **Federal Register** on August 26, 1981 (46 FR 43117).

On November 23, 1981, the Department published a notice announcing that this investigation is extraordinarily complicated and that the preliminary determination was being postponed from December 9, 1981, to no later than January 28, 1982 (46 FR 57336).

On February 3, 1982, the Department published a notice (47 FR 5028) announcing a preliminary determination of sales at less than fair value and the exclusion of one of the Korean nail producers, Samchok Industrial Company, Ltd., from this determination. The notice also indicated that the overall weighted-average margin on all sales compared was 4 percent. Subsequently, on March 19, 1982, the Department published an amendment to our preliminary determination (47 FR 11916) which indicated that we had corrected an error in our comparisons for one of the firms investigated, Jin Heung Iron and Steel Co., Ltd. As a result of the correction, that firm's weighted-average dumping margin was reduced from 2.4 to 0.19 percent which is *de minimis*, and the firm was excluded from our preliminary determination of sales at less than fair value. Also, the overall weighted-average dumping margin was reduced from 4.0 to 3.6 percent. Our preliminary determination notice gave interested parties an opportunity to submit views in writing and orally and on March 11, 1982, we held a public hearing.

Finally, on April 9, 1982, the Department published a notice (47 FR 14745) announcing that the period for our final determination was being extended, and that our final determination would be made no later that June 18, 1982.

Scope of the Investigation

The types of nails covered by this investigation are nails of one piece construction, which are made of round steel wire and which are either less than 1 inch in length and less than 0.065 inch in diameter, or 1 inch or more in length and 0.065 inch or more in diameter. Such nails are classified under items 646.25 and 646.26 of the Tariff Schedules of the United States. We investigated sales of these nails which were made by fifteen Korean producers and sold for exportation to the United States during the period of investigation, January 1, 1981, through June 30, 1981. The firms investigated were:

1. Ah Ju Steel Co., Ltd. (Ah Ju).
2. Dae-A Steel Wire Ind., Co., Ltd. (Dae-A).
3. Gaya Metal Ind., Co., Ltd. (Gaya).
4. Han Duk Ind., Co., Ltd. (Han Duk).
5. Han Kuk Steel Wire Ind., Co., Ltd. (Han Kuk).
6. Je Il Steel Co., Ltd. (Je Il).
7. Jin Heung Iron and Steel Co., Ltd. (Jin Heung).
8. Kabul Ltd. (trading for Dong-A Nails Manufacturing Co., Ltd.).
9. Korea Ill Dong Co., Ltd. (Korea Ill Dong).
10. Korea Nippon Seisen Co., Ltd. (Korea Nippon Seisen).
11. Kuk Dong Metal Ind., Co., Ltd. (Kuk Dong).
12. New Korea Nails Ind., Co., Ltd. (New Korea).
13. Samchok Ind., Co., Ltd. (Samchok).
14. The Tan's Metal Ind., Co., Ltd. (Tan's Co.).
15. Young Sin Metal Ind., Co., Ltd. (Young Sin).

Sales by the above firms accounted for approximately 85 percent of all nail sales to the United States during the period of investigation.

Methodology of Fair Value Comparisons

In making fair value comparisons for Dae-A, Jin Heung, Kuk Dong, New Korea, and Samchok we compared U.S. price based on purchase price with foreign market value based on home market price. In the case of Korea Nippon Seisen, we determined that the special rule for certain multinational corporations, section 773(d) of the Act, was applicable, and so we sought the foreign market value of nails sold in Japan by its related company, Nippon Seisen Co., Ltd. Nippon Seisen did not provide the requested information so we compared U.S. price based on purchase price with the best information otherwise available regarding foreign market value in Japan (information supplied under the TPM). For all other firms investigated, there were insufficient sales above cost in either the home market or to third countries to provide an adequate basis for comparison, so we compared U.S. price based on purchase price with foreign market value base on the contructed value of the imported merchandise.

U.S. Price

All Korean producers sold nails either directly to unrelated U.S. importers or to unrelated trading companies which sold to U.S. importers. Since the price of nails to unrelated United States importers was agreed to before the nails were imported into the United States, we used purchase price as defined in section 772(b) of the Act as the U.S. price for all firms investigated.

We calculated purchase price on the basis of the FOB, C&F, or CIF prices to U.S. importers, or, where appropriate, to the trading companies which resold to U.S. importers. We made deductions for all shipping and port charges.

Foreign Market Value

In the cases of Dae–A, Jin Heung, Kuk Dong, New Korea, and Samchok, there were sufficient sales in the home market above the cost of production to allow us to use home market price, as provided in section 773(a)(1)(A) of the Act, to determine foreign market value. We calculated home market price on the basis of the delivered or ex-factory prices to unrelated home market customers. Where appropriate, we deducted shipping charges and adjusted for differences in payment terms and physical differences between domestic and export nails. We also adjusted for differences between domestic and export packing.

In calculating our weighted-average home market price we took into consideration section 773(b) of the Act, which directs that sales below cost, which are made over an extended period of time, in substantial quantities and at prices which do not permit recovery of all costs over a reasonable period of time, will be disregarded. In this investigation we have followed the precedent established in the 1977–78 investigations involving carbon steel plate and welded stainless steel pipe and tubing from Japan in which sales below cost were disregarded when they amounted to 10 percent or more of total home market sales during the

investigative period (but without there being sufficient sales below cost to disregard home market sales as a basis for foreign market value).

Korea Nippon Seisen, which is located in the Masan Free Trade Zone and is wholly owned by a Japanese firm that also has nail producing facilities in Japan, is subject to the special rule for certain multinational corporations, section 773(d) of the Act, which states:

> Whenever, in the course of an investigation under this title, the administering authority determines that—
>
> "(1) Merchandise exported to the United States is being produced in facilities which are owned or controlled, directly or indirectly, by a person, firm or corporation which also owns or controls, directly or indirectly, other facilities for the production of such or similar merchandise which are located in another country or countries;
>
> "(2) The sales of such or similar merchandise by the company concerned in the home market of the exporting country are nonexistent or inadequate as a basis for comparison with the sales of the merchandise to the United States; and
>
> "(3) The foreign market value of such or similar merchandise produced in one or more of the facilities outside the country of exportation is higher than the foreign market value of such or similar merchandise produced in the facilities located in the country of exportation,
>
> It shall determine the foreign market value of such merchandise by reference to the foreign market value at which such or similar merchandise is sold in substantial quantities by one or more facilities outside the country of exportation.

We attempted to obtain information from a related Japanese nail producer, Nippon Seisen Co., Ltd. (Nippon Seisen), Osaka, Japan, concerning the cost of production and prices of nails sold in the Japanese home market. However, Nippon Seisen did not respond to our request for this information. Section 776(b) of the Act states that whenever any party refuses or is unable to produce information requested, the Commerce Department may use the best information otherwise available for determining the existence of less than fair value sales. We have used the relevant trigger prices for steel wire nails as the best available information of the foreign market value for nails produced by Nippon Seisen in Japan. We determined that the relevant trigger prices were those for the first and second quarter of 1981. We later adjusted our first quarter trigger prices downward by nine percent. Since these trigger prices are greater than the foreign market value which would otherwise be used for Korea Nippon Seisen, section 773(d) is applicable. Therefore, we compared the purchase price to the foreign market value of Nippon Seisen in Japan, as represented by trigger prices. Furthermore, since Nippon Seisen failed to supply cost data, we made no adjustments to trigger prices to reflect differences in the cost of production between Japan and Korea.

With respect to all remaining firms investigated, we used constructed value, as defined in section 773(e) of the Act, to determine the foreign market value of the nails. Only one of these companies, Dong-A, had adequate sales of such or similar merchandise in the home market or to third countries. The one exception, Dong-A (which sold nails to the United States using the name of its parent firm Kabul, which is a Korean trading company), had sales of this merchandise in the home market. However, there were insufficient sales above the cost of production to use home market sales as the basis of foreign market value.

Therefore, in accordance with section 773(e), we calculated constructed value by adding raw material costs, fabrication costs, general expenses, profit and packing costs. For materials, fabrication and packing costs, we used each firm's actual cost figures. These cost items were broken-down on a quarter-by-quarter basis. During the verifications, we determined that there was at least a one quarter lead time from the time materials are delivered to the factory to the time finished nails are exported to the United States. Therefore, we used the material and fabrication costs one quarter prior to the quarter in which merchandise sold to the United States was exported. For general expenses, we used each firm's actual cost figures allocated over its respective nail production. In cases in which the actual general expenses were less than the statutory minimum amount of 10 percent of the total cost for materials and fabrication, we used 10 percent for general expenses. We calculated profit on the basis of the statutory minimum of 8 percent of materials, fabrication and general expenses. We used the statutory minimum profit, because data submitted by the Korean producers indicated that the usual profit on sales of this merchandise in the Korean home market was less than the statutory minimum.

In calculating foreign market value, we made currency conversions from Korean won to U.S. dollars using certified daily rates compiled by the Federal Reserve Bank of New York for this case.

Verification

We verified, to the extent possible, all information used in making this final determination. We were granted access to the books and records of the fifiteen foreign manufacturers investigated and Kabul, a related company trading for Dong-A. We used standard verification procedures, including on-site inspection of the manufacturers' operations and examination of accounting records and rendomly selected documents containing relevant information.

Results of Investigation

We made fair value comparisons on approximately 86 percent of the total sales to the United States made by the fifteen manufacturers under investigations. We found margins on 42 percent of the sales compared. The margins range from 0.1 to 55.7 percent. The overall weighted-average margin on all sales compared is 3.8 percent. On a firm-by-firm basis, the results for the purposes of this determination are as follows:

Manufacturers	Percent of sales compared	Percent of comparisons with dumping margins	Percent weighted-average margin on all sales compared
Ah-Ju	77.2	38.5	2.1
Dae-A	100	40.3	1.1
Gaya	99.0	96.9	13.0
Han Duk	81.6	31.1	0.6
Han Kuk	86.2	44.6	3.8
Je IL	77.5	11.2	0.6
Jin Heung	100	1.1	0.1
Kabul or Dong-A	69.8	52.5	6.1
Korea ILL Dong	93.4	62.9	3.0
Korea Nippon Seisen	97.6	100	25.8
Kuk Dong	82.6	74.1	5.4
New Korea	85.4	10.4	0.6
Samchok	97.3	0	0
Tan's Co.	97.3	3.5	0.7
Young Sin	100	100	6.3

Since Samchok had no sales at less than fair value, and Jin Heung's weighted-average margin was only 0.1 percent which is *de minimis,* both firms are excluded from this final determination of sales at less than fair value.

Issues

The major, outstanding issues raised at our public hearing of March 11, 1982, and in the written comments submitted, are as follows:

Issue

Both counsel for the domestic industry and respondents objected to the use of unofficial average monthly exchange rates to make currency conversions for the preliminary determination.

DOC position

Section 353.56(a), Commerce Regulations (19 CFR 353.56(a)), requires all foreign currency conversions to be made in accordance with the provisions of section 522 of the Act (31 U.S.C. 372).

Section 522 essentially requires the Department to utilize rates as certified by the Federal Reserve Bank of New York (FRB). At the time of the preliminary determination, the FRB had not yet completed the certification of won-dollar exchange rates. To make necessary conversions, we relied on unofficial average monthly rates which were supplied to the Department by the FRB and used as the best available information. Subsequent to the preliminary determination, we received certified conversion rates from the FRB. All currency conversions for this final determination have been made using the FRB certified rates.

Issue

Counsel for the respondents has objected to the Department excluding home market sales made below cost by Kabul, Kuk Dong, and North Korea from the computation of fair value, and counsel for the domestic industry has objected to the Department including home market sales made below cost by Dae-A, and Samchok in the computation of fair value.

DOC position

In calculating weighted average home market prices, the Department took into consideration the provisions of section 773(b) of the Act which directs that home market sales below cost which are made over an extended period of time and in substantial quantities at prices which do not permit recovery of all costs over a reasonable period of time will be disregarded in the determination of foreign market value. Section 773(b) further states that:

> Whenever sales are disregarded by virtue of having been made at less than the cost of production and the remaining sales, made at not less than cost of production, are determined to be inadequate as a basis for the determination of foreign market value * * * the administering authority shall employ the constructed value of the merchandise to determine its foreign market value.

Thus, there are two stages in the calculation of foreign market value where there are sales below cost. First, the Department must determine whether to disregard below-cost sales. Second, if it does disregard them, it must determine whether the remaining, above-cost sales provide an adequate basis for comparison.

In determining whether to disregard below-cost sales, we have followed the precedent set in the 1977–78 antidumping investigations involving carbon steel plate and welded stainless pipe and tubing from Japan in which, for the steel industry, sales below cost were disregarded when they amounted to 10 percent or more of total home market sales. In the cases of Kabul, Kuk Dong, and New Korea, more than 10 percent of total home market sales were below cost, so below-cost sales were disregarded in the computation of foreign market value. With respect to Kabul, disregarding home market sales below cost left insufficient sales above cost to form an adequate basis for the determination of foreign market value, so the Department used the constructed value of the merchandise to determine the foreign market value of nails exported by Kabul. In the cases of Dae-A and Samchok, less than 10 percent of total home market sales were below cost, so none of the below-cost sales were disregarded in the computation of foreign market value.

Issued

Counsel for domestic industry has contended that where Korean firms have limited and unrepresentative home market sales, constructed value should be used in determining fair value. In the cases of New Korea, Jin Heung and Kuk Dong, home market sales price was used to determine foreign market value even though each of these companies sold less than 10 percent of its nails in the home market. Moreover, the nails sold in Korea are bright nails principally; sales to the U.S. included coated and galvanized nails, as well.

DOC position

In past cases, including the previous antidumping investigation involving certain steel wire nails from Korea, home market or third country sales amounting to 5 percent or more of the quantity shipped to the United States were considered to be an adequate basis for determining foreign market value. In the final determination notice for the previous nail investigation (45 FR 34942), the following statement was made:

> The use in this case of the 5% benchmark for deciding whether sales to the home market or to third countries are adequate for determining foreign market value does not establish a rigid rule of general application. The 5% benchmark does provide a guideline from which our analysis begins but in some cases there may be particular facts that require another result in order to implement the purposes of the Act. In this case there are no such special facts.

In this investigation, as in the previous one, we have concluded there are no special facts and have continued to use the 5 percent guideline to determine whether home market sales were an adequate basis for determining foreign market value. Furthermore, our 5 percent guideline is applied to the aggregate of all such or similar merchandise sold during the period under investigation. Since we considered bright, coated and galvanized nails to be such or similar merchandise within the meaning of section 771(16) of the Act, all sales of these nails were considered on an aggregate basis.

Issue

Counsel for respondents claims that the Department erred in not allowing claimed interest expense adjustments for Jin Heung and Kuk Dong which are attributable to differences in payment terms between U.S. and home market sales.

DOC position

It is the Department's policy to make this adjustment only if the respondent can demonstrate that its total actual short-term interest expense is not less than the amount claimed. Since the preliminary determination, both Jin Heung and Kuk Dong have demonstrated this through supporting documentation and we have made the adjustment for both firms in reaching this final determination.

Issue

Counsel for respondents and counsel for a U.S. importer, So-Cal Commercial and its DBA, Commercial Steel Co. (So-Cal) of Los Angeles, Ca., have contested the failure of the Department to adjust trigger prices, which were used to compute foreign market value for Korea Nippon Seisen, to take into account differences in the cost of production between Japan and Korea.

Counsel for So-Cal further contests the failure of the Department to adjust first-quarter 1981 trigger prices downward based on data received by the Department indicating that these prices were overstated.

DOC position

Pursuant to the requirements of section 773(d) of the Act, the Department attempted to obtain home market sales data and cost of production data from the related Japanese firm, Nippon Seisen. Since Nippon Seisen did not respond to our request for information, we were forced to use trigger prices as the best information otherwise available of that firm's sales prices in Japan.

Section 773(d) provides that the Department shall make adjustment for differences between the costs of production of the merchandise under investigation in the plants of the

respondent firm in the country of exportation and in the plants of the related company in plants outside the country of exportation "* * * if such differences are demonstrated to its satisfaction." Since Nippon Seisen failed to provide cost information, there is no way for us to know what the cost differences are between Korea Nippon Seisen and Nippon Seisen, and thus no way for such differences to be demonstrated to our satisfaction.

Use of trigger price component data as the basis for such an adjustment, as suggested by repondents, would be improper. The trigger price data is aggregate in nature while section 773(d) clearly requires company-specific comparisons (between facilities of related firms in different countries). Additionally, acceptance of respondent's contention would result in the use of Korea Nippon Seisen's reported Korean costs (the measure of foreign market that would have been used if section 773(d) had not been applicable). To allow a respondent to benefit from a failure to provide required costs and price information would frustrate the statutory scheme of section 773(d).

With respect to the first-quarter 1981 trigger prices, the Department has concluded that a nine percent reduction is warranted in accordance with the Department's trigger price revision notice of February 26, 1981 (46 FR 14284), which stated:

> The base trigger price for wire nails for second-quarter 1981 will be $477, $46 lower than their first-quarter levels. Wire nail trigger prices for previous quarters were estimated from the trend in the costs of the intergrated producers. This method significantly overstated the increase in the cost of producing wire nails. Prices for the second quarter are based on production costs supplied by the five major Japanese wire nails producers.

Accordingly, we have adjusted first-quarter trigger prices downward by nine percent for purposes of this final determination.

Issue: Counsel for domestic industry contends that the Department incorrectly computed foreign market value by failing to account for differences in quality between nails exported to the U.S. and nails sold in the home market.

DOC position: Of those Korean firms with home market nail sales, only Kuk Dong was found to have more significant quality control tolerances for export nails than for home market nails. The cost differences attributable to Kuk Dong's quality control procedures were duly reflected in the adjustments we made for differences in the merchandise between export and domestic nails.

Issue: Counsel for domestic industry asserts that the Department's verifications fail to explain wide differences among the cost figures reported by the Korean firms and raise questions concerning the reliability of the information provided.

DOC position: In certain instances, domestic counsel's citings of cost variances were not entirely accurate. For example, in citing the range of prices paid for rod, the high price cited represented a purchase of wire, not rod. Also, the variations in the cost figures reported to the Korean firms reflect different business practices and degrees of efficiency which are normal within any given industry. Based on our verification of the submitted cost figures, we were satisfied that the information provided was credible.

Issue: Counsel for domestic industry asserts that a 90-day lead time used by the Department to calculate the material and fabrication cost elements of constructed value was excessive, and that a one-and-a-half months lead time was more proper.

DOC position: During verification, Department officials established from source documents of the Korean manufacturers that on the average a period of approximately 90 days elapses between the time materials are delivered to the factory to the time a finished product is exported. Since fabrication costs can begin immediately after delivery of materials, we also applied a 90-day lead time to this cost element as well. However, since fabrication costs did not vary significantly from quarter to quarter, there would have been virtually no change in constructed value if we applied a shorter lead time in calculating fabrication costs. We believe that a 90-day lead time is not excessive.

Final Determination

Based on our investigation and in accordance with section 735(a) of the Act, we have reached a final determination that, with the exception of those nails produced by Jin Heung and Samchok, certain steel wire nails from Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act.

Continuation of Suspension of Liquidation

Liquidation will continue to be suspended on all entries of nails, with the exception of those nails produced by Jin Heung and Samchok, which are entered into the United States, or withdrawn from warehouse, for consumption. The U.S. Customs Service will continue to require the posting of a cash deposit bond, or other security for all entries of nails from Korea except for nails produced by Jin Heung and Samchok, in the amount of the weighted-average margin of the FOB price for the listed firms investigated and 3.8 percent of the FOB price for all other Korean producers. The security amounts established in our preliminary determination of February 3, 1982, are no longer in effect.

ITC Notification

We are notifying the ITC and making available to it all nonprivileged and nonconfidential information relating to this determination. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue an antidumping order, directing Customs officers to assess an antidumping duty on certain steel wire nails from Korea (with the exception of those nails produced by Jin Heung and Samchok) entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the United States price. This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Gary N. Horlick,

Acting Assistant Secretary for Trade Administration.

June 18, 1982.

[FR Doc. 82-17146 Filed 6-23-82; 8:45 am]

BILLING CODE 3510-25-M

Yale University; Decision on Application for Duty-Free Entry of Scientific Article

Correction

In FR Doc. 82-16366, published on page 26179, on Thursday, June 17, 1982, in the first column, in the third paragraph, in the first line, "Docket No.

92–00037." should be corrected to read "Docket No. 82–00037."

BILLING CODE 1505-01-M

Preliminary Affirmative Countervailing Duty Determination for Certain Steel Wire Nails From the Republic of Korea

June 18, 1982.

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary affirmative countervailing duty determination.

SUMMARY: We have preliminarily determined that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in the Republic of Korea (Korea) of certain steel wire nails (nails) as described in the "Scope of the Investigation" section of this notice. The estimated net subsidy is 3 percent of the FOB value of the imported merchandise. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries, of merchandise, entered or withdrawn from warehouse, for consumption of nails and to require a cash deposit, bond, or other security in an amount equal to the estimated net subsidy.

If this investigation proceeds normally, we will make our final determination by September 1, 1982.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Richard Rimlinger, Steven Lim, or Mary Jenkins, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377–1276.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we have preliminarily determined that there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in Korea of certain steel products, as described in the "Scope of Investigations" section of this notice. The following programs are preliminarily found to be subsidies: (1) preferential export financing; (2) preferential tax incentives; (3) special benefits for manufacturers located in the Masan Free Export Zone; and (4) preferential wire rod rates. We estimated the net subsidy to be 3 percent of the FOB value of the imported merchandise.

Case History

On January 19, 1982, we received a petition from counsel for Armco Inc., and Tree Island Steel, Inc., and from counsel for Atlantic Steel Co., Florida Wire and Nails, New York Wire Nails, and Virginia Wire and Fabric, on behalf of the U.S. industry producing certain steel wire nails. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided directly or indirectly to the manufacturers, producers, or exporters in Korea of nails.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on February 12, 1982, we published a notice of "Initiation of Countervailing Duty Investigations" in the **Federal Register** (47 FR 6458). We stated that we expected to issue a preliminary determination by April 14, 1982. We subsequently determined that the investigation is "extraordinarily complicated." As defined in section 703(c) of the Act, and on March 30, 1982, we postponed our preliminary determinations for 65 days, until June 18, 1982 (47 FR 13392). On March 5, 1982, the U.S. International Trade Commmission (ITC) found that there is a reasonable indication that these imports of certain steel wire nails from Korea are materially injuring, or threatening to materially injure, a U.S. industry. The ITC published its determination in the **Federal Register** on March 16, 1982 (47 FR 11336).

We presented questionnaires concerning the allegations to the government of Korea in Washington, D.C. By April 23, 1982, we had received responses from the government of Korea, and fourteen Korean nail manufacturers which are believed to account for all current nail exports to the United States.

An antidumping investigation involving this merchandise, which was initiated by the Department on July 2, 1981 (46 FR 34615), resulted in a preliminary determination of sales at less than fair value (with two nail producers excluded), which was published in the Federal Register on February 3, 1982 (47 FR 5028), and amended on March 19, 1982 (47 FR 11916). A final determination in that case is due no later than June 18, 1982.

Scope of the Investigation

The merchandise covered by this investigation are nails of one piece construction, which are made of round steel wire and which are either less than 1 inch in length and less than 0.065 inch in diameter, or 1 inch or more in length and 0.065 inch or more in diameter. Such nails are currently classified under items 646.25 and 646.26 of the Tariff Schedules of the United States, respectively.

The period covered by our investigation is 1981. In addition to receiving a questionnaire response from the government of Korea, we have also received questionnaire responses from the following fourteen Korean producers:

Ah Ju Steel Co., Ltd. (Ah Ju)
Dae-A Steel Wire Ind., Co., Ltd. (Dae-A)
Gaya Metal Ind., Co., Ltd. (Gaya)
Han Duk Ind., Co., Ltd. (Han Duk)
Han Kuk Ind., Co., Ltd. (Han Kuk)
Hyung Jin Ind., Co., Ltd. (Hyung Jin)
Je Il Steel Co., Ltd. (Je Il)
Jin Heung Iron and Steel Co., Ltd. (Jin Heung)
Kabul Ltd. (Kabul-trading for Dong-A Nail Mfg., Co., Ltd. (Dong-A))
Kuk Dong Metal Ind., Co., Ltd. (Kuk Dong)
New Korea Nails Ind., Co., Ltd. (New Korea)
Samchok Ind., Co., Ltd. (Samchok)
The Tan's Metal Ind., Co., Ltd., (Tan's Co.)
Young Sin Metal Ind., Co., Ltd., (Young Sin)

Of the firms listed above, only Hyung Jin was not included in our current antidumping investigation involving nails from Korea. Two other firms involved in the antidumping investigation, Korea Ill Dong Co., Ltd., and Korea Nippon Seisen Co., Ltd., are no longer in business.

Analysis of Programs

The following programs were alleged in the petition to be subsidies: (1) Preferential export financing; (2) preferential tax incentives; (3) special benefits for manufacturers located in the Masan Free Export Zone; (4) preferential wire rod rates; (5) preferential utility rates; (6) tariff incentives; and (7) favorable foreign currency exchange rates. Based on our experience in other Korean cases, we also included in our investigation the Foreign Capital Inducement Law, which provides benefits to companies which are wholly, or partially, foreign-owned.

In their responses, the government of Korea and the fourteen Korean nail producers provided data for the applicable period. Based upon our preliminary analysis of the petition and responses to our questionnaires, we have preliminarily determined the following:

Programs Preliminarily Determined To Be Subsidies

We have preliminarily determined that subsidies are being provided to manufacturers, producers, or exporters

in Korea of certain steel wire nails under the programs listed below.

Preferential Export Financing

Under the "Regulations for Export Financing," promulgated by the Korean government on February 25, 1972, short-term financing of up to 90 days is provided to exporters at interest rates which are less than the generally available commercial rates. During 1981, the interest rate for short-term export financing was 12 percent (27 percent if late payment is made), as opposed to normal commercial rates, which ranged between 15–20 percent for most of 1981. This rate also varies depending on the credit rating of the borrower. Medium and long-term loans are said not to be available to exporters at preferential interest rates.

Export financing is available for production expenses and for the purchase of raw materials for export production. A loan ceiling for short-term export loans is established based upon the value of a company's total exports in a preceding period.

The government's response indicates that financing is provided by individual private foreign exchange banks and not by the Korean government. The response states that the banks act autonomously in conformance with the regulations. We preliminarily determine that, regardless of the private ownership of the banks, this program is countervailable because the preferential financing is the direct result of a government mandate.

All firms investigated, with the exception of Young Sin, took advantage of this program. In order to calculate the amount of the benefit to each nail producer, we computed the total difference between the amount of interest paid on all export loans which were transacted in 1981, and the amount of interest that the firm would have had to pay on a comparably timed and sized loan under normal commercial financing. The amount of the total benefit received under this program was divided by that firm's total value of export sales for 1981 to determine the *ad valorem* subsidy to that firm. On an overall basis we found that the net benefit to the Korean nail industry, attributable to this program, was 0.35 percent of the FOB value of the imported merchandise.

Preferential Tax Incentives

Article 51 of the Korean Enforcement Decree to the Corporate Tax Law permits a firm earning more than 50 percent of its total proceeds from foreign exchange to increase its normal depreciation by 30 percent. In addition, Article 12 of the Corporate Tax Law provides for the deduction from taxable income of a number of different reserves relating to export activities.

Although none of the individual nail producers under investigation reported using the accelerated depreciation provision based upon export exchange earnings, several firms did report using reserve funds for export losses and overseas market exploration expenses.

Under the program governing export losses, a corporation engaged in export or tourist activities may establish a reserve amounting to one percent of foreign exchange earnings, or 50 percent of net income in the applicable period, whichever is smaller. If certain export losses occur, they are offset from the reserve funds. If there are no offsets for export losses, the reserve is credited to income and taxed, after a one-year grace period, over a three-year period. Under the program governing overseas market exploration expenses, a corporation engaged in export activities may establish a reserve fund amounting to one percent of its foreign exchange earnings in the export business for the respective business year. Expenses incurred in exploring overseas markets are offset from the reserve fund. As in the case of the export loss reserve fund, if there are no offsets for expenses the reserve is credited to income and taxed, after a one-year grace period, over a three year period.

The balance in both reserve funds is not subject to corporate tax, although all moneys in the reserve funds are eventually reported as income and subject to corporate tax either by means of offsetting export losses or by the expiration of the one-year grace period. Both programs serve as an interest free loan to the corporation of the tax savings on these funds. Accordingly, we have quantified the benefits from these reserve funds to each applicable nail producers by calculating the amount of taxes that normally would be due on these funds under Korean law, and applying a rate of interest which the firm would have had to pay on a comparably timed and sized loan under normal commercial financing. The amount of the total benefit received under this program was divided by that firm's total value of export sales for 1981 to determine the *ad valorem* subsidy to that firm. Of the firms investigated, only Han Kuk, Kabul, and Samchok reported using either or both reserve funds. Although Young Sin's response indicated that the firm had not benefited from these programs, its 1981 balance sheet indicated both export loss and overseas market development reserves. We have therefore calculated an estimated subsidy for Young Sin based on best available information. The export reserve fund programs resulted in a total subsidy to the nail industry of 0.09 percent of the FOB value of the imported merchandise.

Masan Free Export Zone

The government's response indicates that the benefits granted to firms located in the Masan Free Export Zone are, essentially, tax incentives of a temporary nature. Of the fourteen nail firms investigated, only Ah Ju, Gaya, Han Duk, and Je Il are located in the Masan Free Export Zone. Han Duk is the only firm to report a benefit by reason of its location in Masan. The firm received a tax exemption which amounted to only 0.01 percent of the FOB value of the imported merchandise.

Preferential Wire Rod Rates

Petitioners alleged that the Pohang Iron and Steel Co., Ltd. (POSCO), which is largely government owned, was selling wire rod to Korean nail producers at preferential prices, and that these preferential rates took several forms. First of all, petitioners alleged that POSCO itself is being subsidized and that these subsidies are being passed on to nail producers in the form of lower rod prices which may be lower than POSCO's cost of production. Secondly, petitioners alleged that the steel wire nail and other steel product industries are benefiting from preferential rod rates from POSCO. Finally, petitioners alleged that steel wire nail exports are being stimulated through a preferential export pricing system in which POSCO charges a lower price for rod to be used to fabricate an export product, as opposed to rod to be used to fabricate a product sold domestically.

Although POSCO is substantially owned by the Korean governmnet or its agencies, the questionnaire response received from the Korean government states that the firm is not controlled by the government. The response states that POSCO is incorporated as a commerical company under Korea's commercial code, rather than as a government company under a special law, and that. POSCO has full control over pricing, marketing and other aspects of its operations. Responses received from individual Korean nail producers indicate that POSCO's prices are comparable to, or higher than, prices charged by other domestic wire rod producers which are not government-owned and, as indicated in one response, higher than the prices of imported rod. There is no evidence on

the record indicating that POSCO charges preferential prices to one steel product industry over another.

The responses indicate that POSCO has a dual pricing system. Rod is purchased on a cash or local letter of credit basis. The letter of credit price is stated in U.S. dollars but paid for in Korean won at the official Bank of Korea exchange rate prevailing on the date of delivery. All cash purchases are made in Korean won. Wire rod purchased on the basis of a local letter of credit is for export use, while rod purchased on a cash basis can be used for both domestic or export sales. Therefore, different prices are offered depending upon whether the sale is exclusively for export or for domestic or export use. The letter of credit price is generally lower than the cash price, although there are exceptions. The government of Korea attributes the differences in prices in both markets to Korea's import duties. The Korean domestic market for wire rod is protected by tariff. The market for wire rod used for export production, however, is unprotected as a result of a duty drawback system which results in the export market being generally more price competitive.

Based on this information, it appears that this dual pricing system as implemented by POSCO could constitute a subsidy on the merchandise under investigation. This issue, however, involves interrelated questions of ownership, control, market structure and pricing policy. We must seek further clarification regarding this matter. Based on available information we preliminarily determine that POSCO's dual pricing system constitutes a subsidy of approximately 2.6 percent of the FOB value of the imported merchandise.

Progams Preliminarily Determined Not To Be Subsidies

We have preliminarily determined that subsidies are not being provided to manufacturers, producers, or exporters in Korea of certain steel wire nails under the following programs.

Tariff Incentives

Article 29 of the Korean Foreign Trade Enforcement Ordinance authorizes rebates of tariffs to cover wastage on imported rod and other raw materials to be manufactured into export items. Petitioners alleged that wastage allowances are being claimed which are higher than the actual wastage levels.

The rebate of duties on imported raw materials used to make exported merchandise is known as "drawback" and is normally not countervailable unless the drawback is excessive. Only one of the Korean nail producers imported small quantities of raw materials during the investigatory period, and we have preliminarily found no evidence of excessive drawback attributable to wastage for this firm.

Favorable Foreign Currency Exchange Rates

The petitioners allege that foreign currency is loaned to or purchased by Korean nail producers for the purchase of imported raw materials, and equipment at fixed rates of exchange that are more favorable than official or actual exchange rates.

Based on the questionnaire responses received to date, the Department has found no evidence of the existence of such a program.

Programs Preliminarily Determined Not To Be Utilized

We have preliminarily determined that the following programs are not utilized by the manufacturers, producers, or exporters in Korea of certain steel wire nails.

Preferential Utility Rates

Petitioners alleged that Korean steel wire nail producers are eligible for reduced rates for utilities and related services as "designated companies" under the Iron and Steel Industry Rehabilitation Order (Presidential Decree No. 10,002, August 23, 1980). It is further alleged that nail producers qualify for a deferred payment plan with the Korea Electric Company.

The questionnaire responses received by the Department indicate that Korean nail manufacturers or exporters do not qualify for preferential utility rates and have not utilized this program.

Foreign Capital Inducement Law

The Foreign Capital Inducement Law (FCIL) provides benefits to Korean companies which are wholly or partially foreign owned. These benefits take various forms.

The questionnaire responses received by the Department indicate that no Korean nail manufacturers or exporters utilized this program.

Verification

In accordance with section 776(a) of the Act, we will verify data used in making our final determination.

Preliminary Results of Investigation

Based on our investigation, we have preliminarily determined that all Korean nail producers investigated have received subsidies under at least one of the four programs found to be preliminarily countervailable. The overall total subsidy to the nail industry was preliminarily estimated to be 3 percent of the total FOB value of the imported merchandise.

Suspension of Liquidation

As a result of the Department's antidumping preliminary determination of sales at less than fair value published in the **Federal Register** of February 3, 1982 (47 FR 5028) and March 19, 1982 (47 FR 11916), liquidation was suspended on all entries of nails, with the exception of those nails produced by Jin Heung and Samchok, which are entered into the United States, or withdrawn from warehouse, for consumption. Suspension of liquidation will continue to be in effect until further notice. In addition, in accordance with Section 703 of the Act, we are directing the U.S. Customs Service to suspend, as of the publication date of this notice, all entries of nails, produced by Jin Heung and Samchok, which are entered into the United States, or withdrawn from warehouse, for consumption.

As of the date of publication of this notice, a cash deposit, bond, or other security must be posted for all entries of nails produced by all firms in the amount of 3 percent of the FOB price of imported nails. This security is required in addition to any other security required as a result of the antidumping investigation involving this merchandise.

ITC Notification

In accordance with section 703(d)(3) of the Act, we will notify the ITC of this action and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under any administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations (19 CFR 355.35), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 10:00 a.m. on August 5, 1982, at the U.S. Department of Commerce, Room 3080, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import

Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain (1) the party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by July 1, 1982. Oral presentations will be limited to issues raised in the briefs.

All written views should be filed in accordance with 19 CFR 355.43, within thirty days of this notice's publication, at the above address and in at least ten copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

June 18, 1982.

[FR Doc. 82-17137 Filed 6-23-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atomospheric Administration

Modification of Permit No. 370(P66F)

Notice is hereby given that, pursuant to the provisions of Sections 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), permit No. 370 issued to the Alaska Department of Fish and Game, P.O. Box 3–2000, Juneau, Alaska 99802 on March 2, 1982 (47 FR 10071) is modified in the following manner:

Section B. is modified to add:

"8. Blood samples may be collected, as described in the modification request, from up to 50 of the 700 animals authorized in Section A.1(a) and (b)."

"9. Skin and blubber samples may be collected, as described in the modification request, from up to 20 of the 200 animals to be radio tagged as authorized in Section A.1.(a)."

The modification is effective June 24, 1982.

The Permit, as modified, is available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: June 17, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals & Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-17119 Filed 6-23-82; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: a. Name: Dr. Warren M. Zapol and Dr. Robert C. Schneider (P120A); b. Address: Department of Anesthesia, Massachusetts General Hospital, Boston, Massachusetts 02114.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals: Weddell seals (Leptonychotes weddelli), 25.

4. Type of Take: Capture, study and release.

5. Location of Activity: McMurdo Sound Antarctica.

6. Period of Activity: 2 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, on or before July 26, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Glouscester, Massachusetts 01930.

Dated: June 17, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-17120 Filed 6-23-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing an Export Visa Requirement for Down and Feather-Filled Apparel From the Republic of Singapore

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Requiring an export visa for down and feather-filled apparel in Categories 353, 354, 653, and 654, produced or manufactured in the Republic of Singapore and exported on and after August 1, 1982.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654).)

SUMMARY: By an exchange of letters dated May 17 and May 20, 1982, the Governments of the United States and the Republic of Singapore have agreed to amend further the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 21, 1981, as amended, to include down and feather-filled apparel in Categories 353, 354, 653 and 654. Accordingly, on and after the effective date of this action it will be necessary for shipments of these products to be visaed by the Government of the Republic of Singapore in the same manner as other categories of textile products subject to the agreement are currently required to be visaed.

EFFECTIVE DATE: August 1, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On February 9, 1981, there was published in the **Federal Register** (46 FR 11571) a letter dated February 4, 1981 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs which permitted entry, effective on February 9, 1981 and until further notice, of down and feather-filled jackets, coats and vests in Categories 353, 354, 653 and 654, produced or manufactured in certain specified countries, including Singapore, without an export visa. The bilateral agreement with Singapore has now been

amended to include down and feather-filled apparel in these four categories. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements amends the directive of February 4, 1981 to the Commissioner of Customs to require an export visa for these products, effective on August 1, 1982.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

United States Department of Commerce, *International Trade Administration, Washington, D.C.*

Committee for the Implementation of Textile Agreements

Commissioner of Customs, *Department of the Treasury, Washington, D.C.*

Dear Mr. Commissioner: This letter amends, but does not cancel, the letter of February 4, 1981, which directed you to waive, effective on February 9, 1981 and until further notice, the export visa requirement for feather-filled apparel in Categories 353, 354, 653 and 654 from designated countries.

Effective on August 1, 1982 and until further notice, an export visa will be required for merchandise in Categories 353, 354, 653 and 654, produced or manufactured in Singapore and exported on and after that date.

This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

June 21, 1982.

[FR Doc 82-17049 Filed 6-23-82; 8:45 am]

BILLING CODE 3510-25-M

Amending the Visa Requirement for Textile Products From Brazil

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Amending the existing visa requirement, established for cotton textiles and cotton textile products, produced or manufactured in Brazil and exported to the United States, to include man-made fiber textile products in Categories 600–669, including down and feather-filled apparel in Categories 653 and 654, and in Categories 353 and 354. A new, circular visa stamp has also been adopted for use with both cotton and man-made fiber textile products.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654)).

SUMMARY: Paragraph 19 of the Bilateral Cotton and Man-Made Fiber Textile Agreement of March 31, 1982 between the Government of the United States and the Federative Republic of Brazil provides that man-made fiber textile products in Categories 600–669 shall be visaed in the same manner as cotton textiles and cotton textile products in Categories 300–369 are currently required to be visaed. Inasmuch as down and feather-filled apparel are now required to be visaed by virtue of the agreement of March 31, 1982, the procedure for requiring visas is being extended to include them also. A new, round visa stamp will replace the square stamp previously used to visa cotton textiles and cotton textile products.

EFFECTIVE DATE: August 1, 1982 for man-made fiber textile products exported on and after that date. Cotton textiles and cotton textile products exported prior to August 1, 1982 which are visaed using the previously authorized visa stamp shall not be denied entry. The new stamp will be required for both cotton and man-made fiber textile products exported on and after August 1, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On July 8, 1972, there was published in the **Federal Register** (37 FR 13498) a letter dated June 29, 1972 which established an export visa requirement for cotton textiles and cotton textile products, produced or manufactured in Brazil and entered for consumption, or withdrawn from warehouse for consumption, in the United States. The letter published below from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Custom amends the directive of June 29, 1972 to provide that textile products in Categories 353 and 354 and 600–669, produced or manufactured in Brazil and exported to the United States, must also be visaed using the new stamp, effective on August 1, 1982.

A list of officials authorized to issue visas follows this notice. A facsimile of the new visa stamp is published as an enclosure to the letter to the Commissioner of Customs.

Paul T. O'Day,

Chairman, Committée for the Implementation of Textile Agreements.

June 21, 1982.

Officials of the Government of the Federative Republic of Brazil Authorized to Issue Visas for Certain Cotton and Man-Made Fiber Textile Products Exported to the United States

Antonio Brambilla
Adir de Oliveria Meirelles
Adolfo Lueders Junior
Amos Lima de Santana
Antonio Bezerra de Figueiredo
Antonio Carlos Bastos Junior
Antonio Santos
Arnaldo Nogueira Junior
Ary de Oliveira Seabra
Carlos Coelho de Alvarenga Netto
Carlos Edwardo Zaina
Carlos Leon Finger
Eduardo Ramos
Ernio Antonio Thiming
Eudes Izar
Fernando Antonio Ferreira de Medeiros
Flavio Eduardo Patricio Ribeiro
Flavio Scottini
Francisco Ursino Filho
Helio Ribeiro Lopes
Humberto Stumpf
Irineu Coimbra
Joao Cadmo Cavalcanti
Jorge Luiz Pessoa Morado
Jose Alkindar Xavier Balbe
Jose Carlos de Araujo
Jose Luiz Daniel
Jose Mango de Leao Brasil
Jose Nicolao Turnes
Jose de Souza Neto
Juvenal Jose de Oliveira
Lea Josefina Lionco Bassanesi
Luiz Alberto Lopes
Luiz Cezar Cotta
Luiz Estanislau Enoch
Mariglei Tosati
Mario Emilio Kreibich
Mario Otto Schwchow
Milson de Souza Melo
Nazur Castro Vasconellos
Newton Cerqueira Melo
Paulo Cesar Curado Cabral
Pedro Adelino Dantas Filho
Pedro Motta
Publio Jackson Furiatti
Roberto Varella
Rubens de Azeredo
Rui Fra
Ruy Carlos Cury
Sinesio Pereira Campos
Thomaz Januzzi
Vicente Antonio Nucci
Vidal Santos
Victor Angelo Pinto Ferreira

June 21, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, *Department of the Treasury, Washington, D.C.*

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of June 29, 1972, which directed you to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products, produced or manufactured in Brazil, for which that government had not issued an appropriate export visa.

Effective on August 1, 1982, the directive of June 29, 1972 is further amended to extend the export visa requirement to include cotton and man-made fiber textile products in Categories 353 and 354 and 600–669 (formerly Categories 200–243), produced or manufactured in Brazil. A new visa stamp, fully described below, will replace the square stamp currently in use. On and after August 1, 1982, both cotton and man-made fiber textile products shall be visaed using the new stamp. Cotton textiles and cotton textile products, exported before August 1, 1982, which are visaed using the previously authorized square visa stamp shall not be denied entry.

The new visa will be an original circular stamped marking in blue ink on the front of the invoice (Special Customs Invoice Form 5515, successor document, or commercial invoice when such form is used) and will include the date and signature of the official authorized to issue visas. A facsimile of the new stamp is enclosed.

Non-commercial shipments of cotton and man-made fiber textile products which are imported for the personal use of the importer, not for resale, do not require and export visa, regardless of value.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926) and May 13, 1982 (47 FR 20654).

The actions taken with respect to the Government of the Federative Republic of Brazil and with respect to imports of cotton and man-made fiber textiles and textile products from Brazil have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Paul T. O'Day

Chairman, Committee for the Implementation of Textile Agreements.

Enclosure.

BANCO DO BRASIL S. A. - CACEX
R. Sra. do Lapa Matr. - SP
(Código - 62020-3)

[FR Doc. 82-17050 filed 6-23-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

June 16, 1982.

The USAF Scientific Advisory Board Strategic Cross-Matrix Panel will meet at the Pentagon on July 20 and 21, 1982. The purpose of the meeting will be to review M–X basing. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-17160 Filed 6-23-82; 8:45 am]

BILLING CODE 3910-01-M

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of subsection (d) of Section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a panel of the DIA Advisory Committee has been rescheduled from 30 June as follows:

Friday, 30 July 1982, Plaza West, Rosslyn, Virginia

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a study on Soviet naval trends.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

June 21, 1982.

[FR Doc. 82-17090 Filed 6-23-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Proposed 1982 Wholesale Power Rate Adjustment; Close of Comment Period

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Close of Comment Period on Proposed 1982 Wholesale Power Rate Adjustment.

SUMMARY: On March 31, 1982, BPA announced its proposed 1982 wholesale power rate adjustment (47 FR 13710). Public hearings on this proposal began on April 12, 1982; cross-examination on all parties' rebuttal testimony is scheduled to end on or about June 25, 1982, with a final pubic comment opportunity scheduled for June 28, 1982. June 30, 1982, is the last day written comments will be accepted for consideration in the final rate adjustment proposal.

ADDRESSES: Written comments should be submitted to the Public Involvement Coordinator, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Donnal L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503–230–3478. Oregon callers may use the toll-free number 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800–547–6048.

Information is also available from the following BPA Area and District offices:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE., Irving Street, Portland, Oregon 97208, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503–345–0311.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. Gordon H. Brandenburger, Kalispell District Manager, P.O. Box 758, Kalispell, Montana 59901, 406–755–6202.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extenson 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206–442–4130.

Mr. Tom Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington, 99362, 509–525–5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

SUPPLEMENTARY INFORMATION: On March 31, 1982, BPA announced its proposed 1982 wholesale power rate adjustment (47 FR 13710). Hearings on the proposed wholesale power rates began April 12, 1982, in Portland, Oregon. BPA invited interested persons to review the proposed rates and the supporting studies, to participate in the hearings, and to submit written comments until the close of comment period was announced by a specific **Federal Register** notice. This Notice establishes the last day for receipt of

written comments as June 30, 1982. During the development of the final rate proposal, BPA will evaluate all written and oral comments received in this process. Due to consideration of public comments and information gained through the formal hearing process, the final rate proposal will likely differ from the rates proposed in the original notice.

Issued in Portland, Oregon, June 21, 1982.

Peter T. Johnson,

Administrator.

[FR Doc. 82-17289 Filed 6-23-82; 10:21 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 82-CERT-012]

Public Service Electric and Gas Co.; Application for Recertification of the Use of Natural Gas to Displace Fuel Oil

On July 25, 1981, Public Service Electric and Gas Company (Public Service), 80 Park Plaza, Newark, New Jersey 07101, was granted a certificate of an eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 81-CERT-015). The certificate was made effective on issuance, and involved the purchase of natural gas from Equitable Gas Company for use by Public Service at its electric generating facilities in New Jersey. These purchases are being delivered pursuant to the ERA certification in Docket No. 81-CERT-015. The ERA certificate expires on July 24, 1982.

On June 9, 1982, Public Service filed an application for recertification for one year of an eligible use of natural gas to displace fuel oil at its electric generating stations located in New Jersey: Bergen in Ridgefield; Essex in Newark; Hudson in Jersey City; Kearny in Kearny; Linden in Linden; Sewaren in Sewaren; Edison in Edison; and Mercer in Trenton, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6144, RG-631, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Public Service states that the volume of natural gas for which it requests recertification is up to 7.0 billion cubic feet per year. This volume is estimated to displace the use of approximately 1,057,000 barrels of No. 6 fuel oil (0.3 percent sulfur) and approximately 28,000 barrels of No. 2 fuel oil (0.2 percent sulfur) or kerosene (0.1 percent sulfur) per year.

The quantities at each location are subject to considerable variation with changes in demand and availability of the various generating units, but estimated gas usage and resulting oil displacement volumes are listed below:

Location	Estimated vol. (BCF)	Estimated oil displacement (000 bbl)	
		0.3% sulfur No. 6 oil	0.2% sulfur No. 2 oil or 0.1% sulfur kerosene
1. Bergen Generating Station, Ridgefield, NJ	3.0	472	.....
2. Essex Generating Station, Newark, NJ	0.1	.....	14
3. Hudson Generating Station, Jersey City, NJ	2.7	417	.....
4. Kearny Generating Station, Kearny, NJ	.....	.....	.....
5. Linden Generating Station, Linden, NJ	.....	.....	.....
6. Sewaren Generating Station, Sewaren, NJ	1.1	168	.....
7. Edison Generating Station, Edison, NJ	0.1	.....	14
8. Mercer Generating Station, Trenton, NJ	.....	.....	.....
Totals	7.0	1,057	28

The eligible seller is Equitable Gas Company, 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219. The gas will be transported by Texas Eastern Transmission Corporation, P.O. Box 2521, Houston, Texas 77001; Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, Texas 77001; and Transcontinental Gas Pipeline Corporation, P.O. Box 1396, Houston, Texas 77001, all of which are interstate natural gas pipelines.

Public Service has in effect certifications by the ERA which authorize purchases of natural gas from various eligible sellers for use at the electric generating stations named in this certification as follows:

ERA Docket No.	Amount	Remarks
81-CERT-008	7.3 Bcf/Yr.	Effective June 24, 1981.
81-CERT-009	10.7 Bcf/Yr.	Effective June 24, 1981.
81-CERT-013	5.0 Bcf/Yr.	Effective July 21, 1981.
81-CERT-015	7.0 Bcf/Yr.	Effective July 25, 1981.
82-CERT-008	3.0 Bcf/Yr.	Effective May 24, 1982.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 6144, RG-631, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, Attention: Paula A. Daigneault, within ten (10) calendar day of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Public Service and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., June 18, 1982.

F. Scott Bush,

Director, Oil and Gas Imports Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-17093 Filed 6-23-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 6282-000]

City of Boulder; Notice of Application for Preliminary Permit

June 18, 1982.

Take notice that the City of Boulder (Applicant) filed on May 3, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6282 to be known as the Boulder Project located on the North Boulder Creek Watershed Basin and City of Boulder's water distribution system in the City of Boulder, Boulder County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Karl F. Kumli, Moses, Wittemeyer, Harrison and Woodruff, P.C., P.O. Box 1440, Boulder, Colorado 80306.

Project Description—The proposed project located partially within the Roosevelt National Forest would utilize an existing system of lakes, dams, conduits and water treatment facilities described as follows: (A) The North Boulder Creek Basin Collection System consisting of the following listed reservoirs and dams: See attached.

(B) An existing pipeline system supplied by the above dams and reservoirs described as follows: (1) The 20-inch diameter, 2,400-foot long Boulder City Conduit; (2) the 22-inch diameter, 31,900-foot long and 18-inch diameter, 18,200-foot long Lakewood Raw Water Transmission Line; (3) the 18-inch diameter, 18,000-foot long Silver Lake Raw Water Transmission Line; (4) the 30-inch diameter, 8,900-foot long Sunshine Treated Water Line; and (5) the 16 to 24-inch diameter, 15,000-foot long Orodell Treated Water Line.

(C) Proposed powerhouses located at existing water treatment plants or pressure relief stations and described as follows: (1) The Boulder City conduit station with turbine-generators with a total rated capacity of 2 MW producing 5,900,000 kWh annually; (2) the Lakewood Raw Water conduit station containing turbine-generators with a total rated capacity of 2 MW producing up to 10,700,000 kWh annually; (3) the Sunshine pressure relief station containing turbine-generators with a total rated capacity of 800 kW producing up to 3,600,000 kWh annually; (4) the Oredell Pressure relief Station containing turbine-generators with a total rated capacity of 500 kW producing up to 1,200,000 kWh annually; and (5) the 6th and Canyon Pressure relief station with turbine-generators with a total rated capacity of 150 kW producing up to 900,000 kWh annually. The above facilities would tie-in to adjacent transmission lines. In addition Applicant would study, in a comprehensive way, the feasibility of constructing other powerhouses at the above-mentioned system of dams and conduits. Energy produced at the project would be sold to Public Service Company of Colorado or other consumers. The Applicant owns the above-named facilities.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plan, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. The cost of the studies under preliminary permit has been estimated by the Applicant to be $150,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 20, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 9, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or § 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

	Surface area (acres)	Storage capacity (acre feet)	Surface elevation (feet)	Composition/dam height/length
North Boulder Creek:				
Green Lake #1	11	175	11260	Earth fill/steel face/23/310.
Green Lake #2	12	332	11180	Earth fill/steel face/40/285.
Green Lake #3	15	285	11340	Earth fill/steel face/28/370.
Green Lake #4	14	none	11670	None.
Green Lake #5	13	none	11860	None.
Lake Albion	36	1111	10980	Rock fill/timber crib/gunnite face 36/620.
Goose Lake	46	1036	10550	Concrete/30/380.
Triple Lakes	30	none	10580	None.
Island Lake	38	330	10302	Concrete/9/450.
Silver Lake	104	3987	10210	Earth fill/63/1450.
Lakewood Reservoir	10	40	8200	None.

[FR Doc. 82-16970 Filed 6-23-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPRM-FRL 2154-8]

Agency Forms Under OMB Review

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 requires the Agency to publish in the Federal Register notice of proposed information collections.The purpose of this notice is to inform the public of proposed information requirements that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Kuhn, Information Management Section, U.S. Environmental Protectiion Agency, telephone number (202) 382-2742 or FTS (8) 382-2742.

SUPPLEMENTARY INFORMATION:

• Title: Mobile Source Emission Factor Survey (EPA ID 0619)

Abstract: A sample of motor vehicle owners will be asked to describe their car or truck maintenance practices and to permit EPA to measure the emission levels of their vehicles. The data from this annual survey are used to evaluate existing standards and control strategies.

Respondent: Individuals or households

• Title: New Source Performance Standards (NSPS) for Rotogravure Printing (EPA ID 0657)

Abstract: Owners or operators of rotogravure printing facilities subject to the NSPS must notify EPA of their startup date and initial performance test results. Facilities are required to maintain records of emission levels for review and analysis by EPA to determine compliance.

Respondent: Business or other institutions with SIC Code 275

Hazardous Waste

• Title: State Priorities for Remedial Action (EPA ID 0331)

Abstract: States must submit a list of sites where hazardous substances have been released. The sites must be ordered by specific characteristics. EPA will use these lists to set national priorities for actions to clear these sites and will publish them as part of the National Contingency Plan.

Respondent: State and local governments

• Title: Cooperative Agreements for Remedial Planning/Implemetation (EPA ID 0864)

Abstract: These agreements are between a state and EPA for remedial actions to be taken at sites that have released hazardous substances. The agreements contain workplans and cost estimates and detail federal and state responsibilities. The plans must be submitted to EPA before any remedial action can begin.

Respondent: State and local governments

This notice is the first of its type published by EPA. Comments on the format of this notice or on the information collections should be sent to:

David Kuhn, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223), 401 M Street, S.W., Washington, D.C. 20460

and

Robert Shelton, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, N.W., Washington, D.C. 20503.

Dated: June 15, 1982.

C. Ronald Smith,

Director, Office of Standards and Regulations.

[FR Doc. 82-17094, Filed 6-23-82; 8:45 a.m.]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[Docket 18921; RM-1197; RM-1218; RM-1330]

Cooperative Use and Multiple Licensing of Stations in the Private Land Mobile Radio Services; Order Extending Time for Filing Oppositions to Petitions for Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Petition for Reconsideration; extension of time for filing oppositions.

SUMMARY: The Federal Communications Commission is extending the time to file oppositions to certain petitions for reconsideration in this proceeding in order to avoid duplicative or piecemeal treatment of issues.

DATES: See last paragraph of this document.

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

FOR FURTHER INFORMATION CONTACT: John Borkowski, Private Radio Bureau, (202) 632-7597.

SUPPLEMENTARY INFORMATION:

Order

Adopted: June 11, 1982.
Released: June 15, 1982.

In the matter of Amendment of Parts 89, 91, 93 and 95 of the Commission's Rules to Adopt New Practices and Procedures for Cooperative use and Multiple Licensing of Stations in the Private Land Mobile Radio Services,[1] Docket No. 18921, RM-1197, RM-1218, RM-1330, (5-28-82; 47 FR 23558).

Telocator Network of America (hereinafter Telocator) has filed a motion seeking an extension of time to file a consolidated opposition to petitions for reconsideration in this proceeding.

The Report and Order in this proceeding, Private Land Mobile Radio Services, 89 FCC 2d 766 (April 13, 1982), was published in the Federal Register on May 6, 1982, (47 FR 19527). Thus, pursuant to § 1.429(d) of the Rules, petitions for reconsideration were accepted for filing through June 7, 1982.

Petitions for reconsideration were filed by AGS Electronics, Inc. and by Commercial Communications, Inc., on May 14, 1982, and May 17, 1982, respectively. Notice of these petitions was published in the Federal Register on May 28, 1982. Oppositions to these petitions are currently due by June 14, 1982. See 47 CFR 1.429(f).

Additional petitions for reconsideration have been received. Telocator represents that it has been informed by the Secretary that all such petitions will be held until the deadline for filing has expired and will be listed together on Public Notice, and that such Public Notice will be published in the Federal Register at a date yet to be determined. Oppositions to these petitions will be due fifteen days after such publication.

Telocator seeks to have all deadlines for oppositions and replies run concurrently, to avoid duplicative or piecemeal treatment of issues.

Telocator's point is well-taken. Accordingly, pursuant to 47 U.S.C. Section 4(j) and pursuant to 47 CFR 0.331, 1.46 and 1.429, the date for filing oppositions to the petitions of AGS

[1] Parts 89, 91 and 93 have been consolidated under new Part 90, 47 CFR Part 90.

Electronics, Inc. and Commercial Communications, Inc. is extended from May 28, 1982, to a date fifteen (15) days after publication in the **Federal Register** of the next public notice listing additional petitions for reconsideration filed in this proceeding.

Federal Communications Commission.

James C. McKinney,

Chief, Private Radio Bureau.

[FR Doc. 82-17147 Filed 6-23-82; 8:45 am]

BILLING CODE 6712-01-M

Radio Advisory Committee and its Allocations and Technical Subgroups; Meetings Scheduled To Resume

The Advisory Committee on Radio Broadcasting and its Technical and Allocations Subgroups have scheduled the resumption of their continuing meetings on the following dates:

Monday, June 21, 1982, 9:30 am, Room 5119, 2025 M Street, N.W., Washington, D.C.—The Technical Subgroup will resume its continuing meeting on FM receivers, and will consider further the preparation of a report on FM receiver characteristics and their bearing on FM allocations.

Tuesday, June 29, 1982, 9:30 am, Room 5119, 2025 M Street, N.W., Washington, D.C.—The Allocation Subgroup will resume its continuing meeting on service needs, statutory requirements and related considerations bearing on the rules concerning FM allocations.

Wednesday, June 30, 1982, 10 am, Room 5119, 2025 M Street, N.W., Washington, D.C.—The Technical Subgroup will resume its continuing meeting on preparations for bilateral discussions being conducted between the United States and Canada concerning AM broadcasting.

Wednesday, July 7, 1982,* 9:30 am, Room 856, 1919 M Street, N.W., Washington, D.C.—The full Advisory Committee on Radio Broadcasting will meet to consider reports by its Technical and Allocations Subgroups on the above-stated matters, and prepare to submit recommendations to the FCC concerning them.

* Please note that the July 7, 1982, meeting of the full Committee is a rescheduled date. (The meeting was previously scheduled for July 13, 1982.)

All meetings of the Advisory Committee and its Subgroups are open for participation by all interested persons. For further information call the Committee chairman, Louis C. Stephens at FCC Headquarters, (202) 632-7792.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-17103 Filed 6-23-82; 8:45 am]

BILLING CODE 6712-01-M

TIAG Auditing and Regulatory Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group's (TIAG) Auditing and Regulatory Subcommittee scheduled to meet on Wednesday, July 7, 1982. The meeting will be held at 10:00 a.m. in Hearing Room Two (24th Floor) of the New York State Public Service Commission offices located at Two World Trade Center, New York, New York, and will be open to the public. The agenda is as follows:

I. General Administrative Matters.
II. Discussion of Major Aspects of GAAP and Their Impact on Regulated Enterprises.
III. Preliminary Analysis of GAAP as it Applies to USOA.
IV. Further Assignment of Tasks.
V. Other Business.
VI. Presentation of Oral Statements.
VII. Adjournment.

With prior approval of Subcommittee Chairman Hugh A. Gower, oral statement, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Gower (404/658-1776) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-17102 Filed 6-23-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

Senior Executive Service; Performance Awards; Schedule for Awarding Bonuses

In accordance with the Office of Personnel Management directive dated July 21, 1980, the Federal Home Loan Bank Board hereby gives notice that SES bonuses will be awarded on or after July 9, 1982.

For Further Information Contact: Doris H. McGhee, Director of Personnel, Federal Home Loan Bank Board, (202) 377-6050.

J. J. Finn,

Secretary to the Board, Federal Home Loan Bank Board.

[FR Doc. 85-17122 Filed 6-23-82; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have 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 voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. 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.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Community Banks, Inc.*, Middleton, Wisconsin; to acquire 100 percent of the voting shares of Badger Bankshares Corporation, Monona, Wisconsin, and thereby to indirectly acquire 54 percent of the voting shares of Monona-Grove State Bank, Monona, Wisconsin. Comments on this application must be received not later than July 18, 1982.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Fourth Financial Corporation*, Wichita, Kansas; to acquire 24.98 percent of the voting shares and 100 percent of the nonvoting preferred shares of Coffeyville Bancshares, Inc., Coffeyville, Kansas, and, indirectly acquire 100 percent of the voting shares of The First National Bank of Coffeyville, Coffeyville, Kansas. Comments on this application must be received not later than July 18, 1982.

C. Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551:

1. *Texas Commerce Bancshares, Inc.,* Houston, Texas; to acquire 100 percent of the voting shares or assets of Texas Commerce Bank-Westlake Park, National Association, Houston, Texas. This application may be inspected at the Federal Reserve Bank of Texas. Comments on this application must be received not later than July 18, 1982.

Board of Governors of the Federal Reserve System, June 18, 1981.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-17054 Filed 6-23-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. 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.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Farmers and Merchants Corporation,* Columbia, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of First Farmers and Merchants National Bank of Columbia, Columbia, Tennessee. Comments on this application must be received not later than July 18, 1982.

B. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Oliver Bancorporation,* Center, North Dakota; to become a bank holding company by acquiring 80 percent of the voting shares of State Bank of Oliver County, Center, North Dakota. Comments on this application must be received not late than July 18, 1982.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *United American Bancshares, Inc.,* Palestine, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Palestine, Palestine, Texas. Comments on this application must be received not later than July 18, 1982.

Board of Governors of the Federal Reserve System, June 18, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-17055 Filed 6-23-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institutes of Health, National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases; Statement of Organization, Functions, and Delegations of Authority

Correction

In FR Doc. 82-11773, appearing on pages 18673-18675 in the issue of Friday, April 30, 1982, make the following correction:

On pages 18673, 18674 and 18675, the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases was identified as (HND). The identifier for the Institute and its substructure should have read (HNK).

Dated: June 18, 1982.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 82-17148 Filed 6-23-82; 8:45 am]

BILING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Arizona, Safford District, Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Safford District Grazing Advisory Board will be held on Friday, July 23, 1982.

The meeting will begin at 9:00 a.m. in the Conference Room of the Bureau of Land Management, 425 E. 4th Street, Safford, Arizona 85546.

The agenda for the meeting will include:

1. Management of riparian Areas;
2. Report on boundary fence needs;
3. New range improvements proposed for FY 83;
4. Report on monitoring studies;
5. BLM/Grazing Advisory Board public relations efforts;
6. BLM management update;
7. Business from the floor.

The meeting will be open to the public. Interested persons may make oral statements to the Board between 10:00 a.m. and 11:00 a.m. A written copy of the oral statement must be provided at the conclusion of the presentation. Written statements may also be filed for the Board's consideration. Anyone wishing to make oral statements must notify the District Manager, Bureau of Land Management, 425 E. 4th Street, Safford, Arizona 85546, by 4:15 p.m. Thursday, July 22, 1982.

Summary minutes of the Board meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within thirty (30) days following the meeting.

Vernon L. Saline,

Acting District Manager.

June 18, 1982.

[FR Doc. 82-17171 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

California Desert District; Motorized Vehicle Use Designation of the Jacumba Outstanding Natural Area; Designation of the Myer Valley Special Area

Notice is hereby given relating to the use of motorized vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, regulations contained in 43 CFR Part 8340 and 43 CFR Part 8370, and Section 701 of the Federal Land Policy and Management Act.

The affected lands are contained within the area identified by the Bureau of Land Management (BLM) as the Jacumba Outstanding Natural Ara. The Outstanding Natural Area encompasses a total of approximately 32,500 acres in the southwest corner of Imperial County, California, and includes Smugglers Cave, Myer Valley, Pinto Canyon, Davies Valley, and Skull (Little Davies) Valley. Most of the affected lands also lie within the boundaries of BLM Wilderness Study Area (WSA) CDCA-368, also called the Jacumba Mountains (In-Ko-Pah Mountain) WSA.

This vehicle use designation is the result of land use decisions made in the 1980 California Desert Conservation Area (CDCA) Plan and the 1980

Jacumba Recreation Activity Management Plan. Comments received from public meetings as well as written responses influenced these decisions. The affected lands have been assigned to Multiple Use Class "C" (recommended suitable for wilderness designation) and Multiple Use Class "L" (limited use) by the CDCA Plan. Vehicle use designations for this area are designed to provide for public access while protecting sensitive resources and wilderness suitability during interim management.

This designation order incorporates or amends all previous vehicle use designations for the affected lands, and has been prepared in conjunction with the CDCA Plan route approval process. These designations will remain in effect until rescinded or modified by the authorized officer of the Bureau of Land Management or by Congressional action on the wilderness proposal for the area.

Limited Area Designations

Lands hereby designated as "limited to motorized vehicle use on approved routes of travel" include all lands administered by the Bureau of Land Management in the area of Smugglers Cave and the Elliot Mine in:

San Bernardino Meridian, California

T. 18 S., R. 9 E.,
Sec. 4, S½;
Secs. 5, 7, 8, and 9.

And in Davies Valley and the mountains north and east of Davies Valley in:

San Bernardino Meridian, California

T. 17 S., R. 9 E.,
Sec. 1;
Sec. 11, E½E½;
Secs. 12 and 13;
Sec. 14, E½E½;
Secs. 19 and 20, all portions thereof situated south and/or east of Interstate Highway 8;
Sec. 24;
Sec. 25, E½;
Sec. 29, W½, W½E½;
Sec. 30, all portions thereof situated east of Interstate Highway 8;
Sec. 32, NW¼.
T. 17S., R. 9½ E.,
Secs. 1 and 2, all portions thereof situated south of State Highway 98.
T. 17 S., R. 10 E.,
Secs. 4 through 9, inclusive;
Sec. 15, W½;
Secs. 17 through 20, inclusive;
Sec. 21, N½;
Sec. 22, E½E½SE¼;
Sec. 23, W½W½SW¼; NW¼;
Sec. 29, W½;
Secs. 30 and 31;
Sec. 32, W½.

Approved routes are posted open with signs and identified on maps available from the BLM sources listed at the end of this notice. Routes not posted open for use are closed.

Wayside parking is permitted along approved routes, with the following limitations:

a. Parking is restricted to the area 25 feet on either side of the centerline of routes posted open for vehicular travel, except in washes (desert watercourses). Unless otherwise posted, in cases where approved routes follow washes, vehicles may be parked anywhere within the wash as long as this can be accomplished in accordance with limitation b.

b. Parking shall not be accomplished in a manner causing, or likely to cause significant, undue damage to or disturbance of the soil, wildlife, wildlife habitat, improvements, cultural or vegetative resources, or other authorized uses of the public lands. "Significant undue damage" shall not include the disturbance of the soil in washes, but does include running over, crushing, or otherwise damaging native vegetation, wildlife, or cultural resources.

c. The authorized officer may close sections of routes to wayside parking should it be determined that such closure is necessary for the protection of lands from erosion or unnecessary destruction of plant life or wildlife habitat. The authorized officer will effect such closure by posting sections of routes so closed, and by taking other appropriate measures to identify such sections to the public.

Special Myer Valley Limitations

The California Desert District Manager has determined that special control measures are necessary to protect natural and wilderness values in the Myer Valley area. In addition, no legal access into this area from Interstate Highway 8 has existed in the past, resulting in unsafe conditions as vehicles enter and exist the area directly from the freeway lanes. In order to institute the measures necessary to protect the area's sensitive values, and to meet the access requirements of the California Department of Transportation, this area is hereby designated as "limited to motorized vehicle use on approved routes of travel," and is further designated as the Myer Valley Special Area under authority contained in 43 CFR 8370 regulations. Lands within the Special Area include all lands administered by the Bureau of Land Management within:

San Bernardino Meridian, California

T. 17 S., R. 9 E.,
Secs. 2, 3, and 10, those portions thereof situated in the dry streambed of Myer Creek north and/or west of the eastbound lanes of Interstate Highway 8;
Secs. 10, 15, 16 and 21, those portions thereof situated south and/or east of the eastbound lanes of Interstate Highway 8;
Sec. 22;
Sec. 23, SW¼NW¼, SW¼SE¼, SW¼;
Secs. 26 and 27;
Sec. 28, E½W½, E½;
Sec. 33, NE¼NW¼, N½NE¼;
Sec. 35, N½.

Persons wishing to enter the Myer Valley Special Area by vehicle must first obtain written authorization from the Area Manager, El Centro Resource Area, Bureau of Land Management. All authorizations issued will contain such stipulations as the authorized officer of the Bureau of Land Management considers necessary to protect the lands and the resources involved, and the public interest in general.

Wayside parking limitations for the Myer Valley Special Area are identical to those stated previously in this notice for other limited areas of the Jacumba Outstanding Natural Area. Boundaries of the Myer Valley Special Area are posted with barricades, gates, and signs as appropriate.

Closed Area Designations

Lands hereby designated "close to motorized vehicle use" include all lands administrated by the Bureau of Land Management in the areas west, south, and east of Myer Valley in:

San Bernardino Meridian, California

T. 17 S., R. 9 E.
Secs. 2 and 3, all portions thereof situated south and/or east of Interstate Highway 8;
Sec. 11, W½, W½E½;
Sec. 14, WE½, W½E½;
Sec. 23, NW¼NW¼, E½NW¼, NE¼, N½SE¼, SE¼SE¼;
Sec. 25, W½;
Sec. 28, W½W½;
Sec. 29, E½E½;
Sec. 32, E½, SW¼;
Sec. 33, NW¼NW¼, S½NW¼, S½NE¼, S½;
Sec. 34;
Sec. 35, S½;
Sec. 36.
T. 18 S., R. 10 E.,
Secs. 1, 2, and 3;
Sec. 4, N½;
Secs. 10, 11, and 12.

and in the Skull Valley area in:

San Bernardino Meridian, California

T. 17 S., R. 10 E.,
Sec. 21, S½;
Sec. 22, N½, SW¼, W½SE¼, W½E½SE¼;
Sec. 23, E½,SW¼, E½W½SW¼, S½SE¼;
Secs. 26, 27, and 28;
Sec. 29, E½;
Sec. 32, E½;
Secs. 33, 34, and 35.

Closed area boundaries are posted where appropriate with signs and/or barricades.

For Futher Information

The affected lands and approved routes are identified on the Imperial Valley South Motorized Vehicle Interim Access Guide (see both the main map and the special Jacumba Outstanding Natural Area map on the reverse side). Additional information concerning the Myer Valley Special Area is available from BLM Rangers patrolling the Jacumba Outstanding Natural Area and at the following offices:

Bureau of Land Management, El Centro Resource Area, 333 South Waterman Avenue, EL Centro, CA 92243, Hours: 7:45 a.m. to 4:30 p.m., Monday through Friday

Bureau of Land Management, California Desert Distict Office, 1695 Spruce Street, Riverside, CA 92507, Hours: 7:45 a.m. to 4:30 p.m., Monday through Friday

The public lands affected by these vehicle use designations will remain open to other resource and recreation uses. All designations are effective immediately and will remain in effect until further notice. Any person who violates or fails to comply with these designations is subject to arrest as prescribed in 43 CFR 8340.0–7. Penalties for violations may be a fine of not more than $1,000.00 or imprisonment of not more than 12 months, or both.

Dated: June 14, 1982.

Gerald E. Hillier,

District Manager.

[FR Doc. 82–17170 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–84–M

[C–0118328, C–0118329, and C–0120057]

Colorado; Sodium Preference Right Lease Applications; Lands in Rio Blanco County; Public Hearing; Availability of Environmental Assessment and Request for Public Comment

The Department of the Interior, Bureau of Land Management, Colorado State Office, Denver, Colorado, hereby gives notice that a public hearing will be held on July 15, 1982, at 7:00 p.m. at the Fairchild Center, 200 Main Street, Meeker, Colorado 81641. Applications have been made to the United States that it lease non-competitively sodium resources in the public lands hereinafter described. The purpose of the hearing is to obtain public comments on the Environmental Assessment covering the three applications. Written requests to testify orally at the July 15, 1982, public hearing should be received at the Craig District Office, Bureau of Land Management, P.O. Box 248, Craig, Colorado 81625, prior to the close of business July 14, 1982. People who indicate they wish to testify when they check in at the hearing room may have an opportunity to testify if time is available after the listed witnesses have been heard.

Both oral and written comments will be received at the public hearing, but speakers will be limited to a maximum of three or five minutes each depending on the number of persons desiring to comment. The time limitation will be strictly enforced, but the complete text of prepared speeches may be filed with the presiding officer at the hearing, whether or not the speaker has been able to finish oral delivery in the allotted minutes. Written comments may also be submitted to the Craig District Office at the above address, prior to close of business on July 23, 1982. Substantive comments, whether written or oral, will receive equal consideration prior to any lease issuance.

The sodium resources to be leased are located in the following decribed lands approximately 20 miles southwest of Meeker, Colorado:

C–0118328 (Yankee Gulch Joint Venture)

T. 1 S., R. 97 W., 6th P.M.,
Sec. 15, NW¼NW¼, E½NW¼, SW¼SW¼, E½SE¼;
Sec. 16, all;
Sec. 17, all;
Sec. 18, all (E½, E½W½, Lots 1, 2, 3, 4);
Sec. 21, NW¼, NW¼NE¼, NE¼SW¼.

The area described contains 2401.60 acres.

C–0118329 (Yankee Gulch Joint Venture)

T. 1 S., R. 97 W., 6th P.M.,
Sec. 19, lots 1, 2, 3, 4, E½W½, E½;
Sec. 20, all;
Sec. 21, S½SW¼, E½SE¼;
Sec. 22, lots 1–14, incl.;
Sec. 28, W½NW¼, SW¼NE¼, E½NE¼;
Sec. 29, N½.

The area described contains 2552.88 acres.

C–0120057 (I.P. Nielsen, Hogle Investment Co., B.J.J. Hunter, E.N. Juhan and J.P. Juhan)

T. 2 S., R. 98 W., 6th P.M.,
Sec. 3, lots 8, 9, 10, 11;
Sec. 4, all (includes Lots 5 thru 20);
Sec. 5, lots 1, 2, 3, S½NE¼, SE¼, E½SW¼, SW¼SW¼, SE¼NW¼;
Sec. 8, all;
Sec. 9, NW¼, W½NE¼, NE¼NE¼.

The area described contains 2,196.71 acres.

The draft Environmental Assessment will be available for review in the following offices:

Colorado State Office, 1037 20th Street, Denver, Colorado 80202

Craig District Office, 455 Emerson Street, Craig, Colorado 81626

White River Resource Area Headquarters, 317 E. Market Street, Meeker, Colorado 81641

William J. Norton II,

Acting Leader, Craig Team, Branch of Adjudication.

[FR Doc. 82–17176 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–84–M

[Serial No. I–09518]

Idaho; Termination of Proposed Withdrawal and Reservation of Lands—Correction

June 17, 1982.

In FR Doc. 82–14103 appearing on page 23026 in the issue of Wednesday, May 26, 1982, the notice should read as follows:

"Therefore, pursuant to the regulations contained in 43 CFR, Subpart 2091, such lands will be at 7:45 a.m. on June 21, 1982, relieved of the segregative effect of the above-mentioned application.

William E. Ireland,

Chief, Lands Section.

[FR Doc. 82–17172 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–84–M

[Nev–030670, Nev–030671, Nev–031071, Nev–030435, Nev–031075, Nev–030835]

Nevada; Realty Action Sale of Public Land

June 14, 1982.

The following described parcels of land have been determined to be suitable for disposition by non-competive sale at fair market value under Section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976, 43 U.S.C. 1716:

Serial No.	Legal description	Acres	Fair market value
	T. 22 S., R. 61 E., MDM Section 32		
Nev-030670	S½NE¼NE¼SW¼	5	$50,000
Nev-030671	S½NW¼NE¼SW¼	5	50,000
Nev-031071	N½SW¼NE¼SW¼	5	50,000
Nev-030435	S½NW¼NW¼SW¼	5	50,000
Nev-031075	N½NE¼SW¼SW¼	5	50,000
Nev-030835	S½SE¼SW¼SW¼	5	50,000

These parcels are situated in the southern portion of the Las Vegas Valley and have potential for residential development. Each parcel has been encumbered for several years by a Small Tract application filed pursuant to the Act of June 1, 1938, as amended (43 U.S.C. 682a). The Small Tract applications could not be processed due to mining claim litigation which was

resolved March 23, 1981 in favor of the United States. The Small Tract Act was repealed in 1976; therefore, the provisions of that Act no longer apply. Accordingly, the Small Tract parcels will be offered under current sale authority, as cited in the opening paragraph of this notice.

The parcels will be offered for sale at fair market value to the pending Small Tract applicants. Prior to issuance of patent, the purchasers will also have an opportunity to buy the locatable and saleable mineral interest in the land in accordance with 43 CFR Part 2720.

General terms and conditions of the sale are:

1. The land will be sold subject to all valid existing rights such as power transmission and telephone line easements and federally issued oil and gas leases.

2. The land will be sold subject to reservations for streets and roads, both existing and proposed, in accordance with the Clark County road plan.

3. All land that is sold will be subject to applicable Clark County ordinances.

On or before August 9, 1982, interested persons may submit comments regarding this sale to the State Director (N–943), P.O. Box 12000, Reno, NV 89520.

Wm. J. Malencik,

Chief, Division of Operations.

[FR Doc. 82–17130 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–84–M

[N–521]

Nevada; Termination of Airport Lease Involving Lands in Elko County

June 15, 1982.

Notice is hereby given that the Town of Wendover has relinquished its airport lease involving the following described lands:

Mount Diablo Meridian, Nevada

T. 33 N., R. 69 E.
Sec. 24, SE¼.
T. 33 N., R. 70 E.
Sec. 19, SW¼;
Sec. 30, N½, SE¼ except military withdrawal.

The segregative effect of the airport lease is hereby removed upon publication of this notice in the Federal Register. (June 24, 1982)

Charles E. Hancock,

Acting Chief, Division of Operations.

[FR Doc. 82–17131 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–84–M

[N–30383]

Nevada; Termination of Airport Lease Application Involving Lands in Nye County

June 15, 1982.

Notice is hereby given that airport lease N–30383, involving the following described lands, has been rejected:

Mount Diablo Meridian, Nevada

T.17 S., R. 49 E.
Sec. 11, E½.

The segregative effect of the airport lease application is hereby removed upon publication of this notice in the Federal Register. (June 24, 1982)

Charles E. Hancock,

Acting Chief, Division of Operations.

[FR Doc. 82–17132 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–84–M

[N–FN24886]

Nevada; Termination Of Airport Lease Application Involving Lands In Washoe County

June 15, 1982.

Notice is hereby given that airport lease application N–24886, involving the following described lands has been denied:

Mount Diablo Meridian, Nevada

T. 36 N., R. 18 E.
Sec. 14, Tract 45, Lots A, B, C and D.

The segregative effect of the airport lease application is hereby removed upon publication of this notice in Federal Register (June 24, 1982).

Charles E. Hancock,

Acting Chief, Division of Operations.

[FR Doc. 82–17133 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–84–M

Planning Criteria for Coast Resource Management Plan (RMP) in the Hollister Resource Area, Bakersfield District, California

June 17, 1982.

In accordance with 43 CFR 1601.3, notice is hereby given of the availability of the Planning Criteria to direct the Coast Resource Management Plan (RMP) in the Hollister Resource Area.

The Bakersfield District of the Bureau of Land Management has prepared the initial Planning Criteria to direct this planning effort in the Hollister Resource Area. The Plan will involve the public lands located in Fresno, San Benito, Monterey, Merced, Stanislaus and Santa Clara Counties and will carry out the requirements of the Federal Land Policy and Management (FLPMA) of 1976.

As new information surfaces during the planning process, and/or from public input, additional planning criteria will be developed for future guidance of this planning effort.

This initial planning criteria is available for review at the following locations: Bakerfield District Office, 800 Truxtun Avenue, Room 302, Bakersfield, California, 93301, (805) 861–4191; and Hollister Resource Area Office, 402 Parkhill Road, P.O. Box 365, Hollister, California, 95023, (408) 637–8183.

For further information contact David E. Howell, Hollister Resource Area Manager at the Hollister address listed above.

H. Edward Lynch, Jr.,

Acting District Manager.

[FR Doc. 82–17121 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–84–M

[CA 12321]

California; Classification of Public Lands for State Indemnity Selection Correction

The following corrections are made in FR Document 82–15625 appearing on pages 25415, and 25416 in the issue of June 11, 1982. 1. On page 25415, third column, 15th line, "Sec. 32, E½NE¼, NW¼NE¼, NE¼>N/W¼." should read "Sec. 32, E½NE¼, NW¼NE¼, NE¼NW¼, ".

2. On page 25416, first column, 5th line, "Sec. 19, Lots 1–3, 5, 8, NW¼NE¼, SE¼SE¼;" should read "Sec. 19, Lots 1–3, 5, 6, 8, NW¼NE¼, SE¼SE¼;".

3. On page 25416, first column, 7th line, "Sec. 21, SE¼SW¼, NE¼NE¼;" should read "Sec. 21, SW¼SW¼, NE¼SE¼;".

Dated: June 18, 1982.

Van W. Manning,

Ukiah District Manager.

[FR Doc. 82–17150 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–81–M

[Group 792]

California; Filing of Plat of Survey

June 14, 1982.

1. A plat of survey of the following described land accepted June 1, 1982, will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, California

Tps. 47 & 48 N., R. 3 E.

2. This plat, represents the dependent resurvey of a portion of the Township 48 North, Range 3 East, and a portion of the swamp and overflowed land segregation

line in Township 47 and 48 North, Range 3 East, Mount Diablo Meridian.

3. This plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open file and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau and the Bureau of Reclamation.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, Room E–2841, Cottage Way, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Section of Records and Data Management.

[FR Doc. 82–17151 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–84–M

[Group 770]

California; Filing of Plat of Survey

June 14, 1982.

1. A plat of survey of the following described land accepted May 28, 1982, will be officially filed in the California State Office, Sacramento, California, effective immediately:

San Bernardino Meridian, California

T. 11 N., R. 32 W.

2. This plat, represents the dependent resurvey of the South and East boundaries, portions of the West and North boundaries, a portion of the Rancho de Suey, and a portion of the subdivisional lines of T. 11 N., R. 32 W., San Bernardino Meridian.

3. The plat will immediately become the basic record for describing the lands for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of the Bureau, and at the request of Santa Barbara County.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, Room E–2841, Cottage Way, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Section of Records and Data Management.

[FR Doc. 82–17165 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–84–M

[Group 477]

California; Filing of Plat of Survey

June 14, 1982.

1. A plat of survey of the following described land accepted May 18, 1982, will be officially filed in the California State Office, Sacramento, California, effective immediately:

Mount Diablo Meridian, California

T. 37 N., R. 9

2. This plat represents the corrective dependent resurvey of the subdivisional lines of T. 37 N., R. 9 W., Mount Diablo Meridian. The plat of the dependent resurvey of portions of T. 37 N., R. 9 W., Mount Diablo Meridian, was suspended August 27, 1980. This suspension is now lifted.

4. This survey was executed to meet certain administrative needs of the Bureau of Land Management and the U.S. Department of Agriculture, Forest Service.

5. All inquires relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, Room E–2841, Cottage Way, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Section of Reords & Data Management.

[FR Doc. 82–17166 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–84–M

Montana; Invitation, Coal Exploration License Application M 55503

June 16, 1982.

Members of the public are hereby invited to participate with Meridian Land & Mineral Company in a program for the exploration of coal deposits owned by the United States of America in the following described lands located in McCone County, Montana:

T. 20 N., R. 45 E., P.M.M.,
Sec. 6: Lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼.
Sec. 10: All.
662.97 acres.

Any party electing to participate in this exploration program shall notify, in writing, both the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, and Meridian Land & Mineral Company, 700 First Northwestern Bank Center, P.O. Box 2521, Billings, Montana 59103. Such written notice must refer to serial number M 55503 and be received no later than 30 calendar days after publication of this Notice in the **Federal Register** or 10 calendar days after the last publication of this Notice in the Circle Banner, whichever is later. This Notice will be published for two consecutive weeks.

This proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the U.S. Minerals Management Service, 2525 4th Avenue North, Billings, Montana, and the Bureau of Land Management, Montana State Office, Granite Tower Building, 222 North 32nd Street, Billings, Montana. The exploration plan is available for public inspection at either of these offices at the addresses given.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82–17155 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–84–M

[M 54006]

Montana; Realty Action—Direct, Non-Competitive Sale of Public Land in Fallon County, Montana

June 14, 1982.

The following described lands have been determined to be suitable for public sale under the authority of section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, 1713):

T. 7 No., R. 59 E., P.M.M.,
Sec. 15: All.
The area described contains 640 acres.

The above described public land will be sold at the appraised fair market value non-competitively to Fallon County, the local government entity located in the county seat of Baker, Montana. The United States will reserve the right to explore, prospect for, mine, and remove all minerals under appropriate laws and regulations.

The purpose of the sale is to allow for urban expansion of the city of Baker, Montana. The sale is consistent with 43 CFR 2710.0–3(a)(2) and is consistent with the recommendations in the New Prairie Management Framework Plan (MFPL–5.1), Departmental, State and District policy and meets the criteria of serving an important public objective such as the expansion of the city of Baker.

The terms and conditions applicable to the sale are:

1. The sale will be non-competitive, since a direct sale to a local government entity will best serve the public interest.

2. The conveyance document will contain a reservation to the United States of all minerals.

3. All valid existing rights such as right-of-way and mineral leases shall be

recognized and will enjoy all rights granted in the initial grant.

4. A right-of-way for ditches and canals constructed under the authority of the Act of August 30, 1980, 26 Stat. 391, will be reserved to the United States.

Information concerning this sale is available for review at the Miles City District Office, west of Miles City, Montana.

For a period of 45 days after issuance of this "Notice," interested parties may submit comments to the Miles City District Manager, P.O. Box 940, Miles City, Montana 59301. Any comments will be evaluated by the District Manager and forwarded to the State Director for final determination.

Michael J. Penfold,

State Director.

[FR Doc. 82-17152 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

New Mexico; Public Hearing on Land Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public hearing.

SUMMARY: The Bureau of Land Management, New Mexico State Office, will hold a public hearing concerning the proposed protective withdrawal of certain lands located in the San Juan Basin area of northern New Mexico as announced in the **Federal Register**, Vol. 47, No. 73, Thursday, April 15, 1982, page 16218, and Vol. 47, No. 43, Thursday, March 4, 1982, pages 9290–9291.

The public hearing will be held on July 21, 1982, at the Pueblo Pintado Chapter House, Pueblo Pintado, New Mexico, beginning at 1:00 p.m. The hearing is open to the public and no preregistration is required.

ADDRESS: All communications regarding the proposed withdrawal should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, New Mexico State Office, P.O. Box 1449, Santa Fe, NM 87501. Communications regarding the public hearing should be directed to the contact listed below.

FOR FURTHER INFORMATION CONTACT: Al Pack, Bureau of Land Management, New Mexico State Office, P.O. Box 1449, Santa Fe, NM 87501. Phone: (505) 988-6028, (FTS) 476-6028.

Charles W. Luscher,

State Director.

[FR Doc. 82-17156 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

[Nev-017324, et al.]

Nevada; Notice of Realty Action Sale of Public Land

June 14, 1982.

The following described lands have been determined to be suitable for disposition by non-competitive or competitive sale at not less than fair market value under Pub. L. 96-586 and in accordance with section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976, 43 U.S.C. 1716:

Parcel and serial No.	Legal description—T. 20 S., R. 60 E., MDM	Acres
	SECTION 15	
82-01 Nev-030908	NW¼NE¼NW¼NE¼	2.5
82-02 Nev-023614	SE¼SE¼NW¼NE¼	2.5
82-03 Nev-023399	NW¼NE¼SW¼NE¼	2.5
82-04 Nev-042952	SE¼NW¼SW¼NE¼	2.5
82-05 Nev-030007	NE¼SW¼SW¼NE¼	2.5
82-06 Nev-025877	NW¼SE¼SW¼NE¼	2.5
82-07 Nev-024165	NE¼NE¼SE¼NE¼	2.5
82-08 Nev-029859	NW¼SE¼SE¼NE¼	2.5
82-09 Nev-029857	SW¼SE¼SE¼NE¼	2.5
82-10 Nev-024579	SE¼NE¼NE¼NW¼	2.5
82-11 Nev-025544	NW¼NW¼NE¼NW¼	2.5
82-12 Nev-033098	NE¼NE¼NW¼NW¼	2.5
82-13 Nev-033635	NW¼NE¼NW¼NW¼	2.5
82-14 Nev-028364	NW¼SW¼NW¼NW¼	2.5
82-15 Nev-043168	NE¼NE¼SE¼NW¼	2.5
82-16 Nev-043169	SW¼NE¼SE¼NW¼	2.5
82-17 Nev-043166	SE¼NE¼SE¼NW¼	2.5
82-18 Nev-024561	NW¼SW¼SE¼NW¼	2.5
82-19 Nev-024562	SW¼SW¼SE¼NW¼	2.5
82-20 Nev-023490	SW¼SE¼SE¼NW¼	2.5
82-21 Nev-025104	SE¼NE¼NE¼SW¼	2.5
82-22 Nev-023094	SE¼SW¼NE¼SW¼	2.5
82-23 Nev-025232	SW¼NE¼NW¼SW¼	2.5
82-24 Nev-025996	NW¼SW¼NW¼SW¼	2.5
82-25 Nev-024830	NE¼SE¼NW¼SW¼	2.5
82-26 Nev-025751	SW¼SE¼NW¼SW¼	2.5
82-27 Nev-024768	SE¼SE¼NW¼SW¼	2.5
82-28 Nev-024287	SW¼SW¼SW¼SW¼	2.5
82-29 Nev-024906	SE¼SW¼SW¼SW¼	2.5
82-30 Nev-026995	NW¼SE¼SW¼SW¼	2.5
82-31 Nev-023335	NE¼NE¼SE¼SW¼	2.5
82-32 Nev-024294	NE¼SE¼SE¼SW¼	2.5
82-33 Nev-024291	NW¼SE¼SE¼SW¼	2.5
82-34 Nev-023127	SE¼SE¼SE¼SW¼	2.5
82-35 Nev-028794	SW¼NE¼NE¼SE¼	2.5
82-36 Nev-024878	SW¼NW¼NE¼SE¼	2.5
82-37 Nev-022581	NE¼SE¼NE¼SE¼	2.5
82-38 Nev-022818	SW¼SE¼NE¼SE¼	2.5
82-39 Nev-024360	NW¼NW¼NW¼SE¼	2.5
82-40 Nev-022947	NW¼SW¼NW¼SE¼	2.5
82-41 Nev-023250	NW¼SE¼NW¼SE¼	2.5
82-42 Nev-022854	SW¼SE¼NW¼SE¼	2.5
82-43 Nev-031079	SW¼NE¼SW¼SE¼	2.5
82-44 Nev-022584	NW¼NW¼SW¼SE¼	2.5
82-45 Nev-025864	NW¼SW¼SW¼SE¼	2.5
82-46 Nev-040863	NW¼SW¼SE¼SE¼	2.5
82-47 Nev-026241	NW¼SE¼SE¼SE¼	2.5
82-48 Nev-022094	SE¼SE¼SE¼SE¼	2.5
	SECTION 22	
82-49 Nev-030626	NW¼NW¼NW¼NW¼	2.5
	SECTION 27	
82-50	NE¼NE¼NE¼SW¼	2.5
82-51 Nev-033242	NW¼NE¼NE¼SW¼	2.5
82-52 Nev-033243	SW¼NE¼NE¼SW¼	2.5
82-53 Nev-030335	SE¼NE¼NE¼SW¼	2.5
82-54	E½NW¼NE¼SW¼	5.0
82-55	W½NW¼NE¼SW¼	5.0
82-56	NE¼SW¼NE¼SW¼	2.5
82-57	W½SW¼NE¼SW¼	5.0
82-58 Nev-033109	SE¼SW¼NE¼SW¼	2.5
82-59	E½SE¼NE¼SW¼	5.0
82-60 Nev-024640	NW¼SE¼NE¼SW¼	2.5
82-61	SW¼SE¼NE¼SW¼	2.5
82-62	SW¼NE¼NW¼SW¼	2.5
82-63	SE¼NE¼NW¼SW¼	2.5
82-64 Nev-033557	SE¼NW¼NW¼SW¼	2.5
82-65	E½SW¼NW¼SW¼	5.0
82-66 Nev-029643	NW¼SW¼NW¼SW¼	2.5
82-67	SW¼SW¼NW¼SW¼	2.5
82-68	NE¼SE¼NW¼SW¼	2.5
82-69	W½SE¼NW¼SW¼	5.0
82-70	SE¼SE¼NW¼SW¼	2.5
82-71	E½NE¼SW¼SW¼	5.0
82-72	W½NE¼SW¼SW¼	5.0
82-73	NE¼NW¼SW¼SW¼	2.5
82-74	W½NW¼SW¼SW¼	5.0
82-75 Nev-027848	SE¼NW¼SW¼SW¼	2.5
82-76	NE¼SW¼SW¼SW¼	2.5
82-77	W½SW¼SW¼SW¼	5.0
82-78 Nev-026148	SE¼SW¼SW¼SW¼	2.5
82-79 Nev-026140	NE¼SE¼SW¼SW¼	2.5
82-80 Nev-025881	NW¼SE¼SW¼SW¼	2.5
82-81 Nev-026242	SW¼SE¼SW¼SW¼	2.5
82-82 Nev-026863, Nev-026139.	SE¼SE¼SW¼SW¼	2.5
82-83	E½NE¼SE¼SW¼	5.0
82-84	W½NE¼SE¼SW¼	5.0
82-85 Nev-025035	NE¼NW¼SE¼SW¼	2.5
82-86	W½NW¼SE¼SW¼	5.0
82-87	SE¼NW¼SE¼SW¼	2.5
82-88	E½SW¼SE¼SW¼	5.0
82-89	W½SW¼SE¼SW¼	5.0
82-90 Nev-024766	NE¼SE¼SE¼SW¼	2.5
82-91	W½SE¼SE¼SW¼	5.0
82-92	SE¼SE¼SE¼SW¼	2.5
82-93	SW¼NW¼NE¼SE¼	2.5
82-94	NW¼SW¼NE¼SE¼	2.5
82-95 Nev-031921, Nev-031859.	SW¼SW¼NE¼SE¼	2.5
82-96 Nev-033430	NE¼NE¼NW¼SE¼	2.5
82-97	NW¼NE¼NW¼SE¼	2.5
82-98	SW¼NE¼NW¼SE¼	2.5
82-99	SE¼NE¼NW¼SE¼	2.5
82-100	NE¼NW¼NW¼SE¼	2.5
82-101	NW¼NW¼NW¼SE¼	2.5
82-102	SW¼NW¼NW¼SE¼	2.5
82-103	SE¼NW¼NW¼SE¼	2.5
82-104	NE¼SW¼NW¼SE¼	2.5
82-105	NW¼SW¼NW¼SE¼	2.5
82-106	SW¼SW¼NW¼SE¼	2.5
82-107	SE¼SW¼NW¼SE¼	2.5
82-108 Nev-032037	NE¼SE¼NW¼SE¼	2.5
82-109	NW¼SE¼NW¼SE¼	2.5
82-110	SW¼SE¼NW¼SE¼	2.5
82-111	SE¼SE¼NW¼SE¼	2.5
82-112 Nev-030608	NE¼NE¼SW¼SE¼	2.5
82-113	NW¼NE¼SW¼SE¼	2.5
82-114	SW¼NE¼SW¼SE¼	2.5
82-115	SE¼NE¼SW¼SE¼	2.5
82-116	NE¼NW¼SW¼SE¼	2.5
82-117	NW¼NW¼SW¼SE¼	2.5
82-118 Nev-028216	SW¼NW¼SW¼SE¼	2.5
82-119	SE¼NW¼SW¼SE¼	2.5
82-120	NE¼SW¼SW¼SE¼	2.5
82-121 Nev-023085	NW¼SW¼SW¼SE¼	2.5
82-122 Nev-029273	SW¼SW¼SW¼SE¼	2.5
82-123	SE¼SW¼SW¼SE¼	2.5
82-124	NE¼SE¼SW¼SE¼	2.5
82-125 Nev-030265	NW¼SE¼SW¼SE¼	2.5
82-126 Nev-024832	SW¼SE¼SW¼SE¼	2.5
82-127	SE¼SE¼SW¼SE¼	2.5
82-128 Nev-024023	NW¼NW¼SE¼SE¼	2.5
82-129	SW¼NW¼SE¼SE¼	2.5
82-130	NW¼SW¼SE¼SE¼	2.5
82-131 Nev-024283	SW¼SW¼SE¼SE¼	2.5
	SECTION 28	
82-132 Nev-028671	E½SW¼NE¼SE¼	5.0
82-133 Nev-027841	W½SE¼NE¼SE¼	5.0
82-134	E½SE¼NE¼SE¼	5.0
82-135	W½NE¼SE¼SE¼	5.0
82-136	E½NW¼SE¼SE¼	5.0
82-137	E½SW¼SE¼SE¼	5.0
Total acres		397.5

These parcels are situated in the northwest portion of the Las Vegas Valley and have potential for urban-suburban development. The above identified parcels have either been

encumbered for several years by pending small tract applications (shown by Serial No.) filed pursuant to the Act of June 1, 1938, as amended (43 U.S.C. 682a) or selected by the Bureau in lieu of a parcel under small tract application situated in a flood-plain or major road right-of-way which would prohibit development (no Serial No. shown). The small tract applications could not be processed due to mining claim litigation which was resolved March 23, 1981 in favor of the United States. The Small Tract Act was repealed in 1976; therefore, the provisions of that Act no longer apply. Accordingly, the small tract parcels will be offered under current sale authorities, as cited in the opening paragraph of this notice.

The above parcels will be first offered on a non-competitive basis at not less than fair market value to the pending small tract applicants. Prior to issuance of patent the pruchasers will also have an opportunity to buy the locatable and saleable mineral interest in the land in accordance with 43 CFR Part 2720.

Acceptable forms of payment consist of personal or certified check, money order or cash for either the competitive or non-competitive sale. Only U.S. citizens and legally chartered U.S. corporations are eligible to purchase land offered through the competitive process.

General terms and conditions of the sale are:

1. The land will be sold subject to all valid existing rights such as power transmission and telephone line easements and federally issued oil and gas leases.

2. The land will be sold subject to reservations for streets and roads, both existing and proposed, in accordance with the Clark County road plan.

3. All land that is sold will be subject to applicable Clark County ordinances.

The parcels not purchased by the small tract applicants will be offered on a competitive bidding basis, utilizing oral bidding procedures, at a later date. The minimum acceptable bid on these parcels will be the fair market appraised value established for the small tract applicants. Specific information regarding the land offered through competitive bidding procedures will be published in a sale brochure and made available to the public at least three weeks prior to the sale.

For a period of 45 days from the date of the notice, interested persons may submit comments regarding this sale to the State Director (N-943), P.O. Box 12000, Reno, NV 89520.

Wm. J. Malencik,

Chief, Division of Operations.

[FR Doc. 82-16928 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

[INT DEIS 82-37]

Draft Roseburg Timber Management Environmental Impact Statement; Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of Interior has prepared a draft environmental impact statement for the Roseburg EIS area. The proposal involves implementing a 10-year timber management plan on public lands in the Douglas and South Umpqua Sustained Yield Units of the Roseburg District in Western Oregon.

Public reading copies will be available for review at the following locations:

Bureau of Land Management, Office of Public Affairs, 18th and C Streets NW., Washington, D.C. 20240

Bureau of Land Management, Office of Public Affairs, 825 N.E. Multnomah St., Portland, OR 97232

Bureau of Land Management, Roseburg District Office, 777 N.W. Garden Valley Blvd., Roseburg, OR 97470

Oregon State Library, State Library Buidling, Salem, OR 97310

Oregon State University Library, Government Document Section, Corvallis, OR 97331

Portland State University Library, 724 S.W. Morrison, Portland, Oregon 97201

University of Oregon Library, Government Document Section, Eugene, OR 97403

Lane Community College Library, 4000 E. 30th Ave., Eugene, OR 97405

Linn-Benton, Community College Library, Albany, OR 97321

Umpqua Community College Library, P.O. Box 956, Roseburg, OR 97470

Riddle Library, 637 1st Ave., Riddle, OR 97469

Yoncalla Library, 161 Front St., Yoncalla, OR 97499

Douglas County Library, Courthouse, 1036 S.E. Douglas, Roseburg, OR 97470

Oakland Public Library, Locust Street, Oakland, OR 97460

Winston Library, 201 N.W. Highway 42, Winston, OR 97496

Canyonville Library, 1st & Pine St., Canyonville, OR 97417

Drain Library, 2nd & C Streets, Drain, OR 97435

Glendale Library, 3rd & Willis, Glendale, OR 97442

Myrtle Creek Library, 231 Division, Myrtle Creek, OR 97457.

A limited number of copies are available upon request from the Bureau of Land Management, Oregon State Office, or the Roseburg District Office, at the above addresses. An informal public meeting will be held during the review period to address questions and assist in the review process. A public hearing will also be held to accept oral and/or written testimony. Dates, locations and times have not been set, but will be announced prior to each meeting.

Written comments on the DEIS will be accepted by the Roseburg District Manager until August 20, 1982.

Dated: June 2, 1982.

Philip C. Hamilton,

Chief, Division of Resources.

[FR Doc. 82-17021 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

Proposed Livestock Grazzing Management for the Bodie-Coleville Planning Units, Bishop Resource Area, Bakersfield District, California

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 concerning a proposed grazing management program for the Bodie-Coleville Planning Units in Mono County in eastern California. The proposed action allocates 14,977 AUMs to livestock, 685 AUMs to deer, and 121 AUMs to wild horses. The alternatives analyzed include no grazing, no action (continue present management with 19,604 AUMs to livestock), maximization of livestock production (17,404 AUMs to livestock), maximization of environmental quality protection (10,999 AUMs to livestock) and a multiple use compromise (11,732 AUMs to livestock).

Comments on this draft environmental impact statement are being solicited from public agencies and interested individuals and entities. The Bureau of Land Management invites written comments on the statement to be submitted by August 9, 1982 to the Area Manager, Bishop Resource Area, Bureau of Land Management, 873 N. Main Street, Suite 201, Bishop, CA 93514.

A limited number of copies of this document are available upon request at the Bishop Resource Area, (714) 872-

4881 and the California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825, Telephone (916) 484–4541.

In addition to the above offices, copies of this EIS are available for public reading and review at:

Division of Rangeland Management, Bureau of Land Management, Premier Building, Room 909–H, 1725 I Street NW., Washington, D.C. 20006

Bakersfield District Office, Bureau of Land Management, Federal Building, Room 304, 800 Truxtun Street, Bakersfield, CA 93301.

Dated: June 17, 1982.

Ed Hastey,

State Director.

[FR Doc. 82–17020 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–84–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 28, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by July 9, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

SOUTH CAROLINA

Lexington County

Batesville, *Old Batesbury Grade School, (Batesburg-Leesville MRA),* 306 E. Columbia Ave.

[FR Doc. 82–17134 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–70–M

National Registry of Natural Landmarks

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: This notice lists new sites added to the National Registry of Natural Landmarks since the last publication of the entire Registry in the **Federal Register** on December 1, 1980 (45 FR 79698). This list, along with certain changes in site information published in the **Federal Register** on October 16, 1981 (46 FR 51196), should be considered as a supplement to the entire National Registry of Natural Landmarks. Copies of the entire Registry are available upon request.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur L. Stewart, Chief, Natural Landmarks Division, National Park Service, U.S. Department of the Interior, Washington, D.C. (202–523–5152).

SUPPLEMENTARY INFORMATION: The National Natural Landmarks Program was established in 1962 to identify and encourage the preservation of areas which represent nationally significant examples of the ecological and geological features of the Nation. Potential natural landmarks are identified through studies conducted by the National Park Service (NPS), evaluated by natural scientists and, if deemed nationally significant, designated as National Natural Landmarks by the Secretary of the Interior. Once a natural landmark is designated, it is include on the National Registry of Natural Landmarks, which now lists 543 areas.

The act of designating an area as a natural landmark is not a land withdrawal and in no way affects the ownership of the site or the landowner's property rights.

Federal agencies should consider the location and significance of natural landmarks in project planning and environmental review.

A complete description of the National Natural Landmarks Program policies and procedures is found at 36 CFR Part 62.

The National Registry of Natural Landmarks

The National Registry of Natural Landmarks includes nationally significant ecological and geological features in 48 States, American Samoa, Guam, Puerto Rico, and the Virgin Islands. The following list includes six new natural landmarks which have been added to the Registry since December 1, 1980, and one enlargement of an existing natural landmark. A description of the landmark's location, natural values, designation date, ownership, and owner agreement status is provided. Each landmark's designation date is enclosed in parentheses. More than one date indicates that the area's boundary was changed after its original designation. Ownership data is arranged in the following order and does not reflect the relative amount of land owned by any party: Federal, State, County, Municipal, Private. An asterisk indicates that the owner(s) of the landmark have entered into a voluntary agreement with NPS to protect the area's significant natural values.

Because many landmarks are privately owned and/or not managed for public access, landowner permission must be obtained before a visit is made to a natural landmark. The specific location of some landmarks in not provided because of the owner's request for minimum publicity and/or because of the fragility of the landmark's natural values.

The following list is not inclusive of all 543 National Natural Landmarks currently listed on the National Registry of Natural Landmarks. Copies of the entire Registry (45 FR 79698 and 46 FR 51196) are available upon request.

Russell E. Dickenson,

Director, National Park Service.

California

Contra Costa County

Mt. Diablo State Park—31 miles east of Berkeley. Contains the best examples of diapiric (igneous intrustion) geologic processes in the South Pacific Border natural region. One of the few places in the region where geologic strata of Jurassic, Cretaceous, and Tertiary age can be seen in an aggregate thickness of 42,000 feet. The park also possesses a great diversity of native plant species and associations. (May 1982) Owner: State

Connecticut

Litchfield County

Cathedral Pines—Near the southeast corner of Cornwall in the Berkshire Hills region. An old growth white pine and hemlock forest which is the most massive single stand identified in the New England-Adirondacks natural region. (May 1982) Owner: Private

New Hampshire

Cheshire County

Rhododendron Natural Area—13 miles south of Keene. A portion of Rhododendron State Park in the New England-Adirondacks natural region, this is the largest and most viable stand of rhododendron known at the northern extension of the species' range. (May 1982) Owner: State

New Mexico

Chaves County

Mathers Natural Area—41 miles east of Roswell. The best example of shinnery oak-sand prairie community in the southern Great Plains natural region. (May 1982) Owner: Federal.

Mescalero Sands South Dune—41 miles east of Roswell. The best example of an active sand dune system in the southern Great Plains natural region. A

variety of successional stages from active dunes to a climax shinnery oak-sand prairie community are represented. (May 1982) Owner: Federal, Private

Texas

Blanco County

Little Blanco River Bluff—The best example of the few remaining Edwards Plateau limestone bluff plant communities in the Great Plains natural region. The area supports a diverse flora, including an estimated 250 species in 25 families. (May 1982) Owner: Private

Virgin Islands

St. Thomas

West End Cays—A group of cays off the western coast of St. Thomas Island. A high quality nesting area for many sea birds with different nesters on each cay. (February 1980, May 1982) Owner: Virgin Islands Government

[FR Doc. 82-17115 Filed 6-23-82; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP1-102

Decided: June 15, 1982.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier.

MC 61440 (Sub-219), filed June 7, 1982. Applicant: LEE WAY MOTOR FREIGNT, INC., P.O. Box 12750, Oklahoma City, OK 73157. Representative: T. M. Brown, P.O. Box 12750, Oklahoma City, OK 73157. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Phillips Petroleum Co., of Bartlesville, OK, and its subsidiaries, Phillips Chemical Co., Applied Automation, and Drilling Specialities, Inc., all of Bartlesville, OK; Phillips Drisco Pipe, of Dallas, TX; Interplastic Corporation, of Minneapolis, MN; H. P. Smith Paper Co., of Chicago, IL; Phillips Products Co., of Streamwood, IL; Phillips Fibers Corporation, of Startex, SC, and Sealright Corp., of Kansas City, MO.

MC 85530 (Sub-13), filed June 8, 1982. Applicant: BLALOCK TRUCK LINE, INC., P.O. Box 734, Charleston, SC 29402. Representative: Wilmer B. Hill, Suite 366, 1030 Fifteenth St., N.W., Washington, DC 20005, (202) 296-5188. Transporting (1) *lumber and wood products;* and (2) *building materials,* between points in the U.S., under continuing contract(s) with Georgia-Pacific Corporation, of Augusta, GA.

MC 98761 (Sub-1), filed June 7, 1982. Applicant: CONTINENTAL VAN LINES, INC., 3151 N.W. 12th St., Oklahoma City, OK 73107. Representative: Clarence H. Scott (same address as applicant), (405) 942-1776. Transporting *household goods,* between points in LA, AR, MO, KS, CO, NM, TX, and OK.

MC 103051 (Sub-493), filed June 7, 1982. Applicant: FLEET TRANSPORT COMPANY, 934 44th Ave., North, Nashville, TN 37209. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566-5639. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Savannah Foods & Industries, Inc., of Savannah, GA, and its subsidiaries: (1) Everglade Sugar Refinery, of Charleston, FL; (2) Transales Corporation, of Savannah, GA; (3) Wells Pet Food Corporation, of Monmouth, IL; (4) Sunaid of Florida, Inc., of Miami, FL; and (5) Food Carrier, Inc., of Port Wentworth, GA.

MC 103721 (Sub-28), filed June 9, 1982. Applicant: INDIAN VALLEY BULK CARRIERS, INC., Ridge Road, Tylersport, PA 18971. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101, (703) 893-4924. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 129510 (Sub-18), filed June 7, 1982. Applicant: ENGLUND EQUIPMENT COMPANY, 740 Old Stage Rd., Salinas, CA 93908. Representative: John Paul Fischer, 100 Bush St., Suite 410, San Francisco, CA 94104, (415) 421-6743. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Polychrome Corporation, of Yonkers, NY.

MC 139410 (Sub-5), filed June 8, 1982. Applicant: MIKE PHILLIPS ENTERPRISES, INC., 301 S. Third St., Phoenix, AZ 85004. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014, (602) 264–4891. Transporting *such commodities* as are dealt in or used by a manufacturer of beverages, between points in the U.S. (except AK and HI), under continuing contract(s) with Shasta Beverages, Inc., of Phoenix, AZ.

MC 144821 (Sub-17), filed May 20, 1982, previously published in the Federal Register issue of June 4, 1982. Applicant: FREEDOM FREIGHTWAYS, INC., 9060 Latty Ave., St. Louis, MO 63134. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701, (601) 335–3576. Transporting (1) *such commodities* as are dealt in or used by retail department, variety and speciality stores, between points in the U.S. (except AK and HI); (2) *chemicals and machinery*, between points in Ouachita Parish, LA, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (3) *lumber and wood products, and petroleum, natural gas and their products*, between points in Dent County, MO, and Lunenburg County, VA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: To the extent the certificate embraces the transportation of liquefied petroleum gas, it shall be limited to 5 years from the date of its issuance.

Note.—The purpose of this republication is to correct the territorial description in part (2) of the application to reflect Ouachita Parish, LA, in lieu of Ouachita Parish, PA.

MC 145230 (Sub-13), filed June 1, 1982. Applicant: H & S MOTOR LINES, INC., P.O. Box 248, Wesson, MS 39191. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601) 948–8820. Transporting *furniture and fixtures*, between points in Lee County, MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146551 (Sub-15), filed June 6, 1982. Applicant: TAYLOR TRANSPORT, INC., Route 2, State Rte 66N, Defiance, OH 43512. Representative: Owen B. Katzman, 1828 L. Street, N.W., Suite 1111, Washington, DC 20036, (202) 822–8200. Transporting *general commodities* (except clases A and B explosives, household goods and commodities in bulk), between points in the U.S. (except HI), under a continuing contract(s) with Marine Cooperative Association, of Portland, OR.

MC 151480 (Sub-4), filed June 1, 1982. Applicant: SUNBELT EXPRESS, INC., 727 W. Sidney Avenue, Florence, SC 29504. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 629–2818. Transporting (1) *general commodities* (except household goods as defined by the Commission), between points in the U.S. (except AK and HI), under continuing contact(s) with United Forwarding, Inc., of Omaha, NE, and Southeastern Shippers Association, Inc., of Florence, SC; (2) *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S. (except AK and HI), under continuing contract(s) with Superior Machine Co., Inc., of Florence, SC; and (3) *pulp, paper and related products*, between points in the U.S (except AK and HI), under continuing contract(s) with Consolidated Fibres, Inc., of Buffalo, NY, and Stone Container Corp., of Florence, SC.

Note.—To the extent that any permit issued in this proceeding authorizes the transportation of classes A and B explosives, it shall expire 5 years from its date of issuance.

MC 152441 (Sub-2), filed June 8, 1982. Applicant: WILSON LEASING, INC., P.O. Box 6946, Rochester, MN 55901. Representative: Grant J. Merritt, 4444 IDS Center, 80 South Eighth Street, Minneapolis, MN 55402, (612) 339–4546. Transporting *lumber and wood products and forest products*, between points in CA, ID, MT, OR, and WA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 157061 (Sub-2), filed June 10, 1982. 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, (901) 526–4114. Transporting *greeting cards and related commodities*, (1) between Mississippi County, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) between points in Greene County, TN, Cuyahoga County, OH, Whitley and Knox, Counties, KY, Neshoba County, MS, and Woodruff and Poinsett Counties, AR.

MC 157180, filed June 9, 1982. Applicant: ROSS TRUCKING CORPORATION, 4213 N.W. 23rd, Suite 208, Oklahoma City, OK 73107. Representative: David B. Schneider, 401 West Sheridan, Suite 200, Oklahoma City, OK 73102, (405) 232–9990. Transporting *Mercer commodities and pipe*, between points in KS, LA, MS, NM, OK, and TX.

MC 157921 (Sub-1), filed June 7, 1982. Applicant: BLT'S WHARF WAREHOUSES, INC., 936 Fell Street, Baltimore, MD 21231. Representative: Robert K. Goren, Suite 1025, 1875 Eye Street, N.W., Washington, DC 20006, (202) 463–6400. Transporting *general commodities* (except classes A and B explosives commodities in bulk, and household goods), between points in Baltimore, MD, on the one hand, and, on the other, points in MA, RI, CT, NY, NJ, PA, OH, IN, IL, MI, WI, DE, VA, WV, NC, SC, GA, KY, FL, and DC.

MC 161281, filed June 7, 1982. Applicant: A CUPIDO HAULAGE, LIMITED, 1035 Howard Rd., Burlington, Ontario, Canada L7R 3X5. Representative: Robert D. Kolken, 580 Elmwood Ave., Buffalo, NY 14222, (716) 883–3212. Transporting *agricultural limestone*, between ports of entry on the International Boundry line between the U.S. and Canada at Buffalo, Niagara Falls and Lewiston, NY, on the one hand, and, on the other, points in Albany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Clinton, Columbia, Cortland, Delaware, Erie, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oswego, Onedia, Onondoga, Ontario, Orleans, Otsego, Saratoga, Schenectady, Schuyler, Steuben, Seneca, Tompkins, Warren, Wayne, Wyoming and Yates Counties, NY, and Crawford County, PA, under continuing contract(s) with Lime It, of Grand Island, NY.

MC 161350, filed June 7, 1982. Applicant: E.I.G. INC., Rural Route 1, Clinton, IA 52732. Representative: James M. Hodge, 3720 Ingersoll Avenue, Des Moines, IA 50312, (515) 274–4985. Transporting *Fertilizer*, (1) between points in Whiteside County, IL and Walworth County, WI, on the one hand, and, on the other, points in IA, and (2) between points in Clinton County, IA, on the one hand, and, on the other, points in IL.

MC 161420, filed June 7, 1982. Applicant: AL STOVER d.b.a. AL STOVER TRUCKING, Box 204, Webster, SD 57274. Representative: Thomas J. Simmons, P.O. Box 480, Sioux Falls, SD 57101, (605)–339–3629. Transporting *beer and malt beverages*, between points in SD, on the one the hand, and, on the other, points in the U.S. (except AK and HI).

MC 161980, filed June 9, 1982. Applicant: TERS, INC., d.b.a. TRANSPORT ELECTRIC, P.O. Box 2286, Hereford, TX 79045. Representative: Richard Hubbert, P.O. Box 1026, Lubbock, TX 79408, (806) 763–9555. Transporting *such commodities* as are dealt in or used by grocery stores and food business houses, between points in CA, MO, IL, KS, IA, FL, and AZ, and points in Hale, Deaf Smith, Randall, Potter and Parmer Counties, TX.

MC 162070, filed June 7, 1982. Applicant: JIM HARDY, JR., Rt. 2 Box 279, Senatobia, MS 38668. Representative: Jim Hardy, Jr. (same address as applicant), (601)–562–5645. Transporting (1) *metal products;* (2) *machinery;* and (3) *Mercer commodities,* between points in Shelby County, TN, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with National Machines Works, Inc., of Memphis, TN.

MC 162091, filed June 7, 1982. Applicant: ACMA ENTERPRISES, INC., 511 Legion Drive, Warrenton, GA 30828. Representative: John P. Tucker, Jr., Suite 222, Lenox Towers, 3390 Peachtree Road, NE., Atlanta, GA 30326, (404) 231–3583. Transporting (1) *rubber and plastic products,* (2) *textile mill products,* (3) *chemicals and related products,* (4) *recyclable materials and acoustical materials,* (5) *machinery* used in the textitle and acoustical industries, and (6) *such commodities* as are dealt in or used by manufacturers and distributors of automobiles, between points in GA, MA and MI, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, OK and TX.

MC 162300, filed June 1, 1982. Applicant: RODMAN ENTERPRISES, 522 Box Elder, Paonia, CO 81428. Representative: C. Joseph Croker, 725 Rood Ave., Grand Junction, CO 81501, (303) 245–4601. Transporting (1) *heavy equipment;* (2) *coal and coal products;* and (3) *ores and minerals,* (a) between points in Delta County, CO, on the one hand, and, on the other, points in NV, CA, WY, UT, AZ, NM, TX, OK, MT, OR, WA, ID, KS and NE; and (b) between points in NV, CA, WY, UT, AZ, NM, TX, OK, MT, OR, WA, ID, KS and NE, under continuing contract(s) with Pacific Basin Coal & Carbon, of Irvine, CA, and Blue Ribbon Coal Company, of Delta, CO.

MC 162361, filed June 7, 1982. Applicant: G. P. EXPRESS, INC., 1175 Woodmen Tower Building, Omaha, NE 68102. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106, (402) 392–1220. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IA, KS, MI, MN, MO, MT, ND, NE, SD, WI, and WY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162380, filed June 8, 1982. Applicant: CMM TRANSPORTATION, INC., Abbott Park, North Chicago, IL 60064. Representative: Edward G. Bazelon, 29 South LaSalle St., Chicago, IL 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Abbott Laboratories, of North Chicago, IL, and its subsidiaries: (1) Abbott Chemicals, Inc.; (2) Abbott Energy, Inc.; (3) Abbott Export Co.; (4) Abbott Hospitals, Inc.; (5) Abbott International, Ltd.; (6) Abbott Laboratories International Co.; (7) Abbott Laboratories Pacific Ltd.; (8) Abbott Laboratories Service Corp.; (9) Abbott Laboratories Utilities Corp.; (10) Abbott Pharmaceuticals, Inc.; (11) Abbott Universal Ltd.; (12) AHI Holding Co.; (13) The Murine Company, Inc.; (14) M & R Dietetic Laboratories, Inc.; (15) Ross Laboratories, Inc.; (16) Swan-Myers, Incorporated; and (17) Tobal Products Incorporated, each of North Chicago, IL, and Sorenson Research Co., Inc., of Taylorsville, UT.

MC 162381, filed June 8, 1982. Applicant: TRI-MODAL DISTRIBUTION SERVICES, INC., 725 W. Anaheim St., Long Beach, CA 90813. Representative: John C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017, (213) 483–4700. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CA.

MC 162390, filed June 7, 1982. Applicant: QUALITY DELIVERY SERVICE, 3943 Forest Lake Dr., Jackson, MS 39212. Representative: Robert D. Forbes (same address as applicant), (601) 373–8132. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AL, AR, LA, MS, TN, and TX.

MC 162400, filed June 10, 1982. Applicant: TRI-FRIDGE CORP., 3300 West 93rd Street, Evergreen Park, IL 60642. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603, (312) 782–8880. Transporting *chemicals and related products,* between Chicago, IL, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 162401, filed June 9, 1982. Applicant: BOISE TRUCK & EQUIPMENT, INC., 7920 Overland Rd., Boise, ID 83709. Representative: Craig Farmer, (same address as applicant), (208) 376–6070. Transporting *Wrecked or disabled vehicles,* between points in the U.S. (except AK and HI).

MC 162410, filed June 9, 1982. Applicant: NORBRI TRANSIT, INC., 91 Fessler's Lane, Nashville, TN 37210. Representative: Daniel C. Sullivan, 180 North Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 263–1600. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Georgia Boot-Durango, Division of U.S. Industries, Inc., of Franklin, TN.

Volume No. OP2–126

Decided: June 17, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 22182 (Sub-43), filed June 11, 1982. Applicant: NU–CAR CARRIERS, INC., P.O. Box 172, Bryn Mawr, PA 19010. Representative: Gerald K. Gimmel, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301–840–8565. Transporting *transportation equipment,* between points in the U.S. (except AK and HI), under continuing contract(s) with (1) Nissan Motor Corporation in U.S.A., of Carson, CA, (2) Volvo of America Corporation, of Rockleigh, NJ, (3) Subaru Atlantic, Inc., of Columbia, MD, and (4) Toyota Motor Sales U.S.A., Inc., of Torrance, CA.

MC 108393 (Sub-157), filed June 7, 1982. Applicant: SIGNAL DELIVERY SERVICE, INC., 1010 Jorie Blvd. Suite 200, Oakbrook, IL 60521. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, 216–566–5639. Transporting *plastic and plastic products,* between points in the U.S., under continuing contract(s) with Complas Division/Ferro Corporation, of Evansville, IN.

MC 121222 (Sub-7), filed June 1, 1982. Applicant: KING MOTOR LINE, INC., P.O. Box 7456, Montgomery, AL 36107. Representative: Donald B. Sweeney, Jr., P.O. Box 2366, Birmingham, AL 35201, 205–254–3880. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, MS, LA, GA, TN, and FL.

MC 129712 (Sub-75), filed June 7, 1982. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 569, McDonough, GA 30253. Representative: Guy H. Postell, Suite 675, 3384 Peachtree Rd., NE, Atlanta, GA 30326, 404–237–6472. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Portland, ME, Boston, MA, New York, NY, Philadelphia, PA, Baltimore, MD, Norfolk, VA, Wilmington, NC, Charleston, SC, Savannah, GA, Jacksonville, Miami, Tampa, and Port Everglades, FL, Mobile, AL, New Orleans, LA, Galveston and Houston, TX, Los Angeles, Long Beach, and San Francisco, CA, Seattle and Tacoma, WA, Portland, OR, and

Chicago, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 143433 (Sub-19), filed June 7, 1982. Applicant: B. L. GILBERT, d.b.a. GILBERT TRUCKING COMPANY, 310 South 1st Ave., Stroud, OK 74079. Representative: Greg E. Summy, 208 Century Center Plaza, 100 West Main St., Oklahoma City, OK 73102, 405–235–3661. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OK, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 143702 (Sub-21), filed June 3, 1982. Applicant: ALL FREIGHT SYSTEMS, INC., 1026 South 10th St., Kansas City, KS 66105. Representative: Donald J. Quinn, Commerce Bank Bldg., 8901 State Line, Suite 232, Kansas City, MO 64114, 816–444–7474. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Iowa Beef Processors, Inc., of Dakota City, NE.

MC 146723 (Sub-9), filed June 1, 1982. Applicant: J. C. BANGERTER & SONS, INC., 1265 North Main St., Bountiful, UT 84010. Representative: Harry D. Pugsley, 940 Donner Way #370, Salt Lake City, UT 84108, 801–581–0322. Transporting *such commodities* as are dealt in by grocery and food business houses, between points in the U.S. (except AK and HI).

MC 148263 (Sub-2), filed June 3, 1982. Applicant: FLEETWOOD TRUCKING CO., Route #1, Spalding, MI 49886. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, 616–459–6121. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Land O'Lakes, Inc., of Minneapolis, MN.

MC 153723 (Sub-11), filed June 1, 1982. Applicant: A & M ENTERPRISES, INC., P.O. Box 884, Springdale, AR 72764. Representative: George Spencer, 7 North Block, Fayetteville, AR 72701, 501–442–0585. Transporting *evaporative air coolers and accessories,* between points in Pulaski County, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159062, filed June 8, 1982. Applicant: CENTRAL TRUCKING, INC., 137 Burgess Lane, Charlottesville, VA 22901. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229, 804–282–3809. (1) Transporting *coal and expanded shale lightweight aggregates,* between points in VA and WV; and (2) *industrial filler, lime, limestone, sand, and stone,* between points in VA, on the one hand, and, on the other, points in NC, SC, and WV.

MC 159123, filed June 11, 1982. Applicant: GIN–EE, INC., 1212 Dolton Dr., Dallas, TX 75207. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, 214–255–6279. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with the John Deere Company, of Moline, IL.

MC 161173 (Sub-1), filed June 7, 1982. Applicant: BESTWAY SYSTEMS, INC., P.O. Box 597, Lilburn, GA 30247. Representative: David P. Clark (same address as applicant), 404–921–2378. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 161282, filed June 7, 1982. Applicant: CHAPARRAL TOURS, INC., 148 E. Worthington Rd., Imperial, CA 92251. Representative: Donald R. Hedrick, P. O. Box 4334, Santa Ana, CA 92702, 714–667–8107. Transporting *passengers and their baggage,* in the same vehicle with passengers, in roundtrip special and charter operations (1) beginning and ending at points in Imperial County, CA, and extending to points in AZ, NV, NM, UT, ID, CO, and WY, and (2) beginning and ending at Yuma, AZ, and extending to points in NV.

MC 162392, filed June 8, 1982. Applicant: SIMMS TRUCKING, INC., Rte. 5, Box 81, Festus, MO 63028. Representative: Edward P. Bocko, P. O. Box 496, Mineral Ridge, OH 44440, 216–652–2789. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Houck Industries, of Tulare, CA.

Volume No. OP4–219

Decided: June 14, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 29957 (Sub-98), filed June 7, 1982. Applicant: TRAILWAYS SOUTHERN LINES, INC., 327 Gayoso, Memphis, TN 38103. Representatives: George W. Hanthorn, 1500 W. Hanthorn, 1500 Jackson St., Dallas, TX 75201, (214) 655–7937. Over regular routes, transporting *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, between Memphis, TN, and St. Louis, MO, over Interstate Hwy 55, serving the intermediate point of Blytheville, AR and the off-route points of Sikeston, MO.

Note.—Applicant states he intends to tack this authority with its existing operating rights.

MC 129326 (Sub-40), filed June 8, 1982. Applicant: CHEMICAL TANK LINES, INC., P. O. Box 437, Mulberry, FL 33860. Representative: Charles A. Webb, 606 London House, 1001 Wilson Blvd., Arlington, VA 22209, (703) 528–2266. Transporting *chemicals and related products* and *commodities in bulk,* between points in AL, AR, DE, FL, GA, IN, KY, LA, MD, MS, NJ, NC, OH, PA, SC, TN, TX, VA, IL, NY, OK, and WV.

MC 142186 (Sub-10), filed June 8, 1982. Applicant: WHEELS WEST, INC., 11631 Waddell Creek Rd. SW., Olympia, WA 98502. Representative: Henry C. Winters, 12600 S.E. 38th, Suite 200, Bellevue, WA 98006, (206) 644–2100. Transporting *transportation equipment,* between points in the U.S., under continuing contract(s) with American Equipment & Trailer, Inc., of Amarillo, TX.

MC 147676 (Sub-11), filed June 8, 1982. Applicant: KEATON TRUCK LINES, INC., 100 S. Lelia St., P.O. Box 1187, Texarkana, TX 75504. Representative: Patsy R. Washington (same address as applicant), (214) 792–3351. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Kast Metal Corporation and its divisions, of Shreveport, LA, AMmrican Lignite Products, of Ione, CA, and The Vendo Company, of Pinedale, CA.

MC 154276 (Sub-1), filed June 8, 1982. Applicant: DIAL–A–WAGON, 396 Ashford Ave., Dobbs Ferry, NY 10552. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836–1144. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NY, NJ, Ct, and PA.

MC 158736, filed June 8, 1982. Applicant: POPLAR BLUFF EXPRESS, 1006B South Broadwway, P.O. Box 1034, Poplar Bluff, MO 63901. Representative: George E. Russell (same address as applicant), (314) 785–7773. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (1) between St. Louis, MO, and points in Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Mississippi, New Madrid, Ripley, Scott, Stoddard, Pemiscott, and Wayne

Counties, MO, and (2) between those points named in (1) above, on the one hand, and, on the other, points in Alexander County, IL, Ballard, McCracken, Graves, and Marshall Counties, KY, and points in AR, MS, and TN.

MC 161056 (Sub-1), filed June 8, 1982. Applicant: AMERICAN HIGHWAYS, INC., P.O. Box 203, Moreland, ID 83256. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting (1) *lumber and wood products, metal and metal products,* and *building materials,* (a) between points in AZ, CA, CO, ID, MT, NV, OR, UT, WA, and WY, and (b) between points in CA, ID, MT, OR and WA, on the one hand, and, on the other, points in IL, IA, KS, MN, MO, NE, NM, ND, OK, SD, TX, and WI, and (2) *minerals and chemicals,* (a) between points in CO, ID, IA, KS, MO, NE, NM, OK, OR, and TX, and (b) between points in ID, OR and WA, on the one hand, and, on the other, points in AZ, CA, ID, MT, NV, OR, UT, WA, and WI.

MC 161266, filed June 8, 1982. Applicant: IRISH & LaCOUNT TRUCKING, INC., Rt. 2, Box 19A, Krakow, WI 54137. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273–1003. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Fox Valley Beef, Inc., of Green Bay, WI.

MC 162356, filed June 7, 1982. Applicant: MIKE H. LANDOLT, 5805 SW Tucker St., Beaverton, OR 97005. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting *commodities in bulk,* between points in OR and WA.

Volume No. OP4–224

Decided: June 18, 1982.

By the Commission, Review Board No. 2, members Carleton, Fisher, and Williams.

MC 59666, (Sub-23), filed June 10, 1982. Applicant: TRAFIK SERVICES, INC., 25 Esten Ave., Pawtucket, RI 02860. Representative: Robert A. Mega (same address as applicant), (401) 724–1200. Transporting *plastic and plastic products,* and *building materials* between points in the U.S. (except AK and HI), under continuing contract(s) with Cooley, Inc., of Pawtucket, RI.

MC 145716, (Sub-8), filed June 7, 1982. Applicant: INTERNATIONAL TRANSPORTATION SERVICE, INC., 3300 Northeast Expressway, Suite 1–M, Atlanta, GA 30341. Representative: Brian Weir (same address as applicant), (404) 455–1050. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Sherwin-Williams Co.

MC 155236, (Sub-1), filed June 10, 1982. Applicant: POTTLE'S TRANSPORTATION, INC., P.O. Box 164, Carmel, ME 04419. Representative: Clifton E. Pottle (same address as applicant), (207) 848–2485. Transporting (1) *malt beverages, wine, and liquors,* between points in the U.S. (except AK and HI), under continuing contract(s) with McLaughlin & Moran Inc., of Providence, RI, Calmont Beverage Company of Barre, VT, The Gallo Company, of Goshen, CT, and G & G Beverage, of North Haven, CT, and (2) *rims, wheels, brakes and parts,* between points in the U.S. (except AK and HI), under continuing contract(s) with New England Wheel and Rim Co., Inc., of Boston, MA.

MC 155256, (Sub-1), filed June 11, 1982. Applicant: KASSEL TRANSFER, INC., Rt. 1, Letts, IA 52754. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282–3525. Transporting *food and related products,* between points in Des Moines County, IA, on the one hand, and, on the other, points in CO, IN, KS, KY, MI, MN, MO, NE, ND, OK, SD, and WI.

MC 157186 (Sub-2), filed June 11, 1982. Applicant: U.S. TRANSPORT, INC., 14307 Still Meadow, Houston, TX 77079. Representative: Robert J. Birnbaum, 3636 Executive Center Dr., Suite 151, Austin, TX 78731, (512) 346–4800. Transporting *Mercer commodities,* between points in TX, on the one hand, and, on the other, points in AZ, AR, OK, NE, SD, ND, MT, WY, NV, and CA.

MC 162406, filed June 10 1982. Applicant: SFZ TRANSPORTATION, INC., 14600 Detroit Ave., P.O. Box 2675, Lakewood, OH 44107. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566–5639 Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S., under continuing contract(s) with The Scott & Fetzer Company, of Lakewood, OH, Melben Products Co., Inc., of Harrison, OH, Advanced Chemical Products, Inc., and The Sherwin-Williams Co., both of Cleveland, OH, and National Carrier Service, of Anaheim, CA.

Volume No. OP5–134

Decided June 16, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FF–498 (Sub-1), filed June 7, 1982. Applicant: RITEWAY OVERNIGHT TRANSPORT, INC., 2131 West Roosevelt, Phoenix, AZ 85009. Representative: Robert R. Digby (same address as applicant), (602) 258–6851. To operate as a freight forwarder of *general commodities* (except household goods, commodities in bulk and classes A and B explosives) between points in the U.S. (except AK and HI).

MC 68898 (Sub-11), filed June 7, 1982. Applicant: HANOVER TRANSFER CO., 409 East Hanover Street, Hanover, PA 17331. Representative: Barry Roberts, 600 Maryland Avenue NW., Washington, D.C. 20024, (202) 484–9090. Transporting *general commodities* (except household goods, commodities in bulk, and classes A and B explosives), between Baltimore, MD, and points in Carroll County, MD, York, Adams, and Dauphin Counties, PA, on the one hand, and, on the other, points in Loudoun, Fairfax, Arlington Counties, VA, Montgomery, Prince Georges and Howard Counties, MD, and DC.

Note.—Applicant intends to tack this authority with its existing authority.

MC 105159 (Sub-49), filed May 14, 1982. Initially published in the **Federal Register** on June 1, 1982. Applicant: KNUDSEN TRUCKING, INC., 1320 West Main St., Red Wing, MN 55068. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333–1341. Transporting *such commodities* as are dealt in or used by manufacturers of life jackets and outerwear, between points in MN, on the one hand, and, on the other, points in CT, IL, IN, MA, NJ, NY, and RI.

Note.—This application is republished to indicate common carrier authority is sought rather than contract.

MC 118838 (Sub-96), filed June 9, 1982. Applicant: GABOR TRUCKING, INC., P.O. Box 687, Detroit Lakes, MN 56501. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 S. 8th St., Minneapolis, MN 55402, 612–333–1341. Transporting *such commodities* as are dealt in or used by manufacturers or distributors of plastic and wood products, and paper and paper products, between points in WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 118838 (Sub-97), filed June 11, 1982. Applicant: GABOR TRUCKING, INC., P.O. Box 687, Detroit Lakes, MN 56501. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402, 612–333–1341. Transporting *machinery and agricultural implements,* between points in MN and ND on the one hand, and, on

the other, points in the U.S. (except AK and HI).

MC 118838 (Sub-98), filed June 11, 1982. Applicant: GABOR TRUCKING, INC., P.O. Box 687, Detroit Lakes, MN 56501. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402, 612–333–1341. Transporting (1) *metal products,* and (2) *building and construction materials,* between points in ND on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 121288 (Sub-2), filed June 9, 1982. Applicant: STATE FREIGHT, INC., 666 Summer St., Boston, MA 02205. Representative: J. Aiden Connors, 325 East 201 St., New York, NY 10458, 212–733–6965. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 129788 (Sub-22), filed June 9, 1982. Applicant: NASS TRUCK LINES, INC., Box H, Wenona, IL 61377. Representative: Walter E. Nass (same address as applicant), (815) 853–4612. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Kansas City, KS, Omaha, NE, Memphis, TN, and points in IL, IN, IA, KY, MI, MN, MO, OH, and WI.

MC 143259 (Sub-6), filed May 27, 1982. Applicant: TOM DURKIN, d.b.a. TOM DURKIN TRUCKING, 36 East Chestnut St., Walla Walla, WA 99362. Representative: Steve Van Wyk, 12012 NE Lonetree, Poulsbo, WA 98370, (206) 779–5789.Transporting (1) *such commodities* as are dealt in or used by wholesale, retail and chain groceries and food business houses, between points in the U.S. (except AK and HI), and (2) *alcoholic beverages and related products,* (a) between points in Jefferson County, CO, on the one hand, and, on the other, points in WA, ID, and MT, and (b) between points in Walla Walla County, WA, on the one hand, and, on the other, points in Los Angeles and San Joaquin Counties, CA and (c) between points in FL on the one hand, and, on the other, points in WA.

MC 144449 (Sub-12), filed June 11, 1982. Applicant: A & A MOVING & STORAGE, INC., d.b.a. A & A CONTRACT CARRIERS, 2412 Blue Smoke Court South, Fort Worth, TX 76105. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, (817) 332–4718. Transporting *restaurant fixtures, furnishings and supplies,* between points in the U.S. (except AK and HI), under continuing contract(s) with H & K of Dallas, Dallas, TX.

MC 147019 (Sub-8), filed June 7, 1982. Applicant: WENGERT TRANSPORTATION INC., d.b.a., CITY DELIVERY, 651 58th Avenue Court, S.W., Cedar Rapids, IA 52404. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50310, (515) 274–4985. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Black Hawk, Linn, Scott, Des Moines, Wapello and Polk Counties, IA on the one hand, and, on the other, points in IA.

MC 148529 (Sub-2), filed June 7, 1982. Applicant: A. ANASTASIO & SONS TRUCKING CO., INC. 169 South End Road, East Haven, CT 06512. Representative: John E. Fay, 663 Maple Ave., Hartford, CT 06114, (203) 525–2661. Transporting *building materials* (except lumber) and *lumber,* between points in CT, MA, ME, NH, RI, VT, DE, MD, NJ, NY, and PA.

MC 149269 (Sub-3), filed June 11, 1982. Applicant: PALMER INDUSTRIES, INC., Box 839, Macon, GA 31202. Representative: Virgil H. Smith, 74 Highway N., (404) 969–1980. Transportating *rubber and plastic products* between points in Warren County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150339 (Sub-47), filed June 11, 1982. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Boulevard, Preston, MD 21655. Representative: Ronald D. Endzel (same address as applicant), (301) 673–7151. Transporting *food and related products* between points in the U.S. (except AK and HI), under continuing contract(s) with Land O'Lakes, Inc., of Arden Hills, MN.

MC 150568 (Sub-7), filed June 9, 1982. Applicant: CASE CARRIAGE CO., 715 South Sugar Street, Celina, OH 45822. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215, 614–464–4103. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of foodstuffs and related products (except in bulk), between Des Moines, IA, Nashville, TN, points in Crawford County, IL, Floyd County, GA and Outagamie County, WI, and points in OH and IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152669 (Sub-3), filed June 9, 1982. Applicant: C & C TRUCKING, INC., Rt. 9, Box 222A, Statesville, NC 28677. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101, (703) 893–4924. Transporting (1) *general commodities* (except household goods and classes A and B explosives), between points in the U.S., under continuing contract(s) with Manufactures Consolidation Service, Inc., of Memphis, TN, and (2) *chemicals and related products,* between points in the U.S., under continuing contract(s) with Piedmont Explosives, Inc., of Statesville, NC.

MC 152779 (Sub-3), filed June 7, 1982. Applicant: KFM TRANSPORT, INC., 222 E. 5th Ave., Naperville, IL 60540. Representative: Norman A. Cooper, 145 West Wisconsin, Neenah, WI 54956, (414) 722–2848. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in the U.S., under continuing contract(s) with Luxor-Springs Corp.; Luxor-Springs Corp and Furniture by Fillippi, and Luxor-Springs Corp. d/b/a Kroeler Furniture Division of Bradley, IL, all of Bradley, IL.

MC 154368 (Sub-1), filed June 7, 1982. Applicant: TRUC-WAY, INC., P.O. Box 8, Collingswood, NJ 08108. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113, 215–365–5141. Transporting *food and related products,* between points in Gloucester, Salem and Middlesex Counties, NJ, on the one hand, and, on the other, points in MD, NJ, NY and PA.

MC 157388, filed June 10, 1982. Applicant: FREEMAN CONTRACT SERVICES, INC., 426 Springview Court, Concord, NC 28025. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204, (704) 372–6730. Transporting *steel and aluminum products,* between points in the U.S., under continuing contract(s) with Edgcomb Metals Company, of Tulsa, OK.

MC 159399 (Sub-1), filed June 7, 1982. Applicant: JAMES D. OLSON, d.b.a. TREE LINE TRANSPORTATION, 8061 Jordan, S.E., Salem, OR 97301. Representative: James D. Olson (same address as applicant), (503) 371–1414. Transporting (1) *food and related products,* between points in the U.S., (except AK and HI), under continuing contract(s) with Cal Pacific, Inc., of San Carlos, CA, Keeler Foods Distribuco, Inc., of Santa Ana, CA, and Kerr Concentrates, Inc., of Salem, OR; and (2) *paper and related products,* between points in the U.S., (except AK and HI), under continuing contract(s) with Precision Business Systems Inc., of Redmond, WA.

MC 161968 (Sub-1), filed June 10, 1982. Applicant: RAY HALEY TRUCKING, 7301 Bridge Lane, Redding, CA 96001. Representative: Jim Pitzer, 15 South

Grady Way, Suite 321, Renton, WA 98055–3273, 206–235–1111. Transporting (1)*calcium chloride,* and (2) *salt,* between points in CA, OR, WA, ID, and UT.

MC 162428, filed June 10, 1982. Applicant: DUJAC EXPRESS, LTD., 9415 South Western Ave., Chicago, IL 60620. Representative: Abraham A. Diamond, 29 South LaSalle St., Chicago, IL 60603, 312–236–0548. Transporting *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Cook, Du Page, Lake, Will, Kane, Kendall, Grundy and McHenry Counties, IL and Lake and Porter Counties, IN, and extending to points in the U.S. (except AK and HI).

MC 162439, filed June 10, 1982. Applicant: UNC'S INC., 15660 S.E. 303rd Pl., Kent, WA 98031. Representative: Samuel C. Walter (same address as applicant), 206–631–6758. Transporting *chemicals and related products,* and *solvents,* between points in OR, WA, and CA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–17064 Filed 6–23–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 270]

Motor Carriers; Permanent Authority Decisions; Restriction Removals

Decided: June 17, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 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.

Canadian carrier applicants: In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers for Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 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 Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

MC 79577 (Sub-42)X, filed June 9, 1982. Applicant: OILFIELDS TRUCKING COMPANY, P.O. Box 751, Bakersfield, CA 93302. Representative: John C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017. Subs 30 and 41F. Broaden: petroleum products and contaminated and returned shipments thereof, in Sub 30, and gasoline and distillate fuel oils, in Sub 41, to "petroleum and petroleum products"; Daggett facilities to San Bernardino County, CA in Sub 41; and remove in bulk, in tank vehicles restrictions and broaden to radial authority in both Subs.

MC 134872 (Sub-20)X, filed May 28, 1982. Applicant: GOSSELIN EXPRESS, LTD., 1669 Smith Boulevard, North, C.P. 248, Thetford Mines, Quebec, Canada G6G 5S5. Subs 1, 4, 10, 11F, 12F, 14F, 16F, 18F (1) broaden, Subs 1, 4, 16F and 18F to "recreational transportation equipment" from snowmobiles; Subs 10, 11F and 14F to "clay, concrete, glass or stone products," from asbestos in bags, and to "machinery," from lawnmowers, tractors (other than road-tractors) and attachments therefor, snow blowers, hand-operated rotary tillers and self-propelled machinery parts; Sub 12F to "machinery," from agricultural implements and parts and accessories for agricultural implements (2) broaden to ports of entry on US-Canada boundary line in MI, NY, VT and ME from ports of entry on the United States-Canada boundary line located in Michigan, New York and Vermont, and near Jackman, Maine, Sub 1; Sub 4 to Adams, Arapahoe, Jefferson, Boulder and Clear Creek Counties, CO from Denver; to ports of entry on the international boundary line between the United States and Canada in NY and MI from ports of entry on the international boundary line between the United States and Canada located at Champlain, NY and Detroit and Sault Ste. Marie, MI; to Paulding County, OH from Paulding; to Calumet and Manitowoc Counties, WI from Brillion, Sub 10; to ports of entry on the international boundary between the United States and Canada in NY and VT from ports of entry on the international boundary between the United States and Canada, at Champlain, NY and Highgate Springs and Derby Line, VT; and to Belknap County, NH from Meredith; and to Montgomery and Philadelphia Counties, PA from Norristown, Sub 11; to ports of entry on the international boundary line between the United States and Canada in NY, VT and MI from ports of entry on the international boundary between the U.S. and Canada located at Champlain, NY, Derby Line, VT, and Detroit, port Huron and Sault Ste. Marie, MI, Sub 12; ports of entry on the international boundary line between the United States and canada in NY and MI from ports of entry on the international boundary line between the U.S. and Canada located at Champlain, NY, Detorit, Sault Ste. Marie and Port Huron, MI, Sub 14; (3) remove the restriction against transportation of shipments originating at or destined to points in Beauce, Frontenac, and Kemouraska Counties, Quebec, and points in the Province of Ontario, Canada, Sub 7, and (4) to radial authority.

MC 144030 (Sub-15)X, filed June 9, 1982. Applicant: DRUE CHRISMAN, INC., P.O. Box 264, Lawrenceburg, IN 47025. Representative: Norbert B. Flick, 2250 Beechmont Ave., Cincinnati, OH 45230. Sub 12F certificate, remove restrictions against "commodities in bulk and those requiring special equipment" in the radial general commondities authority between points in OH and IN, and, points in the US.

[FR Doc. 82–17063 Filed 6–23–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 106]

Motor Carrier; 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 154761 (republication), filed September 21, 1981, previously noticed in the **Federal Register** issue of October 6, 1981. Applicant: WALT WILSON TRUCKING, INC., 2307 East Carson St., Carson, NV 90810. Representative: Gary W. Wigand, 13031 San Antonio Dr., Suite 214, Norwalk, CA 90650. A Decision by the Commission, Division 1, Acting as an Appellate Division, decided April 22, 1982, and served April 28, 1982 finds on appeal that applicant is authorized to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting general commodities (except classes A and B explosives, household goods, and commodities in bulk), (1) between ocean ports in California, Oregon, and Washington, and (2) between ocean ports in California, Oregon, and Washington, on the one hand, and, on the other, points in California, Oregon, and Washington. Applicant is fit, willing, and able properly to perform such service and to conform to statutory and administrative requirements. The purpose of this republication is to broaden the territorial description.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17058 Filed 6-23-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP3-094]

Motor Carriers; Republications of Grants of Operating Rights Authority Prior to Certification; Permanent Authority Decision

The following grants of operating rights authorities are republished by order of the Commission to indicate a broaden grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall comply with Special Rule 247(e) of the Commission's General Rules of Practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 159474 (republication), filed November 30, 1981, published in the **Federal Register** issue of December 16, 1981, and republished this issue. Applicant: U.S. EXPRESS, INC., P.O. Box 9652, Little Rock, AR 72219. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402. A Decision by the Commission, Division 2 Acting as an Appellant Division, decided May 14, 1982, and served May 21, 1982, finds that the performance by applicant of the service will serve a useful public purpose, responsive to a public demand or need to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the United States (except Alaska and Hawaii): That applicant is fit, and willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to reflect applicant's actual grant of authority.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17059 Filed – –82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-155)]

Rail Carriers; the Baltimore & Ohio Railroad Co.; Exemption for Contract Tariff ICC-BO-C-0037

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The Baltimore and Ohio Railroad Company (BO) filed a petition on June 4, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC-BO-C-0037 filed on June 4, 1982 to become effective on one day's notice. The contract involves the movement of copper products.

Under 49 U.S.C. 10713(e), contracts must be filed on not less that 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The transportation contract accompanying Tariff BO-C-0037 can be used only in conjunction with already effective contracts filed by various Western carriers. These Western contracts restrict the shipper's total tonnage to contract movement, but apply only to gateway points and not to the final destination. Without the benefit of petitioner's contract, the shipper will be unable to supply its receiver's plant, as no suitable proportional tariff rates exist east of the gateways. Short notice effectiveness of the contract will insure an uninterrupted supply of material to the receiver's facility, thereby enabling it to continue operating at present capacity. We find this to be the type of exceptional circumstances which warrants a provisional exemption.

Petitioner's contract ICC-BO-C-0037 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C 10713(e) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the **Federal Register.**

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: June 17, 1982.

By the Commission, Division 1, Commissioners Sterrett, Gilliam, and Andre.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17061 Filed 6-23-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-1 (Sub-139)]

Rail Carriers, Chicago & North Western Transportation Co.; Abandonment, in Dane County, WI; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Reivew Board Number 3, has issued a certificate authorizing the Chicago and North Western Transportation Company to abandon its rail line between milepost 89.9 near Verona and milespost 106.0 near Mt. Horeb, a distance of 16.1 miles, in Dane County, WI, subject to certain conditions. Since no investigation was instituted, the requirement of Section 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the Federal Register be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to Section 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17062 Filed 6-23-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-157)]

Rail Carriers; the Texas Mexican Railway Co.; Exemption for contract Tariff ICC-TM-C-21

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The Texas and Mexican Railway Company (TM) filed a petition on June 7, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC-TM-C-21 filed on June 7, 1982, to become effective on one day's notice. The contract provides for allowances on movements of iron or steel plate.

Under 49 U.S.C. 10713(e), contracts must be filed on no less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under section 10505 exemption authority in exceptional situations.

The petition shall be granted. Short notice effectiveness of the contract will allow for the expeditious shipment of the involved plate to Mexico, where it is urgently needed, and curtail the accumulation of storage charges. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioner's contract ICC-TM-C-21 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

> If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(e) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect either the quality of the human environment or conservation of energy resouces.

(49 U.S.C. 10505)

Dated: June 18, 1982.

By the Commission, Division 1, Commissioners Sterrett, Gilliam, and Andre.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17060 Filed 6-23-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Quotas for Controlled Substances in Schedules I and II

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of established 1982 aggregate production quotas.

SUMMARY: This notice establishes revised 1982 aggregate production quotas for controlled substances in Schedule II, as required under the Controlled Substances Act of 1970.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Acting Administrator of the Drug Enforcement Administration in accordance with § 0.100 of Title 28 of the Code of Federal Regulations.

On April 30, 1982, a notice of the proposed revised 1982 aggregate production quotas for certain controlled substances in Schedule II was published in the Federal Register (47 FR 18692). All interested parties were invited to comment on or object to these proposed aggregate production quotas on or before June 1, 1982.

One comment and objection was received from Knoll Pharmaceutical Company of Whippany, New Jersey. Regarding hydromorphone, Knoll stated that the proposed revised aggregate production quota for this substance of 132 kg was inadequate to meet the legitimate medical needs. Knoll also requested a hearing on the matter if the Drug Enforcement Administration denied its request to revise the 1982 aggregate production quota for hydromorphone to 155 kg. Concurrently, Knoll has made a separate presentation regarding issues related to the

hydromorphone quota. Both the objection to the proposed revised 1982 aggregate production quota for hydromorphone and the separate presentation are currently under review. Therefore, the Drug Enforcement Administration's response to this matter will be the subject of a future **Federal Register** notice. It is intended that this notice will appear in the **Federal Register** no later than July 26, 1982. In the interim, the 1982 aggregate production quota will be established at 132 kg.

No other comments and objections were received.

Pursuant to sections 3(c)(3) and 3(e)(2)(B) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

The Acting Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The establishment of annual aggregate production quotas for Schedule I and II controlled substances is mandated by law and by the international commitments of the United States. Such quotas impact predominantly upon major manufacturers of the affected controlled substances.

Therefore, under the authority vested in the Attorney General by section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) and delegated to the Acting Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Acting Administrator hereby orders that the 1982 revised aggregate production quotas be established as follows:

Basic class	Established revised 1982 aggregate production quota (expressed as grams of anhydrous base)
Schedule II	
Amobarbital	4,759,000
Amphetamine	700,000
Codeine	58,463,000
Codeine (for conversion)	4,437,000
Diphenoxylate	1,156,000
Hydrocodone	1,217,000
Hydromorphone	[1] 132,000
Levorphanol	16,500
Meperidine	11,000,000
Methadone	1,489,000
Morphine	935,000
Morphine (for conversion)	63,513,000
Opium (powdered, extract, tincture, etc., expressed in terms of USP powdered opium)	2,253,000
Oxycodone (for conversion)	8,000
Oxymorphone	4,000
Pentobarbital	16,345,000
Secobarbital	6,391,000
Thebaine (for conversion)	2,006,000

[1] Interim aggregate production quota established pending disposition of an objection and request for hearing made by Knoll Pharmaceutical Company, Whippany, New Jersey.

Dated: June 15, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-17057 Filed 6-23-82; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Humanities Advisory Committee; Meeting

June 21, 1982.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended) notice is hereby given that a meeting of the National Council on the Humanities will be held in Washington, D.C. on July 15, 1982.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to the first drafting of the Agency's 1984 budget to be submitted to the Office of Management and Budget.

The meeting will begin at 9:30 a.m. and will be held in the Shoreham Building, 806 15th Street, NW., Room 1023, Washington, D.C. The meeting will be closed to the public pursuant to subsection (9)(B) of section 552b of Title 5, United States Code, because the Council will consider information that may disclose information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated January 15, 1978.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call area code 202-724-0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 82-17104 Filed 6-23-82; 8:15 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-373]

Commonwealth Edison Co.; Issuance of Amendment of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Facility Operating License No. NPF-11, issued to Commonwealth Edison Company, which revised Technical Specifcations for operation of the La Salle County, Station, Unit No. 1 (the facility) located in Brookfield Township, La Salle County, Illinois. The amendment is effective as of the date of issuance except that the effective date of one change is June 3, 1982.

The amendment consists of changes to the Technical Specifications. There are 5 modifications and 2 additions to the Technical Specifications. The changes to the Technical Specifications were as follows: (1) Modify Technical Specification 4.6.6.1(b)(2) from 1200 F ± 9 F to 1200 F ± 25 F; (2) change the main steam isolation valve scram setpoint from a nominal value of 94 percent open to a nominal value of 92 percent open; and (3) modify Technical Specification 3/4.10.7 so as to permit performance of the confirmatory flow induced vibration test with one low pressure core injection loop isolated. In addition, some Technical Specification inputs and changes were submitted as a result of our review and reported in our Supplements to our Safety Evaluation Reports in order to fulfill licensee's commitment. These Technical Specifications were: Revised list of snubbers pursuant to the provision of 2.C.5(a) of the license, a list of tendon surveillance schedules pursuant to the provision of 2.C.7 of the license, and finally increase the number of fire detection instrumentation as a result of our requirement to install a general sprinkler system in the diesel-generator corridor.

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'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 May 24, 1982, June 1, 1982, June 7, 1982 and June 14, 1982, (2) Amendment No. 1 to License NPF–11 dated June 18, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and the Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 18th day of June 1982.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 82–17138 Filed 6–23–82; 8:15 am]

BILLING CODE 7590–01–M

[Docket No. 50–295]

Commonwealth Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 74 to Facility Operating License No. DPR–39 issued to the Commonwealth Edison Company (the licensee), which revised Technical Specifications for operation of Zion Station, Unit 1 (the facility) located in Zion, Illinois. The amendment is effective as of the date of issuance.

The amendment changes the total peaking factor and the normalization factor for core height and adds a provision for monitoring and reporting steam generator leakage during the Unit 1 cycle 7 operation period.

The application for the 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 amendments dated May 21, 1982 as supplemented by letter dated June 2, 1982 and by letter dated June 18, 1982, (2) Amendment No. 74 to License No. DPR–39 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099. 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, Maryland, this 18th day of June, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82–17139 Filed 6–23–82; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–269, 50–270 and 50–287]

Duke Power Co.; Oconee Nuclear Station, Units Nos. 1, 2, and 3; Exemption for Operation While Irradiating Reactor Vessel Surveillance Specimens at Crystal River Unit No. 3 (Appendix H to 10 CFR 50)

The Nuclear Regulatory Commission (the Commission) has granted an Exemption to the Duke Power Company (the licensee) for the Oconee Nuclear Station, Units 1, 2 and 3 (located in Oconee County, South Carolina), from the requirement for a continuing in-vessel material surveillance program as set forth in Appendix H to 10 CFR 50. The Exemption is effective for a period of five years from the date of issuance.

In granting this exemption, the Commission determined that it is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. The Commission also determined that granting this Exemption 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 the issuance of this action.

For further details, see (1) the licensee's request by letter dated January 14, 1982, and (2) the Commission's letter to the licensee dated June 16, 1982. These items can be reviewed at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 16th day of June 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82–17140 Filed 6–23–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–33]

Iowa Electric Light and Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 76 to Facility Operating License No. DPR–49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revises the Technical Specifications for operation of the Duane Arnold Energy Center (DAEC), located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications to incorporate certain requirements of Regulatory Guide 1.52 concerning control room ventilation and standby gas treatment system high-efficiency particulate air (HEPA) replacement filters and filter adsorbent material and delete extraneous references to these requirements.

The application for the 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 August 16, 1977, (2) Amendment No. 76 to License No. DPR–49, and (3) the Commission's letter to Iowa Electric Light and Power Company dated June 15, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, SE., Cedar Rapids, Iowa 52401. 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, Maryland, this 15th day of June 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-17141 Filed 6-23-82; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 3.46, "Standard Format and Content of License Applications, Including Environmental Reports, for In Situ Uranium Solution Mining," provides specific guidance on the format and content of an application, including an environmental report, for an in situ uranium solution mining facility license.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the Current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a)

Dated at Silver Spring, Maryland this 17th day of June 1982.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Acting Director, Office of Nuclear Regulatory Research.

[FR Doc. 82-17143 Filed 6-23-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-361]

Southern California Edison Co., et al.; Issuance of Amendment Facility Operating License No. NPF-10

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 3 to Facility Operating License No. NPF–10, issued to Southern California Edison Company, San Diego Gas and Electric Company, The City of Riverside, California and The City of Anaheim, California (licensees) for the San Onofre Nuclear Generating Station, Unit 2 (the facility) located in San Diego County, California.

This amendment (1) changes the auxiliary feedwater system load sequence response time to include the diesel generator starting time, (2) corrects an error in the required number of operable cold leg high pressure safety injection flow channels, (3) deletes an erroneous requirement for testing the steam driven auxiliary feed pump prior to entering a mode wherein steam first becomes available to the pump, and (4) corrects the list of valves and valve response times associated with required testing of the response time of component cooling water system isolation valves.

Items (1), (2), and (3), above were authorized by telephone on May 20, 1982, and confirmed by letter dated May 21, 1982. Item (4), above, was authorized by telephone on May 22, 1982, and confirmed by letter dated May 26, 1982.

Issuance of this amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's 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) Southern California Edison Company's letters dated May 19, 20, 21, and 22, 1982, (2) NRC letters to Southern California Edison Company dated May 21, and May 26, 1982, (3) Amendment No. 3 to Facility Operating License No. NPF–10 and (4) the Commission's related Safety Evaluation.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, DC, and the San Clemente Library, 242 Avenida Del Mar, San Clemente, California 02672. A copy of items (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 18th day of June 1982.

For the Nuclear Regulatory Commission.

B. C. Buckley,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 82-17142 Filed 6-23-82; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHNAGE COMMISSION

[Release No 22540; 31-785]

Avatar Holdings, Inc. et al.; Application for Exemption Pursuant to Section 3(a)(3)

June 18, 1982.

In the Matter of Avatar Holdings Inc., Avatar Utilities Inc., Avatar Utilities Inc. of Florida, 201 Alhambra Circle, Coral Gables, Florida 33134.

Avatar Holdings Inc. ("Avatar"), a Delaware corporation, its wholly-owned subsidary Avatar Utilities Inc. ("AUI"), a Delaware corporation, and Avatar Utilities, Inc. of Florida ("AUF"), a Delaware corporation and a wholly-owned subsidary of AUI, have filed with this Commission an application and amendments thereto pursuant to the Public Utility Holding Company Act of 1935 ("Act") requesting an order of exemption under Section 3(a)(3). All interested persons are referred to the amended application, which is summarized below, for a description of applicants and a statement of the basis upon which the exemption is sought.

Avatar is engaged, indirectly through subsidiaries, in land development, water and sewage services, title insurance services, cable television operations and mortgage banking. At December 31, 1981, Avatar reported consolidated assets of $342,428,000 and for the year then ended, consolidated revenues of $80,879,000 and net income of $1,411,000. Avatar is now developing four Florida communities and one community in Arizona, and holds land for further development in Florida and California.

AUI, through its subsidiaries, operates 39 water plants and 12 wastewater treatment plants serving 25 communities in Indiana, Michigan, Missiouri, Ohio, and Florida. The Florida operations are conducted through AUF, which serves three of Avatar's developments in that state. At December 31, 1981, AUI reported consolidated assets of $138,883,000 and for the year then ended consolidated operating revenues of $24,164,000 and net income of $2,700,000. As of the same date AUF reported consolidated assets of $12,737,000 and for the year then ended, consolidated operating revenues of $985,000 and net income of $277,000.

One of Avatar's Florida developments is a 1,024 acre mobile home community at Barefoot Bay, which is located in Brevard County on Florida's east coast. It is stated that in order for the mobile home sites to be developed for sale, it was necessary for the developer to provide a gas distribution system for the community since no gas utility system was close enough to provide service. Barefoot Bay Propane Gas Company ("BBP"), a wholly-owned subsidiary of AUF, was created for this purpose. It distributes at retail liquid propane gas through pipes to each of the approximately 5,000 mobile home sites at Barefoot Bay. The liguid propane gas operations of BBP do not constitute a utility service under Florida law. BBP does not hold a franchise for furnishing such service, does not have eminent domain authority, and its rates are not subject to state regulation. At December 31, 1981, BBP reported assets of $815,000 and for the year then ended, operating revenues of $189,000 and a net loss of $75,000. None of the securities of BBP are publicly held.

It is stated that the provision of retail gas service by BBP is accessory to the development of Avatar's community at Barefoot Bay. Avatar, AUI and AUF request an order of exemption pursuant to Section 3(a)(3) of the Act. That section provides that the Commission shall exempt a holding company if "such holding company is only incidentally a holding company being primairly engaged" in non-utility businesses, and (1) not deriving a material part of its income from public-utility subsidiaries or (2) deriving a material part of its income from public-utility subsidiaries if substantially all of the outstanding securities of such companies are owned by such holding compnay.

The application and amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by July 14, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as ameneded or as it may be further amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-17107 Filed 6-23-82; 8:45 am]

BILLING CODE 8010-01-M

Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

June 18, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Puget Sound Power and Light Co., Common Stock, No Par Value (File No. 7-6247)

TDK Electronics Limited, American Depository Receipts, Representing Two Shares of Common Stock, 50 Yen Par Value (File No. 7-6248)

William Electronics, Inc., Common Stock, $.50 Par Value (File No. 7-6249)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 12, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary for the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-17105 Filed 6-23-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22542; 70-6476]

The Columbia Gas System, Inc. and Columbia Gulf Transmission Co.; Proposed Credit Support Undertakings by Subsidiary and Assurance by Holding Company of Debt Obligations of Overthrust and Trailblazer Pipeline Companies; Elimination of Limitation on Partnership Participation

June 18, 1982.

The Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company, and Columbia Gulf Transmission Company ("Columbia Gulf"), 3805 West Alabama Avenue, Houston, Texas 77027, a wholly-owned natural gas transmission subsidiary of Columbia, have filed with this Commission a post-effective amendment to an application-declaration previously filed and amended pursuant to Sections 6(b), 9 and 10 of the Public Utility Holding

Company Act of 1935 ("Act") and Rule 51 promulgated thereunder.

By prior order dated December 5, 1980 (HCAR No. 21822), Columbia Gulf was authorized to enter into partnership agreements with four other unaffiliated natural gas transmission companies relating to the construction and ownership of a new 800 mile natural gas pipeline system, to be known as the Trailblazer system. New supplies of natural gas being developed in Wyoming, Utah, Idaho, Nebraska and Colorado will be transported, directly and by displacement, through this pipeline system to the mid-western and eastern markets owned by the partners. The partners are Colorado Interstate Gas Company ("Colorado"), Columbia Gulf, Mountain Fuel Resources, Inc. ("Resources"), Natural Gas Pipeline Company of America ("Natural"), and Northern Natural Gas Company ("Northern"), (collectively, the "Companies"). The Trailblazer system, which is estimated to cost a total of $533 million, will be comprised of three segments: the 88 mile western segment, the Overthrust Pipeline; the 264 mile middle segment, the Colorado Interstate Pipeline; and the 445 mile eastern segment, the Trailblazer Pipeline, estimated to cost $57 million, $195 million and $281 million, respectively. Columbia Gulf was authorized to participate in the construction and ownership of the Overthrust and Trailblazer Pipeline segments of the Trailblazer system through its membership in the Overthrust Pipeline Company General Partnership Agreement ("Overthrust Pipeline Company") with the four other Companies and the Trailblazer Pipeline Company General Partnership Agreement ("Trailblazer Pipeline Company") (collective, the "Partnerships"), with Natural and Northern. Columbia Gulf's equity contributions to the Partnerships, estimated to be $3.4 million and $28.1 million, respectively, will be its proportionate share of the equity to be invested by all partners in each segment. The portion of the construction costs not covered by equity contributions will be financed by debt securities issued by the Partnerships. Such debt securities were to be obligations of the Partnerships, not Columbia Gulf or the other partners. Columbia Gulf was authorized to finance its participation in the Partnerships through the issuance and sale to Columbia of up to $33 million of either 20 year installment promissory notes and/or 7 year floating rate terms notes.

By post-effective amendment, Columbia and Columbia Gulf state that lenders will not provide funds to the Partnerships on a nonrecourse basis unless credit worthy entities ("Sponsors") provide credit support for the loans until such time as construction of the pipeline system is completed, the pipeline is placed in service and the tariff is substantially final and non-appealable to the satisfaction of the lenders (the "Completion Date"). Columbia Gulf seeks authorization to enter into undertakings, along with the other Sponsors, to provide the Partnerships with sufficient funds to meet their costs until the Completion Date. The funds will be supplied either through equity contributions or subordinated loans. If the Completion Date does not occur prior to a date certain or if the project is abandoned before the Completion Date, the Sponsors will undertake to purchase the Partnerships assets or take such other action as may be agreed upon by the Partnerships and the lenders. In addition, Columbia seeks authorization to execute a letter assuring that Gulf will comply with its undetakings as Sponsor.

It is further requested that limitations on the amounts that Gulf may invest in the Partnerships ($3.4 million for the western Overthrust segment and $28.1 million for the eastern Trailblazer segment) be eliminated to permit Gulf to contribute its proportionate share, as an equal partner, of additional equity which may be required to fund normal construction cost overruns and to permit Gulf to perform under the terms of the completion undertakings if called upon to do so. Construction cost overruns, if any, will be funded on the basis of 30% equity and 70% debt.

The application-declaration as amended by the post-effective amendment and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by July 12, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended by the post-effective amendment or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-17123 Filed 6-23-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 22541; 70-3816]

Jersey Central Power and Light Co., et al.; Proposed Increased Capital Contributions To Be Made by Subsidiary Utility Companies of a Registered Holding Company to a Non-Utility Subsidiary Company

June 18, 1982.

In the matter of Jersey Central Power and Light Company, Madison Avenue at Punch Bowl Road, Morristown, New Jersey 07960; Metropolitan Edison Company, P.O. Box 542, Reading, Pennsylvania 19603; Pennsylvania Electric Company, 1001 Broad Street, Johnstown, Pennsylvania 15907; Saxton Nuclear Experimental Corporation, P.O. Box 452, Reading, Pennsylvania 19603.

Jersey Central Power and Light Company, Metropolitan Edison Company and Pennsylvania Electric Company ("Utility Companies"), all public utility subsidiaries of General Public Utilities Corporation, a registered holding company, and the Utility Companies' non-utility subsidiary, Saxton Nuclear Experimental Corporation ("Saxton"), have filed with this Commission post-effective amendments to their joint application-declaration, as previously filed and amended pursuant to Sections 2(a)(3), 2(a)(19), 6(a), 7(a), 10, 12(f) and 13 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 7(b), 24(c)(3)(C) and 100 promulgated thereunder.

By prior orders issued in this proceeding dated May 11, 1960 (HCAR No. 14427), May 20, 1968 (HCAR NO. 15481), December 31, 1974 (HCAR No. 18738), and January 18, 1980 (HCAR No. 21399), the Utility Companies were authorized to acquire all of the capital stock of Saxton and to make capital contributions to Saxton aggregating $10,100,000 through December 31, 1984. Saxton was organized as a nonprofit stock corporation to construct, operate, and maintain a small experimental nuclear reactor and the capital contributions were to be used for such purposes.

Although Saxton's experimental and research activities have been terminated and its reactor facility has been decommissioned, it is necessary pursuant to regulations of the Nuclear Regulatory Commission ("NRC") that, because of the existence of certain radioactive material, a responsible licensee provide care and surveillance over the decomissioned facility under an NRC license until the facility is dismantled. As a result, Saxton's corporate charter as a non-profit corporation was amended in 1974 to extend Saxton's corporate existence in perpetuity. In addition, Facility Operating License No. DPR–4 which authorizes Saxton to possess but not to operate its properties was extended in 1974 until February 11, 2000. The Utility Companies will continue to make cash capital contributions to Saxton through the extended period of its corporate life, such capital contributions to be used by Saxton to wind up its affairs, to monitor and dispose of its properties or to place and maintain such properties in a safe condition and obtain any and all necessary releases from governmental agencies and others.

By post-effective amendment, the Utility Companies seek authorization due to inflation and unforseen occurrences, to increase their authorized capital contributions to Saxton by $400,000, from $10,100,000 to $10,500,000, through December 31, 1984. It is estimated at the present time that, in the absence of unusual circumstances, surveillance, insurance and maintenance costs through December 31, 1984 will range from approximately $75,000 and $100,000 per year.

The order of May 11, 1980 (HCAR No. 14227) also exempted Saxton's operations and the research agreement between Saxton and the Utility Companies from the requirements of Section 13 of the Act and the rules thereunder. It is requested that such exemption from said section and applicable rules continues in effect.

The application-declaration as amended by the post-effective amendments, and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by July 12, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended by the post-effective amendments or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82–17106 Filed 6–23–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 18822; File No. SR–OCC–82–10]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Options Clearing Corporation

June 18, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 17, 1982, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

OCC Rule 604(c) allows letters of credit to be deposited with OCC or OCC approved trust companies, to satisfy clearing members' margin requirements. Under that Rule, letters of credit expire at 2:00 p.m. Central Time on either March 1 or September 1 following their issuance. The rule change provides that letters of credit will now expire no earlier than 2:00 p.m. Central Time on the September 1 following issuance. OCC believes that the rule change will benefit OCC clearing members by eliminating paperwork and other administrative burdens that semi-annual expirations cause. By changing the expiration time from 2:00 p.m. to no earlier than 2:00 p.m., OCC will be allowed more time to draw down the letters of credit if necessary.

OCC believes that the rule change is consistent with Section 17A(b)(3)(F) of the Act because it will protect investors and the public interest by enhancing OCC's back-up system for ensuring performance of obligations on options contracts.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission on or before July 15, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–OCC–82–10.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82–17125 Filed 6–23–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 18821; SR–MSRB–82–4]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Accelerated Approval of Proposed Rule Change

June 18, 1982.

The Municipal Securities Rulemaking Board ("MSRB"), 1150 Connecticut Ave., N.W., Washington, D.C. 20036, submitted on April 23, 1982, a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder,

amending MSRB Rule A–3 to permit a public member of the MSRB to succeed himself in office if his first term of office was less than eighteen months and he is nominated and elected to a full term on the board. The MSRB proposed the rule change because of the difficulty it has experienced in recruiting public members to fill a vacancy on its Board. Additionally, because most new public members filling vacancies on the Board often take several months to become familiar with the MSRB's regulatory process and issues, the expiration of their shortened term causes the public and MSRB to lose the expertise and services of the public member at the very time he or she is most able to represent the public's interests. The MSRB believes that by allowing a public member who completes an unexpired term of less than eighteen months to succeed to a subsequent full term, it will be able to recruit public members to serve on its Board more easily and that the public will benefit by the continued participation of such members on the Board for an additional term.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34–18708, May 3, 1982) and by publication in the **Federal Register** (46 FR 24680, June 7, 1982). No comments have been received to date.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB and, in particular, the requirements of Sections 15B(b)(2)(I) and 15B(b)(2)B), and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filling thereof, in that the MSRB has scheduled an election of new Board members for June 21, 1982.

It it therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82–17124 Filed 6–23–82; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 82–057]

Port Access Route Study

AGENCY: Coast Guard, DOT.

ACTION: Notice of study results.

SUMMARY: The purpose of this notice is to publish the results of the Port Access Route Study announced in the **Federal Register** on April 16, 1979 (44 FR 22543) and modified on January 31, 1980 (45 FR 7026). Only the results for study area 22 are published in this notice. Generally, this area includes the coast of southern California.

On the basis of the Port Access Route Study, the following modifications are recommended in area 22:

(a) A lane shift in the western approach to the Los Angeles/Long Beach TSS, reconfiguration of the precautionary area, and designation of the area as a safety fairway;

(b) A lane shift in the Santa Barbara Channel TSS north of Anacapa Island, contingent upon drilling activity;

(c) An extension of the Santa Barbara Channel TSS through a new precautionary area to the 35° N. parallel; and

(d) A modification of the Port Hueneme Fairway.

ADDRESSES: The Eleventh Coast Guard District Port Access Route Study report, on which the present notice is based, is available for inspection and copying at the office of the Marine Safety Council, room 4402, U.S. Coast Guard Headquarters, 2100 2nd St., SW., Washington, D.C. 20593, between the hours of 8 a.m. and 4 p.m., Monday through Friday. The report is on file under the docket number of this notice [CGD 82–057].

Details of the report are also available from the Eleventh Coast Guard District (mps, Union Bank Building, 400 Oceangate, Long Beach, CA 90822. However, persons seeking a complete copy of the report are requested to contact the above Coast Guard Headquarters address in Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Young, Office of Navigation (G–NSR–3), Room 1408, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, D.C. 20593, (202) 245–0108, between 8:00 a.m. and 3:30 p.m., Monday through Friday. Information is also available from Lieutenant Commander Jan Terveen, Eleventh Coast Guard District (mps), Union Bank Building, 400 Oceangate, Long Beach, CA 90822, telephone (213) 590–2301.

Background

The Ports and Waterways Safety Act (PWSA) (Pub. L. 95–474, 92 Stat. 1473; 33 U.S.C. 1223), mandated that the Coast Guard "undertake a study of the potential traffic density and the need for safe access routes." The **Federal Register** for April 16, 1979 (44 FR 22543), announced the scope of the study and included a description of each area to be studied. Coast Guard district staff officers were assigned responsibility for executing the study; and it has been conducted within the standards contained in sections 4 and 5 of the PWSA. As a result of the study, appropriate ships' routing measures, such as safety fairways and traffic separation schemes may be proposed. Where the study indicates that no new routing measures are to be designated in an area, notice of such conclusion is to be published in the **Federal Register.** However, areas for which results are published will be studied again in the future as changes in conditions warrant evaluation.

Results for areas 1–4 (New England) were published in 47 FR 879; for areas 5, 5a and 6 (New York and Delaware approaches and Long Island Sound) in 46 FR 49035; for areas 13 to 20 (coast of South Carolina, Georgia and Florida) in 46 FR 48376; for area 21 (Gulf of Mexico) in 46 FR 49989; for areas 26 to 29 (coast of Oregon and Washington) in 46 FR 59686; and for areas 30 to 32 (Alaska) in 46 FR 61049. Results for the remaining study areas (7 to 12 along the Mid-Atlantic coast, and 23 to 25 along northern California) will be published in a future **Federal Register.**

The Eleventh Coast Guard District performed the study for area 22. Geographically, this area is described as follows:

Southern California

Enclosed by the caost and the line of Mexican jurisdiction from the Mexican/United States border to 32° N latitude, 118°008.0' W longitude; thence a line bearing 270° T to 122° W longitude; thence on a line bearing 000° T to 35° N latitude; thence a line bearing 090° T to the coast.

Study Method and General Findings.

The Port Access Route Study for area 22 was performed in accordance with the requirements of Section 4(c)(3) of the Ports and Waterways Safety Act (PWSA). Local, state, and federal agencies were consulted in the development of study results. The public was invited to participate both thorugh letters soliciting comments from a wide variety of interest groups, and through presentations to several organizations.

Also available to the district study group were the results of vessel boardings, during which pilots and masters were surveyed for routing information.

The study included an evaluation of the existing shipping safety fairway at Port Hueneme, California, as described in 33 CFR 209.138, and of the existing traffic separation schemes "In the Santa Barbara Channel" and "In the Approaches to Los Angeles—Long Beach" as adopted by the International Maritime Organization (IMO) (formerly the Inter-Governmental Maritime Consultative Organization) and described in part B–VII of the IMO publication "Ships' Routing" (sic.).

Following are the general findings which are most relevant to the need for routing measures in study area 22.

A. Activities

Study area 22 embraces the marine environment along the southern California coast, an area where the public attention has been focused on the conflicting uses of offshore waterways. The major activities within that area are described below:

—Four major seaports: Los Angeles, Long Beach, Port Hueneme and San Diego.
—Offshore lighting of oil in an area east of San Clemente Island.
—Offshore oil production platforms and a floating storage facility.
—Offshore exploratory drilling for oil and gas.
—Two traffic separation schemes.
—Major defense-related activities: not only are portions of the area employed for training and operations, the U.S. Navy Missile Test Center at Point Mugu and the Air Force range at Vandenberg AFB demand sea and air space for their operations.
—Commercial fishing and kelp harvesting, although small in terms of national economic impact.
—The Channel Islands National Marine Sanctuary.
—Over 300,000 recreational boaters.
—Numerous public beaches and areas important to tourism and surfing.

This usage is not static. Future developments include plans for construction of a major on-shore liquefied natural gas (LNG) facility just east of Point Conception; increased Outer Continental Shelf (OCS) activity; develoment of a marine sanctuary embracing a significant portion of the offshore area; and a forecast 300% increase in LA–LB cargo over the next 20 years (made in a study for the Army Corps of Engineers).

B. Vessel Traffic Pattern and Projections

The status of vessel routing and traffic densities in the waters off southern California was the subject to two separate Coast Guard vessel traffic surveys which were conducted in 1976 and 1979. In all, over 1500 vessels were boarded at Los Angeles-Long Beach and surveyed to determine, among other things, the route which the vessels had used to arrive at the port and the route that the vessel intended to use to reach its next port of call. The area which showed the most significant change was the Santa Barbara Channel.

Projecting the 1979 survey results through the 1980 vessel arrival statistics indicates that since 1976 the average number of daily vessel transits of the Santa Barbara Channel in each direction has increased from 6.5 to 13. This increase can be attributed to two factors. First, the number of vessel arrivals and departures from the ports of Los Angeles and Long Beach increased by 40 percent over the 4-year period. Second, the percentage of vessels using the Santa Barbara Channel Traffic Separation Scheme (SBCTSS), which had the route as an alternative, increased from 77 to 93 percent as indicated by the results of the two surveys. This second factor seems to indicate that mariners have become more comfortable with the SBCTSS as it has been in existence since 1969.

Certain factors tend to indicate that the cargo tonnage handled at the ports of LA/LB will rise dramatically in the near future while the number of vessels arrivals will rise at a slower rate. One factor in this trend is the Los Angeles Harbor Deepening Project. This project will allow deeper draft vessels to call on the port, thus allowing the cargo tonnage figures to increase without a corresponding increase in the number of vessel arrivals. The project will also create new major facilities which will increase both cargo tonnage and vessel arrivals. Additionally, the continued availability and relatively inexpensive cost of residual fuel will continue to cause a large number of vessels to call on the port only for the purpose of receiving bunker fuel. The effect of an advertised relocation of approximately twenty naval vessels from San Diego to Long Beach would be negligible in terms of the total traffic projections. Table I shows the projected number of vessel arrivals at the various ports and tanker moorings within study area 22.

TABLE I.—TOTAL VESSEL ARRIVALS AT PORTS AND OFFSHORE MOORINGS

	1980	1985	1990
Los Angeles-Long Beach	6,900	7,500	8,000
Port Hueneme	191	250	300
San Diego	304	320	350
Cojo Moorings	1	0	0
Gaviota Moorings	21	25	30
Elwood Moorings	27	60	90
Carpinteria Moorings	20	0	0
Ventura Moorings (2)	62	66	70
Mandaly Moorings	9	10	10
El Segundo	305	310	320
Huntington Beach Moorings	46	40	40

C. Competing Uses of the Waters of Southern California

The conflict with oil and gas exploration and development activities presents the most serious threat to navigational safety among the competing uses of the waters within study area 22. In the past, such activities were confined to the near shore areas of the Santa Barbara Channel and San Pedro Bay, but recent developments indicate a trend toward areas farther offshore. There have been four separate oil and gas lease sales on the Outer Continental Shelf since 1966 in which 148 Federal leases were sold. Additional sales are scheduled for 1982.

There are presently 30 platforms and artifical islands within study area 22. Thirteen of the platforms are located on the Outer Continental Shelf.

D. Description of Proposed Action

The study proposes to retain the existing LA/LB Traffic Separation Scheme (TSS) with slight modifications, and extend the Santa Barbara Channel Traffic Separation Scheme to the west into a precautionary area and then northwest, to route vessels outside areas of high oil and gas interest.

E. Alternatives to the Proposed Actions

The area immediately south of the Channel Islands was investigated in depth for possible port access route designation and is not recommended for a number of reasons. Detailed consulation with personnel from the Pacific Missile Test Center (PMTC) at Pt. Mugu indicates that any route selected in this area would virtually eliminate those operations performed by PMTC which are required to be free of non-participants. The required conditions for such operations could not be duplicated elsewhere at this range or at any other range in the continental United States. Also, the existing aids to navigation capabilities south of the Channel Islands would not meet the IMO criteria for the establishment of a traffic separation scheme. Furthermore,

if a south-of-the-islands route were established it would be an economic penalty, though slight, to shippers in coastwise trade and, if the route were made mandatory for U.S. vessels only, could create an unfair competitive advantage to foreign shipping.

Similarly, if vessels were routed south of the Channel Islands and around the Pacific Missile Range (PMR), as much as 200 additional steaming miles would be added to a journey from Los Angeles/Long Beach to San Francisco. This would result in an economic impact in the form of added fuel and other costs associated with the extra steaming time. In addition, the IMO aids to navigation criteria for the establishment of a TSS would not allow a TSS of sufficient length to route vessels around the sensitive areas of the PMR.

The possibility of designating a separate port access route for inbound laden tankers (ILT) was also investigated and not recommended. It is felt that at the present level of vessel traffic, laden tankers do not present a significantly greater risk or hazard than other commercial vessels. Additionally, any ILT route selected would be constrained by the same disadvantages as described above.

Conclusions and Recommendations

Following are the conclusions and recommendations of the Port Access Route Study for the coast of southern California:

I. Port Hueneme Fairway. The PWSA specifically delegates authority to establish shipping safety fairways to the Coast Guard. The fairway currently at the entrance to Port Hueneme (33 CFR 209.138) was created by the Corps of Engineers to control the erection of structures and provide an obstruction free corridor for vessel traffic. The study team in the Eleventh Coast Guard District has concluded that the present fairway should be retained, with a slight modification to encourage vessels to enter and depart from the Santa Barbara Channel TSS in accordance with Rule 10 of the International Regulations for Preventing Collision at Sea (72 COLREGS). This recommended modification stops the fairway short of its present junction with the TSS to eliminate the appearance of a right angle turn and encourage vessel traffic to join or leave the traffic lanes at a small angle to the general direction of traffic flow.

In order to implement the authority of PWSA, it is necessary for the Coast Guard first to adopt the existing Corps' fairway designation for Port Hueneme (33 CFR 309.138). The mechanics of this adoption will be a notice of proposed rulemaking to bring the Corps' fairway within the authority of PWSA, and to announce amendments to that fairway. Subsequently, the Corps is expected to delete its fairway regulations as appropriate. Although it will be the responsibility of the Coast Guard to designate the fairways, it will continue to be the responsibility of the Corps of Engineers to enforce the regulations by denying permits for structures in the defined areas.

The recommended Port Hueneme Shipping Safety Fairway would be described as follows:

The area enclosed by a line connecting the west jetty light at 34°08'40" N, 119°12'55" W, with the following geographic positions:

Latitude and Longitude

34°08'48" N	119°13'20" W
34°07'46" N	119°14'15" W
34°07'10" N	119°13'19" W
34°08'21" N	119°12'15" W

Thence to the east jetty light at 34°08'34" N, 119°12'40" W.

II. TSS LA/LB. The study concluded that the traffic separation scheme (TSS) into Los Angeles/Long Beach should be modified to alleviate problems of vessel traffic crossing in and near the pilot boarding area at the harbor entrance. Currently, vessels departing from Long Beach turn west at the breakwater and cross through the pilot boarding area to enter the northbound lane of the TSS. The recommended modification would consist of reducing a portion of the TSS separation zone from two miles to one mile in width; relocating the outbound lane one mile to the south; and merging with the existing two-mile separation zone at a slightly adjusted turn point in the TSS. Also, the precautionary area would be reduced in size on its eastern side, thus releasing area to offshore oil and gas activities.

The modified precautionary area, except for the anchorage area, would be designated as a shipping safety fairway to prohibit fixed structures in the junction between the two pairs of traffic lanes. This change is necessary to resolve the potential conflict between vessel navigation and offshore oil and gas activity. Present guidelines on exploratory drilling in the Gulf of Santa Catalina do not expressly prohibit exploratory drilling from taking place within the existing precautionary area. It is the opinion of the Coast Guard that any surface structure within the precautionary area as modified would create a hazard to navigation.

The recommended modifications to the TSS "In the Approaches to Los Angeles-Long Beach" are described as follows:

Western Approach

(a) A separation zone would be bounded by a line connecting the following geographical positions:

Latitude and Longitude

(1) 33°39'42" N	118°17'30" W
(2) 33°38'42" N	118°17'30" W
(3) 33°38'42" N	118°27'36" W
(4) 33°43'12" N	118°36'54" W
(5) 33°44'54" N	118°35'42" W
(6) 33°39'42" N	118°24'54" W

(b) A traffic lane for northbound coastwise traffic would be established between the separation zone and a line connecting the following geographical positions:

Latitude and Longitude

(7) 33°40'42" N	118°17'30" W
(8) 33°40'42" N	118°24'36" W
(9) 33°45'48" N	118°35'06" W

(c) A traffic lane for southbound coastwise traffic would be established between the separation zone and a line connecting the following geographical positions:

Latitude and Longitude

(10) 33°37'42" N	118°17'30" W
(11) 33°37'42" N	118°28'00" W
(12) 33°42'18" N	118°37'30" W

Precautionary Area

The Los Angeles/Long Beach Precautionary area would consist of the water area enclosed by the Los Angeles/Long Beach Breakwater, and a line connecting Point Fermin Light at 33°42'18" N, 118°17'36" W, with the following geographical positions:

Latitude and Longitude

33°37'42"N	118°17'30" W
33°37'42"N	118°06'30" W
33°43'24"N	118°10'48" W

It is recommended that a proposal to amend the existing TSS be submitted for the agenda of the most convenient meeting of the IMO Subcommittee on Safety of Navigation (SUBNAV). The proposal will then be submitted to the IMO Marine Safety Committe for adoption and international recognition.

Shipping Safety Fairway

It is recommended that a proposal to partially overlay the above precautionary area with a shipping safety fairway be published as an NPRM with opportunity for public comment. It would be described as the area enclosed by a line connecting the following geographic positions:

Latitude and Longtitude

33°41'44"N	118°17'32"W
33°37'42"N	118°17'32"W
33°37'42"N	118°06'30"W
33°43'23"N	118°10'48"W

33°43'23"N	118°11'10"W
33°42'08"N	118°11'34"W
33°41'40"N	118°13'02"W
33°42'38"N	118°14'38"W
33°41'44"N	118°17'32"W

III. TSS Santa Barbara Channel. Though the present amount of vessel traffic through Santa Barbara Channel is relatively low, the conflict between vessel navigation and other uses, such as fishing, recreational boating, and offshore oil and gas operations, makes some form of designated port access routing a necessity. As a result of the study, the Coast Guard has concluded that the nature of vessel traffic and the accommodation of development of known Outer-Continental Shelf (OCS) oil and gas fields require the following modifications to the existing Santa Barbara Channel TSS:

(a) It is recommended that the existing TSS from Point Fermin to Point Conception be extended to a point which carries traffic west of the area included in OCS lease sale 48 (which adds tracts in and seaward of the entrance to the channel beyond the end of the existing TSS) and offshore of that which will be included in lease sale 58 (contiguous with sale 48 off Point Conception and extending northward into the coastal waters of the Twelfth Coast Guard District, known as the Santa Maria Basin). A generally north-south leg will have the effect of channeling traffic away from likely areas for future OCS development. (The Coast Guard is also considering use of a safety fairway to overlay the proposed extension of the TSS lanes and create an obstruction-free "buffer" of 500 yards on each side of the lanes. This fairway would align with the port access routes being recommended by the Twelfth Coast Guard District in a future Federal Register.)

(b) A precautionary area with a four (4) nautical mile radius is recommended to connect the extension of the existing generally east-west TSS with the new generally north-south TSS. It would also serve as a junction for transpacific traffic and for traffic merging with the Trans-Alaskan Pipeline System (TAPS) Tanker Route.

(c) It is recommended that the existing TSS be modified to accommodate proposed development of a known oil and gas field (Sockeye Field) whose longitudinal axis is approximately under the center of the outbound traffic lane north of Anacapa Island. This would be accomplished by relocation of the TSS approximately one half mile southward at this location, pivoted at the westerly end of this segment of the TSS at the above new precautionary area, with corresponding readjustment of the turnpoint with the existing TSS segment southeast of Anacapa Island. This modification is contingent upon successful exploratory drilling activity in the vicinity.

With the above three recommended modifications, the Santa Barbara Channel TSS and new precautionary area would consist of three parts, described as follows:

Part I

Precautionary Area

A precautionary area with a radius of four (4) nautical miles would be centered upon geographical position 34°27'18" N, 121°02'30" W.

Part II

Between Pt. Sal and Pt. Arguello

(a) A separation zone, two miles wide, would be centered upon the following geographical positions:

Latitude and Longitude

35°00'00" N	121°21'18" W
34°31'00" N	121°04'24" W

(b) A traffic lane, one mile wide, would be established on each side of the separation zone. These lanes may be overlaid by a wide shipping safety fairway.

The main traffic directions would be: 155°–335°.

Part III

Between Pt. Arguello and Pt. Vicente

(a) A separation zone, two miles wide, would be centered upon the following geographical positions:

Latitude and Longitude

34°26'06" N	120°57'54" W
34°03'06" N	119°16'36" W
33°44'06" N	118°36'18" W

(b) A traffic lane, one mile wide, would be established on each side of the separation zone.

The main traffic directions would be: 106°–286° and 120°–300°.

IV. Siting Criteria. The study was performed to determine the routing measures which should be established to provide safe access routes for vessels proceeding to or from the ports in southern California. Wile the objective was to identify the specific designations of safety fairways and TSS's, one of the study's findings was that the siting of structures immediately outside of a designated route can result in a negative impact on navigation safety.

Currently, siting of OCS drilling operations along the existing TSS in Santa Barbara Channel and the Gulf of Santa Cataline is governed by (1) Corps of Engineers regulations [33 CFR 209.138(a)] for exploratory drilling in the Gulf of Santa Cataline; and (2) a "buffer zone" concept which prohibits the location of permanent platforms within a 500 meter area on each side of each traffic lane but allows for temporary drill rigs with special permission. Such a zone is intended to provide a safety margin for the platform, allow attending vessels room to maneuver without concern for passing traffic in the adjoining lane, and prevent the usable portion of the traffic lane from being reduced by permanent structures on the border of the lane.

It is the conclusion of the study group that a follow-up effort in coordination with the Corps of Engineers is necessary to develop formal criteria for the siting of future OCS activities in the vicinity of designated port access routes. This action should address questions such as the siting of exploratory drilling rigs, subsea completions and permanent platforms in or near a traffic lane, separation zone or precautionary area. The following are recommended as guidelines which could be formalized:

(A) Prohibit all forms of obstruction within traffic lanes and precautionary areas. This prohibition would include fixed structures, exploratory drilling units, subsea completions that require installation or periodic workover servicing from within a lane, and the swing of floating facilities sited outside a lane. Anchor chains and subsurface buoys associated with the mooring system of a rig would be allowed if at least 125 feet below the sea surface. Temporary intrusion into a lane would be allowed under controlled conditions for the laying of pipelines and utility cables across a lane following procedures adopted by IMO for offshore TSS's.

(B) Allow exploratory drilling and permanent platforms in the TSS separation zone except where limited by the rules described for "buffer zones" below. Permanent structures would be subject to case by case review to insure appropriate mitigation measures are taken when other structures are located in the vicinity.

(C) Establish "buffer zones" of 500 meters on each side of a TSS traffic lane where no permanent structures would be allowed, but where exploratory drilling would be allowed under the following conditions:

(1) A minimum specific advance notice, such as 90 days to allow timely notice to mariners.

(2) No risk of "gating," i.e., no structures or drilling units on the opposite side of the lane for a transverse distance of the lane width plus two times the buffer zone width (or 1000

meters), and for a longitudinal distance parallel to the lane's axis for a distance of two miles on either side of the proposed site.

In sum, it is recommended that the regulations contained in 33 CFR 209.138(a) be evaluated for continued need and effectiveness, and that formal siting criteria for the offshore areas of southern California be developed by the appropriate government agencies.

On September 19, 1980, the Corps of Engineers published an NPRM which proposed a general permit for OCS structures within areas leased by the Bureau of Land Management as long as the structures are not within desiginated fairways or TSS's (45 FR 62732). The Coast Guard has discussed with the Corps' District Engineer the possibility of excluding those activities which would take place within the buffer of a TSS from the proposed Nationwide Permit Program under the discretionary authority outlined in section 330.7 of the proposed rules. Those activities would then be required to have individual permits to which navigation safety stipulations could be attached.

Comments on siting criteria as related to navigation safety in southern California can be addressed to the attention of Lieutenant Commander Jan Terveen at Commander (m), Eleventh Coast Guard District, Union Bank Building, 400 Oceangate Blvd., Long Beach, CA 90822.

V. Future Review. The recommeded port access routes are subject to future review as provided for by PWSA. Past experience in the Santa Barbara Channel indicates that the needs of exploratory activities can be accommodated without intrusion into the TSS lanes and that modifications to accommodate development should not be entertained until the exploitable oil and gas resources inside the Channel and near its seaward entrance are known.

Implementation

Implementation of the above study results will require the following:

(a) The existing Corps of Engineers shipping safety fairway designation for Port Huemene (33 CFR 209.138) must be adopted by the Coast Guard and modified by notice of proposed rulemaking (NPRM). It is expected that this action can be accomplished by mid 1983.

(b) Modifications to the existing traffic separation scheme (TSS) "In the Approaches to Los Angeles—Long Beach" must be submitted to the International Maritime Organization (IMO) (formerly the Inter-Governmental Maritime Consultative Organization) for adoption. It is expected that this application can be submitted for the Winter 1983 meeting of the Subcommittee on Safety of Navigation (SUBNAV).

(c) Establishment of a safety fairway to overlay the LA/LB precautionary area will be proposed in a NPRM. This action is scheduled for early 1983.

(d) Modifications to the existing TSS in the Santa Barbara Channel, and the extension of that TSS with a new precautionary area, will involve both a notice of proposed rulemaking and an application to IMO for adoption and international recognition of the extended scheme. It is expected that applications for these changes will be submitted to SUBNAV by early 1983. Adoption by the Maritime Safety Committee of IMO may take nine months. Amendments to a routing system can become effective no earlier than four months after IMO adoption.

(e) Promulgation of rules on siting of offshore structures in TSS's will require an NPRM. These rules may be initially proposed in conjunction with changes to the Santa Barabara Channel TSS. Meanwhile, the Coast Guard will communicate with the Corps of Engineers as to an effective means of regulating the siting of structures near TSS's.

Dated: June 21, 1982.

R. A. Bauman,

Rear Admiral, Coast Guard, Chief, Office of Navigation.

[FR Doc. 82-17129 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-14-M

[CGD-82-66]

Small Vessel Towing and Salvage Policy Study

AGENCY: Coast Guard, DOT.

ACTION: Notice of study; request for comments.

SUMMARY: The Chief of Staff of the Coast Guard appointed an Ad Hoc Group to review the Coast Guard's policy on small vessel towing and salvage by private enterprise. This Group solicits written comments from the public. These comments will assist the Group in determining whether the current policy requires revision.

DATE: Written comments should be submitted by July 31, 1982.

ADDRESSES: Comments should be submitted to and will be avilable for inspection at the Marine Safety Council (G-CMC/44), U.S. Coast Guard Headquarters, Room 4402, 2100 Second Street, SW., Washington, D.C. 20593. Normal working hours are 7:00 a.m. to 3:30 p.m., Monday thru Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Anthony, Commandant (G-CPE), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202-426-2430). Normal working hours are 7:00 a.m. to 3:30 p.m., Monday thru Friday, except holidays.

SUPPLEMENTARY INFORMATION: On April 30, 1982, the Chief of Staff of the Coast Guard appointed an Ad Hoc Group to review the Coast Guard's long standing policy on small vessel towing and salvage by private enterprise. The Group is to deliver its recommendations to the Chief of Staff by February 1, 1983.

That policy is contained in section 3 of the U.S. Coast Guard addendum to the National Search and Rescue Manual, (Commandant Instruction M16130.2), (old CG-308). The crux of this policy provides that:

> If, upon arrival at the scene, private enterprise is already there and is rendering assistance, or is willing to render assistance, the Coast Guard shall not interfere with the private activity unless it becomes apparent that private enterprise cannot cope with the situation and that action by the Coast Guard is necessary to prevent loss of life or property.

The Ad Hoc Group is composed solely of members and employees of the Coast Guard. The Group will limit its study to the review of Coast Guard policy on commercial assistance to mariners of vessels of approximately 100 gross tons or less.

Some commercial towing and salvage operators have stated that if more routine towing and salvage work were turned over to private business, the Coast Guard would have more resources to concentrate on saving lives and enforcing laws. These operators often complain that the Coast Guard, in responding to non-emergency calls for assistance, without charge, interferes with private enterprise.

In the first phase of the study, the Ad Hoc Group requests comments from the public. The Group may hold public meetings if the comments received demonstrate that public meetings will be beneficial and cost effective. The Group solicits comments from both commercial towing and salvage operators and vessel and recreational boat owners. The following information is specifically requested:

1. Information regarding the number of commercial towing and salvage operators in the United States, and their locations.

2. The capabilities of these operators.

3. Problems encountered by mariners from use of commercial towing and salvage operators.

4. Problems encountered by the commercial operators in arranging for towing and salvage.

5. Financial considerations.

6. Preferences that mariners have for either commercial or Coast Guard assistance, in terms of availability or responsiveness.

7. Other information considered relevant.

E. L. Sullivan, Capt., USCG,

Chief, Search and Rescue Division.

June 16, 1982.

[FR Doc. 82-16787 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Advisory Circular for Aircraft Simulator and Visual System Evaluation and Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments on Proposed Advisory Circular (AC) 121-XX, Aircraft Simulator and Visual System Evaluation and Approval.

SUMMARY: This proposed advisory circular (AC) will establish an acceptable means of compliance for the evaluation and approval of aircraft flightcrew training simulators operated under the provisions of Parts 121 and 135 of the Federal Aviation Regulations (FAR's) and of simulators that can be used for the administration of flight checks described in Sections 61.157 and 61.163 of the FAR's.

DATE: Comments must be received on or before July 22, 1982

ADDRESS: Please submit your comments in duplicate to: Federal Aviation Administration, Flight Standards Division, ASO-205, P.O. Box 20636, Atlanta, Georgia 30320; or deliver to: Room 233, 3400 Norman Berry Drive, East Point, Georgia 30344.

FOR FURTHER INFORMATION CONTACT: Mr. Ed Fell, Flight Standards Division (ASO-205), Southern Region, Federal Aviation Administration, 3400 Norman Berry Drive, East Point, Georgia 30344; telephone (404) 763-7773.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this proposed AC by writing to: Federal Aviation Administration, Flight Standards Division, ASO-205, P.O. Box 20636, Atlanta, Geogia 30320.

COMMENTS INVITED: Interested parties are urged to submit their comments on the proposed AC. Comments may be inspected at Room 233 between 8:30 a.m. and 5:00 P.m.

Issued in Washington, D.C. on June 16, 1982.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 82-17023 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-13-m

Federal Highway Administration

Environmental Impact Statement; San Jose, California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed project in San Jose, California which would construct an interchange at the junction of U.S. 101 and Yerba Buena Road, as well as construct new segments of Yerba Buena Road.

FOR FURTHER INFORMATION CONTACT: David L. Eyres, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809. Telephone: (916) 440-3541; or Glenn Roberts, Transportation Engineer, San Jose City Hall, Room 340, 801 North First Street, San Jose, California 95110. Telephone: (408) 277-5161.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the City of San Jose (CSJ), will prepare an environmental impact statement (EIS) on a proposal to construct an interchange at the intersection of Yerba Buena Road and U.S. 101. Associated with this project is minor widening of Yerba Buena Road and construction of a bridge over Coyote Creek. Upon completion of the project, Yerba Buena Road would be operational between Silver Creek Road on the east and Senter Road on the west. This proposed project would complete Yerba Buena as an arterial in conformance with the San Jose General Plan. The road would service the Evergreen area of San Jose, an area in which large-scale development has occurred and is planned for in the future. Several alternatives are being considered: (a) Yerba Buena underpass at 101 with no interchange (b) Yerba Buena underpass at 101 with full diamond interchange (c) Yerba Buena underpass at 101 with full diamond interchange except that Yerba Buena *west* of 101 will not be constructed and (d) Yerba Buena underpass at 101 with only on and off ramps to the north of Yerba Buena Road and no construction of Yerba Buena *west* of 101.

A community meeting was held on July 6, 1981 to inform area residents of the proposed plans and to solicit public input on the project. Cooperating agencies (including U.S. Department of Interior, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and U.S. Environmental Protection Agency) have been requested to provide their input into the proposal.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to either the FHWA or CSJ at the addresses provided above.

Issued on June 15, 1982.

D. L. Eyres,

District Engineer, Sacramento, California.

[FR Doc. 82-16806 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[Docket No. RFA-305-82-1, Notice No. 4]

Consolidated Rail Corp.; Expedited Supplemental Transaction Proposals; Holyoke and Florence Secondaries; Denial of Petitions for Reconsideration; Corrections to Notice No. 3

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of denial of petitions for reconsideration of administrative determination and order regarding the transfer of Consolidated Rail Corporation's Holyoke and Florence Secondaries in the Commonwealth of Massachusetts; corrections to previous notice.

DATE: This notice is effective on issuance.

ADDRESS: Individual copies of the adminsitrative decision denying petitions for reconsideration filed in this docket may be obtained from the Office of Federal Assistance, FRA (RFA-20), 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: F. Colin Pease, Office of Federal Assistance, FRA (202) 472-9060.

SUPPLEMENTARY INFORMATION: On May 27, 1982, the Federal Railroad Administrator issued an administrative determination and order (decision) under section 305(g) of the Regional Rail Reorganization Act of 1973, as amended

by section 1155 of the Northeast Rail Service Act of 1981 (NERSA), requiring the transfer of the Consolidated Rail Corporation's (Conrail's) Holyoke and Florence Secondaries in the Commonwealth of Massachusetts to a subsidiary of the Pinsly Railroad Company (Pinsly). The decision was published as Notice No. 3 in Docket No. RFA–305–82–1 (47 FR 24683; June 7, 1982).

The FRA has received one petition for reconsideration of the merits of the decision submitted by the Massachusetts Central Railroad Corporation (MC). In addition, the New England Southern Railroad Co. (NES) submitted a letter enclosing copies of a complaint, motion for temporary restraining order, and other papers seeking to set aside FRA's decision that had been filed with the Special Court, Regional Rail Reorganization Act of 1973 (*Nes ,v. U.S. DOT et al.*, Civil Action No. 82–17). NES asked that its court filings and letter be treated as a petition for reconsideration only to the extent that NES "is deemed to be required by law" to exhaust its administrative remedies.

In addition, since the decision of May 27, 1982 FRA has discovered some minor corrections that are required to reflect printing errors, one omission of text from the double-spaced version of the decision document delivered for **Federal Register** publication, and one editorial change.

Action on Petitions

FRA has acted to deny the petitions for reconsideration submitted by MC and NES. Further, FRA has denied MC's petition for a stay of the effective date of the decision of May 27, 1982. The reasons for these denials are set forth in a decision document on file in Docket No. RFA–305–82–1, copies of which have been provided to parties of interest. Individual copies of the denial decision are available on request from the address set forth above.

Corrections to Decision of May 27, 1982

The decision of May, 1982, as published in the **Federal Register** of June 7, 1982 (47 FR 24683) is corrected to remedy printing errors as follows:

1. At page 24683, second column, fourth from the last line, delete "the".

2. At page 24686, first column, in the footnote, the text of the footnote beginning "NES' initial capitalization" through the end of the column should have been printed at the top of the first column in the body of the text.

The decision is further corrected by inserting prior to the table captioned "INITIAL CAPITALIZATION" the following subhead and text:

"Proposals"

"The proposals submitted by each of the parties on April 30, 1982 were amended during the negotiating process. All of the amended proposals contemplated essentially identical service frequency, 3 trips per week on the Florence Secondary and 5 trips per week of the Holyoke Secondary. All of the proposals also were based upon substantially the same purchase price and terms of sale with Conrail. A summary of the remaining facets of the proposals based upon the submissions of the prospective purchasers as they stood at the close of negotiations on May 25, 1982 follows. The summary covers only the operation of the Holyoke and Florence Secondaries."

Finally, the decision is corrected at page by adding at the top of column one, page 24687 the following paragraph:

"For the reasons set forth above, the Administrator finds and determines that the Pinsly subsidiary constituted and capitalized according to the Pinsly proposal, as amended, and in keeping with this administrative determination and the order set forth below, will be, at the time transfer, a qualified purchaser and a railroad in the Region within the meaning of section 305(g) of the Regional Rail Reorganization Act of 1973, as amended."

(Sec. 305(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745 745(g)), as amended by section 1155, Pub. L. No. 97–35, 95 Stat. 357, 679; and § 1.49(w) of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.49(w)))

Issued in Washington, D.C. on June 17, 1982.

Robert W. Blanchette,

Federal Railroad Administrator.

[FR Doc. 82–16920 Filed 6–23–82; 8:45 am]

BILLING CODE 4910–06–M

National Highway Traffic Safety Administration

[Docket No. EX82–3; Notice 1]

Electric Auto Corporation; Petition for Temporary Exemption From Federal Motor Vehicle Safety Standards

Electric Auto Corporation of America, of Southfield, Michigan, has petitioned for temporary exemption from several Federal motor vehicle safety standards. The basis of the petition is that compliance would cause substantial economic hardship.

Notice of receipt of the petition is published in accordance with NHTSA regulations on this subject (49 CFR 555.7) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Electric Auto Corporation of America ("Electric Auto") is a subsidiary of Electric Auto Corporation Bahamas Limited of Freeport, Bahamas. It has produced ten pre-production prototypes of a passenger car called the "Silver Volt", intended as a luxury automobile. Electric Auto hopes to build 200 vehicles in 1982 and 1200 vehicles in 1983. The base vehicle is the Buick Regal rear wheel drive intermediate station wagon body to which substantial modifications are made. Petitioner offers the information that the Silver Volt is a successor to the Transformer I based on a Chevrolet Chevelle body, whose manufacturer Electric Fuel Propulsion Corp. was granted NHTSA Exemption No. 75–19.

Petitioner has asked for a two-year exemption from portions of eight Federal motor vehicle safety standards at the end of which it believes it will comply fully. The standards are:

1. Standard No. 103, *Defrosting and Defogging Systems.* Silver Volt is fitted with the ESPAR combustion type heater used on Volkswagon Microbus and Beetle models, which have been certified as conforming to Standard No. 103. The unit incorporates a heated water jacket type ESPAR "which has a more effective direct application of heat to the screen for defrosting and defogging using thermal transfer into the existing GM heater core."

Petitioner believes that Silver Volt meets Standard No. 103 but that if it does not, retooling costs of $50,000 will be required.

2. Standard No. 105 *Hydraulic Brake Systems.* Petitioner asks for relief from paragraph S7.3, the first (pre burnish) effectiveness test of the service brake system which "have not been carried out under the required controlled conditions". But Silver Volt may comply as it is based upon a complying GM vehicle, and its GVW is within 5 percent of that of the GM-based Transformer I which met S7.3. Further, Silver Volt "has regenerative braking down to 10 m.p.h. which will assist the hydraulic braking system".

3. Standard No. 201, *Occupant Protection in Interior Impact.* The interior structures of Silver Volt are so similar to those of the GM host vehicle that the vehicle probably conforms.

4. Standard No. 204, *Steering Control Rearward Displacement.* As a result of an independent study of structural integrity, certain structural reinforcements have been made to the Silver Volt chassis, to prevent excessive chassis deformation. Petitioner has also

concluded that the 15-inch extension it makes to the front bodywork "would considerably assist in reducing the severity of damage to the passenger compartment on impact."

5. Standard No. 212, *Winshield Mounting*. The independent study referenced above has concluded that there should be no "serious structural deformation in a crash in the windshield area which would negate the G.M. certification under FMVSS 212".

6. Standard No. 216, *Roof Crush Resistance*. The force to be applied to the roof to demonstrate crush resistance is 5,000 pounds, the same as for the Buick wagon host car. Therefore Silver Volt ought to comply. If modifications are needed, retooling costs in excess of $300,000 would be incurred.

7. Standard No. 219, *Windshield Zone Intrusion*. Petitioner places reliance on performance under this standard for reasons similar to Standard No. 212.

8. Standard No. 301 *Fuel System Integrity*. Silver Volt is equipped with a 5.8 gallon gasoline tank which supplies fuel for the combustion type heater and auxiliary power unit. The tank "is mounted in a well protected central location in the vehicle and is filled through a filler neck located above the off-side wheel well cover underneath the hood".

However, tests and modifications that may be required to show conformance to Standards Nos. 201, 204, 212, 219, and 301 could cost $1,200,000 inclusive. The company's net incomes in 1979 and 1980 were $383,000 and $395,000, respectively.

Petitioner avers that an exemption would be in the public interest and consistent with the objectives of the National Traffic and Motor Vehicle Safety Act because, as an electric vehicle, it is not a contributor to air pollution, and it is an alternative form of transportation which "will reduce the national dependency on foreign oil supply."

Interested persons are invited to submit comments on the petition of Electric Auto Corporation of America, Inc. described above. Comments should refer to the docket number and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received, are available for examination in the docket both before and after the closing date. Comments received after the closing date will also be filed and will be considered to the extent possible. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: July 26, 1982.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on June 18, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-17113 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in May 1982. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
2787-X	DOT-E 2787	U.S. Department of Defense, Washington, DC.	49 CFR 173.302(a)(1), 175.3	To authorize use of a non-DOT specification pressure vessel equipped with a regulating valve, a pressure relief valve, and a squibb actuated valve packed in a wooden, metal or polystyrene container for transportation of a certain nonflammable compressed gas. (Modes 1, 2, 3, 4.)
3302-X	DOT-E 3302	Airco Industrial Gases, Murry Hill, NJ	49 CFR 173.302, 175.3	To authorize use of non-DOT specification sampling bottles (cylinders) packed in an outside aluminum or stainless steel portable case, for shipment of certain nonflammable gases. (Modes 1, 2, 3, 4.)
3606-X	DOT-E 3606	Walter Kidde & Company, Incorporated, Belleville, NJ.	49 CFR 173.304, 175.3	To authorize use of a non-DOT specification container for shipment of a nonflammable compressed gas. (Modes 1, 2, 3, 4.)
3737-X	DOT-E 3737	U.S. Department of Defense, Washington, DC.	49 CFR 172.101	To authorize shipment of certain military explosives in appropriate military or DOT specification packaging which have improper markings. (Modes 1, 2.)
4052-X	DOT-E 4052	The Boeing Company, Seattle, WA	49 CFR 173.305, 173.34(d), 175.3	To authorize shipment of an aerosol formulation pressurized with nitrogen in a DOT Specification 39 seamless aluminum cylinder. (Modes 1, 2, 4, 5.)
4453-X	DOT-E 4453	Gulf Oil Chemicals Company, Overland Park, KS.	49 CFR 173.114a(h)(3)	To authorize use of a non-DOT specification bulk, hopper-type tank for shipment of blasting agent, n.o.s. or ammonium nitrate-fuel oil mixture. (Mode 1.)
4453-X	DOT-E 4453	Casebier Bulk Transport Co., Inc., Beaver Dam, KY.	49 CFR 173.114a(h)(3)	To authorize use of a non-DOT specification bulk, hopper-type tank for shipment of blasting agent, n.o.s. or ammonium nitrate-fuel oil mixture. (Mode 1.)
4453-P	DOT-E 4453	Mt. State Bit Service, Inc., Morgantown, WV.	49 CFR 173.114a(h)(3)	To become a party to Exemption 4453. (Mode 1.)
4453-X	DOT-E 4453	Alamo Explosives Company, Inc., Houston, TX.	49 CFR 173.114a(h)(3)	To authorize use of a non-DOT specification bulk, hopper-type tank for shipment of blasting agent, n.o.s. or ammonium nitrate-fuel oil mixture. (Mode 1.)
4850-X	DOT-E 4850	Ensign Bickford Company, Simsbury, CT	49 CFR 173.100(cc), 175.3	To authorize shipment of flexible linear shaped charges, metal clad, in 100' lengths, containing not more than 50 grams per lineal foot of a high explosive. (Modes 1, 2, 4.)
5206-E	DOT-E 5206	Atlas Powder Company, Dallas, TX	49 CFR 173.114a	To become a party to Exemption 5206. (Mode 1.)
5243-E	DOT-E 5243	IMC (Comsol Division), Des Plaines, IL	49 CFR 173.103(a), 173.66(g)(1), 177.835(g).	To become a party to Exemption 5243. (Modes 1, 2, 3.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
5322-X	DOT-E 5322	Union Carbide Corporation, Danbury, CT	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification styrofoam or vacuum-perlite insulated cargo tank for transportation of certain flammable gases. (Mode 1.)
5454-X	DOT-E 5454	Air Products and Chemicals, Incorporated, Allentown, PA.	49 CFR 173.301(d), 173.304(a)(2)	To authorize shipment of sulfur hexafluoride in DOT Specifications 3A1800, 3AA1800, 3AAX2400 and 3T1800 cylinders. (Modes 1, 3.)
5456-X	DOT-E 5456	J.T. Baker Chemical Company, Phillipsburg, NJ.	49 CFR 173.245, 173.247, 173,263, 173,268, 173,269, 173,272, 173,349.	To authorize transport of certain poison B liquids, liquid corrosive materials and oxidizers in non-DOT specification glass carboys, overpacked in an expanded polystyrene drum. (Modes 1, 2, 3.)
5704-P	DOI-E 5704	Trojan Corporation, Spanish Fork, UT	49 CFR 173.62, 173.93(e)	To become a party to Exemption 5704. (Modes 1, 2, 3.)
5749-X	DOT-E 5749	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.315(a)	To authorize use of an insulated nickelsteel DOT Specification MC-331 cargo tank for transportation of a certain flammable gas. (Mode 1.)
5852-X	DOT-E 5852	South Jersey Gas Company, Folsom, NJ	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification insulated cargo tanks for transportation of certain flammable liquefied compressed gases. (Mode 1.)
5852-X	DOT-E 5652	Philadelphia Gas Works, Philadelphia, PA	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification insulated cargo tanks for transportation of certain flammable liquefied compressed gases. (Mode 1.)
5891-X	DOT-E 5891	U.S. Department of Energy, Washington, DC.	49 CFR 173.64(a)(4)	To authorize transport of high explosives in quantities greater than those authorized in 49 CFR in DOT specification 15A wooden boxes. (Mode 1.)
5967-X	DOT-E 5967	Rocket Research Corporation, Redmond, WA.	49 CFR 173.304(a)(2), 175.3	To authorize use of non-DOT specification cylinders (cool gas generators) for the transportation of a nonflammable gas. (Modes 1, 2, 4, 5.)
6016-X	DOT-E 6016	Southern Welding Supply Co., Inc., Bowling Green, KY.	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen and argon in non-DOT specification portable tanks. (Mode 1.)
6016-X	DOT-E 6016	Weiler Welding Company, Incorporated, Dayton, OH.	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen and argon in non-DOT specificaton portable tanks. (Mode 1.)
6016-X	DOT-E 6016	S.J. Smith Co., Inc. Davenport, IA	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen and argon in non-DOT specification portable tanks. (Mode 1.)
6016-X	DOT-E 6016	Acety-Arc, Inc., Paducah, KY	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen and argon in non-DOT specification portable tanks. (Mode 1.)
6016-X	DOT-E 6016	Kanweld Welding Equipment & Supplies, Kankakee, IL.	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen and argon in non-DOT specification portable tanks. (Mode 1.)
6016-X	DOT-E 6016	Wilson Welding Supply, Inc., Warren, MI	49 CFR 173.315(a)	To authorize shipment of liquid oxygen nitrogen and argon in non-DOT specification portable tanks. (Mode 1.)
6016-X	DOT-E 6016	Huber Supply Company, Mason City, IA	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen and argon in non-DOT specification portable tanks. (Mode 1.)
6113-X	DOT-E 6113	Fitchburg Gas and Electric Light Co., Canton, MA.	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification cargo tank for shipment of certain flammable gases. (Mode 1.)
6113-X	DOT-E 6113	Bay State Gas Company, Canton, MA	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification cargo tank for shipment of certain flammable gases. (Mode 1.)
6113-P	DOT-E 6113	Atlanta Gas Light Company, Atlanta, GA	49 CFR 172.101, 173.315(a)	To become a party to Exemption 6113. (Mode 1.)
6113-X	DOT-E 6113	Northwest Natural Gas Company, Portland, OR.	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification cargo tank for shipment of certain flammable gases. (Mode 1.)
6128-X	DOT-E 6128	Hapag-Lloyd, Ag Hamburg, Germany	49 CFR 173.119, 173.125(a), 173.245(a), 173.346(a).	To authorize use of non-DOT specification intermodal stainless steel portable tanks for shipment of flammable liquids, corrosive materials, Poison B liquids, combustible liquids and oxidizers. (Modes 1, 2, 3.)
6197-P	DOT-E 6197	Atlanta Gas Light Company, Atlanta, GA	49 CFR 172.101, 173.315(a)(1)	To become a party to Exemption 6197. (Mode 1.)
6196-X	DOT-E 6197	Providence Gas Company, Providence, RI.	49 CFR 172.101, 173.315(a)(1)	To authorize use of a non-DOT specification vacuum-perlite insulated cargo task for transportation of certain flammable gases. (Mode 1.)
6197-X	DOT-E 6197	New Jersey Natural Gas Company, Asbury Park, NJ.	49 CFR 172.101, 173.315(a)(1)	To authorize use of a non-DOT specification vacuum-perlite insulated cargo tank for transportation of certain flammable gases. (Mode 1.)
6197-X	DOT-E 6197	Philadelphia Gas Works, Philadelphia, PA	49 CFR 172.101, 173.315(a)(1)	To authorize use of a non-DOT specification vacuum-perlite insulated cargo tank for transportation of certain flammable gases. (Mode 1.)
6225-X	DOT-E 6225	Great Lakes Chemical Corporation, El Dorado, AR.	49 CFR 173.252(g)	To authorize shipment of bromine in a round glass jug packed in a DOT Specification 33A expanded polystyrene case overpacked in a double wall CB flute or a DOT Specification 15A100 wooden box with zonolite cushioning and absorbent material. (Modes 1, 3.)
6305-X	DOT-E 6305	Ensign Bickford Company, Simsbury, CT	49 CFR 173.113(a)(1)	To authorize the shipment of a certain class C explosive in DOT Specification 23F35 fiberboard boxes. (Modes 1, 2.)
6305-P	DOT-E 6305	IMC (Comsol Division), Des Plaines, IL	49 CFR 173.113(a)(1)	To become a party to Exemption 6305. (Modes 1, 2.)
6325-X	DOT-E 6325	Mining Services International, Salt Lake City, UT.	49 CFR 173.154(a)	To authorize transport of oxidizers in non-DOT specification cargo tank or DOT Specification MC-306, MC-307, or MC-312 cargo tanks. (Mode 1.)
6325-X	DOT-E 6325	Austin Powder Company, Cleveland, OH	49 CFR 173.154(a)	To authorize transport of oxidizers in non-DOT specification cargo tank or DOT Specification MC-306, MC-307 or MC-312 cargo tanks. (Mode 1.)
6325-P	DOT-E 6325	Mesabi Powder Company, Hibbing, MN	49 CFR 173.154(a)	To become a party to Exemption 6325. (Mode 1.)
6397-X	DOT-E 6397	Allied Corporation, Morristown, NJ	49 CFR 173.346(a)	To authorize shipment of certain Class B poisonous liquids in DOT Specification 34 polyethylene containers. (Modes 1, 2.)
6397-X	DOT-E 6397	Pennwalt Corporation, Philadelphia, PA	49 CFR 173.346(a)	To authorize shipment of certain Class B poisonous liquids in DOT Specification 34 polyethylene containers. (Modes 1, 2.)
6453-X	DOT-E 6453	General Motors Corporation, Detroit, MI	49 CFR 173.302(a)(1), 175.3	To authorize use of a non-refillable, welded steel cylinder built in compliance with DOT Specification 39 with certain exceptions, for transportation of certain nonflammable compressed gases. (Modes 1, 2, 4, 5.)
6464-X	DOT-E 6464	Bay State Gas Company, Canton, MA	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification cargo tanks for shipment of certain flammable gases. (Mode 1.)
6466-X	DOT-E 6466	Ensign Bickford Company, St. Simsburg, CT.	49 CFR 173.68(a)(1), 173.87	To authorize shipment of a Class A explosive in DOT Specification 12H fiberboard boxes. (Mode 1.)
6466-X	DOT-E 6466	Monsanto Company, St. Louis, MO	49 CFR 173.68(a)(1), 173.87	To authorize shipment of a Class A explosive in DOT Specification 12H fiberboard boxes. (Mode 1.)
6571-P	DOT-E 6571	Utilities Board City of Trussville, Trussville, AL.	49 CFR 172.101, 173.315(a)	To become a party to Exemption 6571. (Mode 1.)
6602-P	DOT-E 6602	Dow Chemical Company, Midland, MI	49 CFR 173.245(a), 173.314(c), 173.315(a)(1).	To become a party to Exemption 6602. (Modes 1, 2.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6602-P	DOT-E 6602	Jones Chemicals, Incorporated, Caledonia, NY.	49 CFR 173.245(a), 173.314(c), 173.315(a)(1).	To become a party to Exemption 6602. (Modes 1, 2.)
6614-X	DOT-E 6614	Hill Brothers Chemical Company, Tucson, AZ.	49 CFR 173.263(a)(28), 173.277(a)(6)	To authorize use of non-DOT specification polyethylene bottles, packed inside a high density polyethylene box, for transportation of certain corrosive liquids. (Mode 1.)
6637-X	DOT-E 6637	Advanced Chemical Technology, City of Industry, CA.	49 CFR 173.119(a), 173.119(b), 173.119(m), 173.221, 173.245(a)(26), 173.249(a)(1), 173.250a(a)(1), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.266(b)(8), 173.272(i)(9), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 173.346(a), 173.357(b), 173.358(a), 173.359(a), 173.359(b), 178.19.	To authorize manufacture, marking and sale of non-DOT Specification polyethylene drums, for shipment of organic peroxides, oxidizers, flammable, corrosive and Class B poisonous liquids. (Modes 1, 2, 3.)
6704-X	DOT-E 6704	Dow Chemical Company, Midland, MI	49 CFR 173.245a, 173.249, 173.253, 173.294, 178.340, 178.343.	To authorize use of non-DOT specification cargo tanks for shipment of certain corrosive liquids. (Mode 1.)
6731-X	DOT-E 6731	U.S. Department of Defense, Washington, DC.	49 CFR 173.266(b), 175.3	To authorize an M72E1 simulant chemical agent identification training set, in vials and ampoules which must be cushioned with sufficient absorbent cushioning materials, overpacked in a strong metal container. (Modes 1, 4.)
6743-X	DOT-E 6743	Atlas Powder Company, Dallas, TX	49 CFR 173.114a(h)(3), 173.182	To authorize shipment of an oxidizing material and a blasting agent in DOT Specification 56 or 57 portable tanks. (Mode 1.)
6762-P	DOT-E 6762	Industrial Water Chemicals, Chattanooga, TN.	49 CFR 173.266(b)(2), 175.3	To become a party to Exemption 6762. (Modes 1, 2, 3, 4.)
6765-P	DOT-E 6765	Jack B. Kelley, Inc., Amarillo, TX	49 CFR 172.101, 173.315(a)	To become a party to Exemption 6765. (Modes 1, 3.)
6768-X	DOT-E 6768	Van De Mark Chemical Company, Inc., Lockport, NY.	49 CFR 172.101, 173.315(a)(1)	To authorize use of a non-DOT specification vacuum insulated cargo tank for shipment of a flammable gas. (Mode 1.)
6787-X	DOT-E 6787	Advanced Chemical Technology, City of Industry, CA.	49 CFR 173.119(a), 173.119(b), 173.119(m), 173.221, 173.245, 173.346(a), 173.357(b), 173.358(a), 173.359(a), 173.359(b).	To authorize manufacture, marking and sale of DOT specification 34 polyethylene drums for shipment of Class B poisonous liquids, flammable liquids, organic peroxides and corrosive liquids. (Modes 1, 2, 3.)
6805-X	DOT-E 6805	Union Carbide Corporation, Danbury, CT	49 CFR 173.301(d), 173.302(a)(3)	To authorize use of DOT Specification 3AAX steel cylinders for shipment of a flammable compressed gas. (Mode 1.)
6828-X	DOT-E 6828	American Home Products Corporation, New York, NY.	49 CFR 173.1200(a), 173.244(a)	To authorize use of inside glass bottles in non-DOT specification fiberboard boxes, for shipment of certain corrosive materials. (Modes 1, 2, 3.)
6844-P	DOT-E 6844	American Cyanamid Company, Wayne, NJ.	49 CFR 173.249a	To become a party to Exemption 6844. (Modes 1, 2, 3.)
6859-X	DOT-E 6859	Pyronetics Devices, Incorporated, Denver, CO.	49 CFR 173.302(a)(1), 173.34(d), 175.3	To authorize use of non-DOT specification nonrefillable titanium alloy spherical pressure vessel for shipment of a nonflammable compressed gas. (Modes 1, 3, 4.)
6861-X	DOT-E 6861	Teledyne McCormick Selph, Hollister, CA	49 CFR 173.65(a)	To authorize use of DOT Specification 21P fiber drums with DOT Specification 2SL or 2U polyethylene liners. (Mode 1.)
6919-X	DOT-E 6919	Minnesota Gas Company, Minneapolis, MN.	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification insulated cargo tank for shipment of certain flammable gases. (Mode 1.)
6963-X	DOT-E 6963	I.S.C. Chemicals Limited, Bristol, England	49 CFR 173.264(a), 173.264(b)	To authorize use of non-DOT specification intermodal portable tanks for the transportation of hydrofluoric acid and anhydrous hydrofluoric acid. (Modes 1, 3.)
6999-X	DOT-E 6999	U.S. Department of Defense, Washington, DC.	49 CFR 176.120(b)	To authorize cargo loading hatches of vessels being loaded with military-explosives to remain open overnight with certain exceptions. (Mode 3.)
7013-P	DOT-E 7013	Airco Welding Products, Murray Hill, NJ	49 CFR 173.315(a)(1)	To become a party to Exemption 7013. (Mode 1.)
7025-P	DOT-E 7025	Union Carbide Corporation, Danbury, OH	49 CFR 172.101, 173.315(a)(1)	To become a party to Exemption 7025. (Mode 1.)
7025-P	DOT-E 7025	Jack B. Kelley, Inc., Amarillo, TX	49 CFR 172.101, 173.315(a)(1)	To become a party to Exemption 7025. (Mode 1.)
7052-P	DOT-E 7052	Kaman Aerospace Corporation, Bloomfield, CT.	49 CFR 172.101, 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	Raytheon Company, Portsmouth, RI	49 CFR 172.101, 173.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7060-X	DOT-E 7060	Aerotransit, Incorporated, Danvers, MA	49 CFR 175.702(b), 175.75(a)(3)(ii)	To authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met. (Mode 4.)
7060-X	DOT-E 7060	Suburban Airservice, Incorporated, Laurel, MD.	49 CFR 175.702(b), 175.75(a)(3)(ii)	To authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met. (Mode 4.)
7060-X	DOT-E 7060	Atlantic Air, Inc., Baltimore, MD	49 CFR 175.702(b), 175.75(a)(3)(ii)	To authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met. (Mode 4.)
7060-X	DOT-E 7060	Federal Express Corporation, Memphis, TN.	49 CFR 175.702(b), 175.75(a)(3)(ii)	To authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met. (Mode 4.)
7060-X	DOT-E 7060	Air Charter Services, Inc., Mansfield, MA	49 CFR 175.702(b), 175.75(a)(3)(ii)	To authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met. (Mode 4.)
7060-X	DOT-E 7060	Charles R. Wall, d/b/a HZm RAM Air, Cornelius, OR.	49 CFR 175.702(b), 175.75(a)(3)(ii)	To authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met. (Mode 4.)
7060-X	DOT-E 7060	Express Airways, Inc., Sanford, FL	49 CFR 175.702(b), 175.75(a)(3)(ii)	To authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met. (Mode 4.)
7060-X	DOT-E 7060	Las Vegas Airlines, Incorporated, Las Vegas, NV.	49 CFR 175.702(b), 175.75(a)(3)(ii)	To authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met. (Mode 4.)
7060-X	DOT-E 7060	Sajen Air, Inc., Manchester, NH	49 CFR 175.702(b), 175.75(a)(3)(ii)	To authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met. (Mode 4.)
7060-X	DOT-E 7060	Summit Airlines, Inc., Philadelphia, PA	49 CFR 175.702(b), 175.75(a)(3)(ii)	To authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met. (Mode 4.)
7072-X	DOT-E 7072	Container Corporation of America, Wilmington, DE.	49 CFR Part 173, Subparts D, E, F	To authorize use of non-DOT specification polyethylene DOT-34-Type containers for shipment of certain hazardous materials. (Modes 1, 2, 3.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7077-X	DOT-E 7077	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.315(a)(1)	To authorize use of a non-DOT specification portable tank for shipment of certain nonflammable and flammable gases. (Modes 1, 3.)
7218-X	DOT-E 7218	Structural Composites Industries, Inc., Pomona, CA.	49 CFR 173.302(a), 173.304(a); 175.3	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic full composite cylinder, for shipment of certain nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
7465-X	DOT-E 7465	State of Alaska, Dept. of Transportation, Juneau, AK.	49 CFR 173.304, 176.83, 176.905(1), Part 172, Part 176, Subpart H.	To authorize stowage of transport motor vehicles and liquefied petroleum gases aboard passenger vessels. (Mode 3.)
7548-X	DOT-E 7548	U.S. Department of Defense, Washington, DC.	46 CFR 146.29-100	To authorize stowage of explosives on deck of vessel, over the square of the hatch. (Mode 3.)
7595-X	DOT-E 7595	American Cyanamide Company, Wayne, NJ.	49 CFR 173.358, 173.359	To authorize transport of certain poison B liquids in DOT Specification MC-312 cargo tanks. (Mode 1.)
7621-X	DOT-E 7621	Great Lakes Chemical Corporation, El Dorado, AR.	49 CFR 173.353, 173.357	To authorize use of an ISO portable tank for shipment of methyl bromide, and chloropicrin. (Modes 1, 2, 3.)
7638-X	DOT-E 7638	Minnesota Valley Engineering, New Prague, MN.	49 CFR 173.304(a), 175.3	To authorize manufacture, marking and sale of DOT Specification 4L cylinders for transportation of certain nonflammable compressed gases. (Modes 1, 2, 3, 4.)
7651-X	DOT-E 7651	Austin Powder Company, Cleveland, OH	49 CFR 173.93(e), 177.834(l)(1)	To authorize shipment of a Class B liquid explosive in non-DOT specification sealed tanks. (Mode 1.)
7654-X	DOT-E 7654	Mallinckrodt, Incorporated, Paris, KY	49 CFR 173.119(f)	To authorize use of a glass bottle not exceeding 500 milliliter capacity inside a metal container overpacked in a DOT Specification 12B fiberboard box for transportation of a flammable liquid. (Modes 1, 2.)
7654-X	DOT-E 7754	Texas Eastman Company, Longview, TX	49 CFR 173.119(f)	To authorize use of a glass bottle not exceeding 500 milliliter capacity inside a metal container overpacked in a DOT Specification 12B fiberboard box for transportation of a flammable liquid. (Modes 1, 2.)
7654-X	DOT-E 7654	Eastman Kodak Company, Rochester, NY.	49 CFR 173.119(f)	To authorize use of a glass bottle not exceeding 500 milliliter capacity inside a metal container overpacked in a DOT Specification 12B fiberboard box for transportation of a flammable liquid. (Modes 1, 2.)
7674-X	DOT-E 7674	U.S. Department of Defense, Washington, DC.	49 CFR 174.104(a)	To authorize shipment of certain Class A explosives on flat-cars and open-top rail cars. (Mode 2.)
7708-X	DOT-E 7708	HTL Industries, Inc., Duarte, CA	49 CFR 173.302(a), 175.3, 178.44	To authorize use of of non-DOT specification girth welded cylinders for shipment of a nonflammable compressed gas. (Modes 1, 2, 4, 5.)
7714-X	DOT-E 7714	Suttons International Limited, London, England.	49 CFR 173.119, 173.125, 173.245, 173.346, 173.630, 46 CFR 90.05-35.	To authorize use of of non-DOT specification portable tank for shipment of certain poisonous, corrosive, flammable and combustible liquids and ORM-A commodities. (Modes 1, 2, 3.)
7731-X	DOT-E 7731	Minnesota Valley Engineering, Inc., New Prague, MN.	49 CFR 172.101, 173.315(a)(1)	To authorize manufacture, marking and sale of non-DOT specification super-insulated portable tanks for shipment of pressurized liquid helium. (Modes 1, 3.)
7737-X	DOT-E 7737	Parker Hannifin Corporation, Eastlake, OH.	49 CFR 173.302(a)(1), 173.304(a)(1), 173.304(d)(3), 175.3, 178.42.	To authorize manufacture, marking and sale of non-DOT specification seamless aluminum cylinders for shipment of compressed gases. (Modes 1, 2, 3, 4.)
7753-P	DOT-E 7753	Mobil Chemical Company, Richmond, VA	49 CFR 173.190(b)(2)	To become a party of Exemption 7753. (Modes 1, 2, 3.)
7777-X	DOT-E 7777	Saunders Chemical Company, Evans, CO	49 CFR 173.248	To authorize use of DOT Specification 34 polyethylene containers, DOT Specification 12B or 12P corrugated fiberboard boxes, or DOT Specification 6D or 37M cylindrical steel overpacked with an inside Specification 2SL polyethylene containers for shipment of spent sulfuric acid. (Modes 1, 2, 3.)
7788-X	DOT-E 7788	Southern Chemical Products Company, Macon, GA.	49 CFR 178.19, Part 173, Subpart F	To authorize shipment of corrosive liquids in 20 and 35 gallon capacity rotationally molded polyethylene drums. (Modes 1, 2, 3.)
7828-X	DOT-E 7828	Alaska International Air, Anchorage, AK	49 CFR 172.101, 175.3	To authorize carriage of a larger quantity of liquid petroleum gas in DOT Specification 51 steel portable tanks. (Mode 4.)
7835-X	DOT-E 7835	Matheson, Secaucus, NJ	49 CFR 177.848, Part 107 Appen. B(1)	To authorize transport of compressed gas cylinders bearing the flammable gas label, the oxidizer label, or the poison gas label and tank car tanks bearing the poison gas label on the same vehicle. (Mode 1.)
7898-X	DOT-E 7898	U.S. Department of Defense, Washington, DC.	49 CFR 173.145, 173.31(a)(4), 179.200-7(d).	To authorize transport of methylhydrazine in DOT Specification 103A-ALW or 103CW tank cars. (Mode 2.)
7909-X	DOT-E 7909	Dow Chemical Company, Midland, MI	49 CFR 172.203, 172.400, 172.402(a)(2), 172.402(a)(3), 172.504(a), 173.345(a), 173.359(c), 173.364(a), 173.370(b), 173.370(d), 173.377(f), 175.3, 175.33.	To authorize transport of limited quantities of poisonous liquids and solids in non-DOT specification plastic, metal or plastic-coated glass containers. (Modes 1, 2, 4.)
7928-X	DOT-E 7928	State of Alaska, Juneau, AK	49 CFR 172.101	To authorize stowage of certain hazardous materials on the vehicle deck of passenger vessels. (Mode 3.)
7929-X	DOT-E 7929	C-I-L, Inc., Willowdale, Ont., Canada	49 CFR 173.65	To authorize transport of flaked or pelletized TNT in woven polyethylene or polypropylene cloth outer bags, with plastic film liners. (Modes 1, 2.)
7945-X	DOT-E 7945	HTL Industries, Incorporated, Duarte, CA	49 CFR 173.304(a)(1), 175.3, 178.47	To authorize use of a stainless steel other than that prescribed in the regulations in the construction of a cylinder patterned after the DOT Specification 4DS cylinders, with certain exceptions for shipment of a nonflammable compressed gas. (Modes 1, 2, 4, 5.)
7972-X	DOT-E 7972	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 172.504	To authorize transport of limited quantities of Class A and B explosives in a special shipping container without placarding the vehicle. (Mode 1.)
7998-X	DOT-E 7998	DOW Chemical Company, Midland, MI	49 CFR 173.154	To authorize transport of sodium persulfate in non-DOT specification composite polyethylene-paper bags. (Modes 1, 2.)
8129-P	DOT-E 8129	Environmental Transfer Corporation, Cedar Knolls, NJ.	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	Advanced Environmental Technology Corporation, Morris Plains, NJ.	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	Florida State University, Tallahassee, FL	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	Drew Chemical Corporation, Boonton, NJ	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	Emergency Technical Services Corporation, Morris Plains, NJ.	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	Bell Laboratories, Murray Hill, NJ	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8133-X	DOT-E 8133	Alpha Chemical Company, Lake Charles, LA.	49 CFR 173.245(a)(31)	To authorize use of DOT Specification MC-306 type 316 stainless steel cargo tanks for the transportation of a corrosive liquid. (Mode 1.)
8156-X	DOT-E 8156	Liquid Carbonic Corporation, Chicago, IL	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To authorize the shipment of flammable and nonflammable compressed gases and carbon bisulfide in DOT Specification 39 steel cylinders up to 225 cubic inches in volume. (Modes 1, 2.)
8180-X	DOT-E 8180	M&T Chemicals Inc., Rahway, NJ	49 CFR 173.136(a)(3), 173.247(a)(7)	To authorize use of non-DOT specification steel drums for shipment of a corrosive material and a flammable liquid. (Modes 1, 2.)
8184-P	DOT-E 8184	Trojan Corporation, Spanish Fork, UT	49 CFR 173.65	To become a party to Exemption 8184. (Modes 1, 2, 3.)
8258-X	DOT-E 8258	Luxfer U.S.A. Limited, Riverside, CA	49 CFR 173.302(a)(1), 175.3	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic hoop wrapped cylinders for shipment of certain nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
8283-X	DOT-E 8283	Allied Corporation, Morristown, NJ	49 CFR 173.273(a)(4), 174.3	To authorize shipment of stabilized sulfur trioxide in DOT Specification 111A60W2 tank cars equipped with standpipe electrical heaters. (Mode 2.)
8299-X	DOT-E 8299	HTL Industries, Incorporated, Duarte, CA	49 CFR 173.304(a)(1), 175.3, 178.44	To authorize manufacture, marking and sale of non-DOT Specification welded stainless steel cylinder for shipment of compressed gases. (Modes 1, 2, 4, 5.)
8308-P	DOT-E 8308	Medical Emergency Transportation Corp., Califon, NJ.	49 CFR 177.842(a), 177.842(b)	To become a party to Exemption 8308. (Mode 1.)
8308-X	DOT-E 8308	Sky Cab, Inc., East Brunswick, NJ	49 CFR 177.842(a), 177.842(b)	To authorize carriage of radioactive materials aboard highway vehicle when the combined transport index exceeds 50 and/or the separation criteria cannot be met. (Mode 1.)
8308-X	DOT-E 8308	United States Priority Transport Corporation, Huntington, NY.	49 CFR 177.842(a), 177.842(b)	To authorize carriage of radioactive materials aboard highway vehicle when the combined transport index exceeds 50 and/or the separation criteria cannot be met. (Mode 1.)
8308-X	DOT-E 8308	New England Nuclear Corporation, Boston, MA.	49 CFR 177.842(a), 177.842(b)	To authorize carriage of radioactive materials aboard highway vehicle when the combined transport index exceeds 50 and/or the separation criteria cannot be met. (Mode 1.)
8308-X	DOT-E 8308	Caspersen, Inc., Glencoe, IL	49 CFR 177.842(a), 177.842(b)	To authorize carriage of radioactive materials aboard highway vehicle when the combined transport index exceeds 50 and/or the separation criteria cannot be met. (Mode 1.)
8308-X	DOT-E 8308	MHC Messengers, Inc., Avenel, NJ	49 CFR 177.842(a), 177.842(b)	To authorize carriage of radioactive materials aboard highway vehicle when the combined transport index exceeds 50 and/or the separation criteria cannot be met. (Mode 1.)
8308-X	DOT-E 8308	Associated Couriers, Inc., Maryland Heights, MO.	49 CFR 177.842(a), 177.842(b)	To authorize carriage of radioactive materials aboard highway vehicle when the combined transport index exceeds 50 and/or the separation criteria cannot be met. (Mode 1.)
8316-X	DOT-E 8316	Van Camp Sea Food Company, San Diego, CA.	49 CFR 173.171	To authorize the shipment of fish meal containing less than 6% but not less than 5% water in paper bags not provided for in 49 CFR 173.171. (Modes 1, 2, 3.)
8339-X	DOT-E 8339	Eastern Steel Barrel Corporation, Piscataway, NJ.	49 CFR 173.119(a), (b), 173.245(a)(26), 173.245(b)(6), 173.249(a)(1), 173.250a(a)(1), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.266(b)(8), 173.271, 173.272(i)(9), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 173.357(b), 178.19.	To authorize manufacture, marking and sale of non-DOT specification reusable molded polyethylene container for shipment of certain oxidizers, Class B poisons, corrosive, flammable liquids and a corrosive solid. (Modes 1, 2, 3.)
8361-X	DOT-E 8361	Yellow Spring Instrument Co., Inc., Yellow Spring, OH.	49 CFR 173.861, 173.862, 175.3	To authorize shipment of a temperature measuring device containing small quantity of gallium metal in non-DOT Specification containers. (Modes 1, 2, 4.)
8362-X	DOT-E 8362	Altus Corporation, San Jose, CA	49 CFR 172.101, 173.206, 173.247	To authorize shipment of batteries containing lithium metal and thionyl chloride in DOT Specification 12B fiberboard boxes and DOT Specification 19B wooden boxes. (Mode 1.)
8363-X	DOT-E 8363	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.93(a)	To authorize shipment of certain solid propellant explosives in metal cannisters overpacked in DOT Specification 12H65 fiberboard boxes. (Modes 1, 3.)
8375-X	DOT-E 8375	Sea Containers Inc., New York, NY	49 CFR 173.119, 173.125, 173.245, 173.247, 173.346, 173.347, 46 CFR 90.05-35, 46 CFR 98.35-3.	To authorize use of non-DOT specification portable tanks for shipment of certain flammable, combustible liquids, Poison B, corrosive and ORM-A materials. (Modes 1, 2, 3.)
8379-X	DOT-E 8379	3M Company, St. Paul, MN	49 CFR 173.154	To authorize transport of a flammable solid, n.o.s., in portable tanks complying with DOT Specification 57 except for capacity and specification identification. (Mode 1.)
8393-X	DOT-E 8393	Union Carbide Corporation, Tarrytown, NY.	49 CFR 172.101, 173.315, 176.76(b)	To authorize use of non-DOT specification vacuum insulated cargo tanks for shipment of certain nonflammable gases. (Mode 3.)
8404-X	DOT-E 8404	Minnesota Valley Engineering, Inc., New Prauge, MI.	49 CFR 173.304(a)(2)	To authorize manufacture, marking and sale of DOT Specification 4L vacuum insulated cylinder for shipment of nonflammable gases. (Modes 1, 2, 3.)
8427-X	DOT-E 8427	U.S. Department of Defense, Washington, DC.	49 CFR 173.276	To authorize use of a stainless steel DOT Specification 3A or 3E seamless cylinder for shipment of a flammable liquid. (Mode 4.)
8441-X	DOT-E 8441	General Motors Corporation, Detroit, MI	49 CFR 172.101	To authorize shipment of depleted lithium cells and batteries to a disposal site in a DOT Specification 12B fiberboard box or any metal or fiber drum. (Mode 1.)
8441-P	DOT-E 8441	United Space Boosters, Inc., Huntsville, AL.	49 CFR 172.101	To become a party to Exemption 8441. (Mode 1.)
8441-P	DOT-E 8441	Plainview Electronics Corporation, Plainview, NY.	49 CFR 172.101	To become a party to Exemption 8441. (Mode 1.)
8441-X	DOT-E 8441	Magnavox Electronics Systems Company, Fort Wayne, IN.	49 CFR 172.101	To authorize shipment of depleted lithium cells and batteries to a disposal site in a DOT Specification 12B fiberboard box or any metal or fiber drum. (Mode 1.)
8441-P	DOT-E 8441	Honeywell Incorporated, Horsham, PA	49 CFR 172.101	To become a party to Exemption 8441. (Mode 1.)
8441-X	DOT-E 8441	Power Conversion, Inc., Mount Vernon, NY.	49 CFR 172.101	To authorize shipment of depleted lithium cells and batteries to a disposal site in a DOT Specification 12B fiberboard box or any metal or fiber drum. (Mode 1.)
8441-X	DOT-E 8441	U.S. Department of Defense, Washington, DC.	49 CFR 172.101	To authorize shipment of depleted lithium cells and batteries to a disposal site in a DOT Specification 12B fiberboard box or any metal or fiber drum. (Mode 1.)
8441-X	DOT-E 8441	Electrochem Industries, Inc., Clarence, NY.	49 CFR 172.101	To authorize shipment of depleted lithium cells and batteries to a disposal site in a DOT Specification 12B fiberboard box or any metal or fiber drum. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8441-X	DOT-E 8441	Battery Disposal Technology, Inc., Clarence, NY.	49 CFR 172.101	To authorize shipment of depleted lithium cells and batteries to a disposal site in a DOT Specification 12B fiberboard box or any metal or fiber drum. (Mode 1.)
8441-X	DOT-E 8441	U.S. Department of Energy, Washington, DC.	49 CFR 172.101	To authorize shipment of depleted lithium cells and batteries to a disposal site in a DOT Specification 12B fiberboard box or any metal or fiber drum. (Mode 1.)
8441-P	DOT-E 8441	Wilson Greatbatch Ltd., Clarence, NY	49 CFR 172.101	To become a party to Exemption 8441. (Mode 1.)
8441-X	DOT-E 8441	Duracell International, Inc., Tarrytown, NY.	49 CFR 172.101	To authorize shipment of depleted lithium cells and batteries to a disposal site in a DOT Specification 12B fiberboard box or any metal or fiber drum. (Mode 1.)
8441-X	DOT-E 8441	Bunker Ramo Corporation, Westlake Village, CA.	49 CFR 172.101	To authorize shipment of depleted lithium cells and batteries to a disposal site in a DOT Specification 12B fiberboard box or any metal or fiber drum. (Mode 1.)
8441-P	DOT-E 8441	Jet Propulsion Laboratory, Pasadena, CA	49 CFR 172.101	To become a party to Exemption 8441. (Mode 1.)
8504-X	DOT-E 8504	Mississippi Tank Company, Hattiesburg, MS.	49 CFR 173.315(a), 173.315(c)(1)	To authorize manufacture, marking and sale of non-vacuum insulated DOT Specification MC-331 cargo tank for transportation of flammable gases. (Mode 1.)
8511-P	DOT-E 8511	Interox America, Houston, TX	49 CFR 173.266(f)	To become a party to Exemption 8511. (Modes 1, 2.)
8525-X	DOT-E 8525	ABC Containerlines, N.V., Antwerp, Belgium.	49 CFR 173.389(o)(1), 173.392(c), 176.700(h)(1), 176.700(h)(2).	To authorize shipment of mineral monazite sand, classed as radioactive material, low specific activity, n.o.s. under modified exclusive use provisions. (Modes 1, 2, 3.)
8558-P	DOT-E 8558	Trojan Corporation, Spanish Fork, UT	49 CFR 173.53	To become a party to Exemption 8558. (Mode 1.)
8565-P	DOT-E 8565	PPG Industries, Inc., Pittsburgh, PA	49 CFR 173.217(a)(3), 178.224	To become a party to Exemption 8565.
8570-X	DOT-E 8570	Snyder Industries, Incorporated, Lincoln, NB.	49 CFR 173 Subpart F, 173.119, 173.266.	To authorize manufacture, marking and sale of non-DOT specification rotationally molded polyethylene portable tank for shipment of corrosive liquids, flammable liquids and an oxidizer. (Modes 1, 2.)
8585-X	DOT-E 8585	Bergen Barrel and Drum Company, Demarest, NJ.	49 CFR 173.247, 173.266, 178.19, Part 173, Subpart D, Subpart F, H.	To authorize manufacture, marking and sale of non-DOT specification reusable, rotationally molded, polyethylene container, for shipment of certain corrosive liquids and oxidizer. (Modes, 1, 2, 3.)
8602-X	DOT-E 8602	Minnesota Valley Engineering, New Prague, MN.	49 CFR 172.101, 173.315	To authorize the manufacture, marking and sale of non-DOT specification vacuum insulated portable tanks for shipment of liquefied argon, nitrogen, and oxygen. (Mode 3.)
8627-P	DOT-E 8627	Petrolite Corporation, St. Louis, MO	49 CFR 173.119, 173.245	To become a party to Exemption 8627. (Mode 1.)
8732-P	DOT-E 8732	Ashland Chemical Company, Dublin, OH	49 CFR 173.245	To become a party to Exemption 8732. (Mode 1.)
8732-P	DOT-E 8732	Coastal Chemical Company, Pasadena, TX.	49 CFR 173.245	To become a party to Exemption 8732. (Mode 1.)
8732-P	DOT-E 8732	Van Waters & Rogers, San Jose, CA	49 CFR 173.245	To become a party to Exemption 8732. (Mode 1.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8627-N	DOT-E 8627	Exxon Chemical Company, Houston, TX	49 CFR 173.119, 173.245	To authorize use of a non-DOT specification tank having six, sixty gallon compartments firmly mounted on a truck chassis, for transportation of flammable liquids and corrosive liquids. (Mode 1.)
8722-N	DOT-E 8722	Northrop Corporation, Hawthorne, CA	49 CFR 172.101, 173.276, 174.3, 175.3, 175.30, 176.3.	To authorize shipment of hydrazine solution in non-DOT specification type 347 stainless steel, nonpressurized tanks. (Modes 1, 2, 3, 4, 5.)
8755-N	DOT-E 8755	U.S. Department of the Interior, Anchorage, AK.	49 CFR 172.101, 173.119, 175.3, 175.320(c).	To authorize shipment of gasoline and turbine fuel, classed as flammable liquids in non-DOT specification rubberized fabric containers (Sealdrums). (Mode 4.)
8799-N	DOT-E 8799	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.33(d)(1), 173.33(d)(2)	To authorize transport of solid metallic sodium in DOT Specification MC-330 or MC-331 cargo tanks. (Mode 1.)
8811-N	DOT-E 8811	American Hoechst Corporation, Somerville, NJ.	49 CFR 173.294(a), 178.340, 178.343-2	To authorize use of modified DOT specification MC-312 cargo tanks made of titanium for shipment of certain corrosive materials. (Mode 1.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 8832-N	DOT-E 8832	Dow Chemical Company, Midland, MI	49 CFR 173.252(a)(4)	To authorize shipment of bromine in a two compartmented DOT Specification MC-310 or MC-312 cargo tank with one compartment loaded to 35% capacity. (Mode 1.)
EE 8846-N	DOT-E 8846	GAF Corporation, Wayne, NJ	49 CFR 173.315(a)(1) table	To authorize shipment of vinyl methyl ether in DOT Specification MC-330 or MC-331 tank motor vehicles. (Mode 1.)
EE 8847-N	DOT-E 8847	University of California, Tulelake, CA	49 CFR 173.272(f)(i)(20)	To authorize use of non-DOT specification steel portable tanks for shipment of sulfuric acid. (Mode 1.)
EE 8848-N	DOT-E 8848	Kerr Steamship Company, Long Beach, CA.	49 CFR 173.86(b), 176.11(a)(2)(i), 176.76(a).	To authorize a foreign flag vessel to carry mortar ammunition which is described, classed, packaged, marked, labeled, placarded, secured and loaded in accordance with the International Maritime Dangerous Goods Code through United States waters. (Mode 3.)
EE 8849-N	DOT-E 8849	Global International Airways, Kansas City, MO.	49 CFR 172.101 Column 6(b)	To authorize transport of rocket ammunition with explosive projectile, Class A explosive that is packed, marked, labeled and loaded in accordance with DOD procedures and requirements. (Mode 4.)

WITHDRAWALS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7943-X	Chem Lab Products, Inc., Anaheim, CA	49 CFR 173.263(a)(15), 173.272(c), 173.272(i)(12), 173.277(a)(1).	To authorize shipment of corrosive liquids in fiberboard boxes complying with DOT Specification 12B except for handholes in top flaps. (Mode 1.)
7987-P	American Cyanamid Company, Wayne, NJ	49 CFR 173.343, 173.377	To become a party to Exemption 7987. (Modes 1, 2.)

WITHDRAWALS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8652-N	Catalyst Research Corp., Baltimore, MD	49 CFR 172.240, 172.243, 173.206(d)(1), (f), 175.3.	To authorize shipment of lithium iodine cells or batteries contained in hermetically sealed metal cases overpacked in strong outside containers as essentially non-regulated. (Modes, 1, 2, 3, 4.)

Denials

4453–P Request by Mining Services International Corporation, Salt Lake City, UT to authorize use of a non-DOT specification bulk, hoppertype tank for shipment of blasting agent, n.o.s. or ammonium nitrate-fuel oil mixture denied May 28, 1982.

6498–X Request by Luxfer U.S.A. Limited, Riverside, CA to authorize use of non-DOT specification aluminum cylinders for transportation of certain liquefied and nonliquefied compressed gases and certain other hazardous materials denied May 12, 1982, as being unnecessary.

7060–P Request by Southland Air Corporation, Pasadena, CA to authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met denied May 28, 1982.

8502–N Request by Bland Brothers, Incorporated, New York, NY to authorize shipment of devices identified as "trick noise makers, explosive" without the Class C explosive label applied to the outside of the package denied May 28, 1982.

8810–N Request by Burris Chemical, Inc., Augusta, GA to authorize use of DOT Specification 57 portable tank constructed of mild steel for transportation of sulfuric acid denied May 13, 1982.

8836–N Request by United States Steel Corporation, McKeesport, PA to authorize grinding in localized areas of a cylinder's sidewall which reduces the minimum thickness prescribed in the specifications for DOT 3A, 3AX, 3AA, 3AAX and 3T cylinders denied May 28, 1982.

Issued in Washington, D.C., on June 14, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-16696 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-60-M

[Docket No. 82-4W; Notice 1]

Transportation of Natural and Other Gas by Pipeline; Petition for Waiver

The Tennessee Gas Pipeline Company has petitioned the Materials Transportation Bureau (MTB) for a waiver from compliance with the requirements of 49 CFR 192.553(d) to permit the maximum allowable operating pressure (MAOP) of two transmission line segments shown on drawing TO–T10–300–1–57, to be increased to 1170 psig from the current 1088 psig. These line segments are located in Wayne County, Pennsylvania, between mainline valves 322 and 323 on the Company's 300–1 transmission line.

Line 300–1 was designed and constructed in 1955 in accordance with the "USAS B31.8 Standard Code for Pressure Piping, Gas Transmission and Distribution Piping Sustem," a code of industry consensus standards for safe gas piping systems. Pipe in line 300–1 is 24 inches in diameter, with a 0.375 inch wall thickness. It was manufactured according to API Standard 5LX, grade X52 requirements. The design pressure of the line section between valves 322 and 323 is 1170 psig, based on a design factor of 0.72.

Although this line section was originally qualified to operate at 1170 psig by pressure testing after construction to 1300 psig, the highest actual operating pressure needed until now to serve customers has been 1088 psig.

When the Federal gas pipeline safety standards in 49 CFR Part 192 became effective in November 1970, this operating pressure of 1088 psig became the MAOP of the line section in accordance with § 192.619(a)(3). Subsequently, population density increased along the two segments of line for which the waiver is sought, causing them to be reclassified under § 192.5 from Class 1 to Class 2 locations. Thereafter, the entire line section was hydrostatically tested to at least 1470 psig for 8 hours, without leakage, a pressure level equivalent to 90.5 percent of the pipe's specified minimum yield strength (SMYS). This pressure test met the test requirements of § 192.611(c), governing confirmation or revision of MAOP when a pipeline's Class location has changed.

Under the provisions of §§ 192.553 and 192.555 governing permissible increases in a pipeline's MAOP (uprating), the 1470 psig pressure test and other steps performed by the Company requalified all but the two Class 2 segments of the line section for operation at an MAOP of 1170 psig. The two Class 2 segments are restricted from operation at the higher MAOP by § 192.553(d), which provides in relevant part that "a new maximum allowable operating pressure established under this subpart may not exceed the maximum that would be allowed under this part for a new segment of pipeline constructed of the same materials in the same location." In accordance with § 192.619(a), the maximum for a new pipeline in a Class 2 location constructed of pipe like that in line 300–1 would be 975 psig, or the design pressure for such a pipeline based on a 0.60 design factor. In contrast, this limitation did not affect the establishment of an 1170 psig MAOP for the remaining Class 1 portions of the line section, because a new pipeline of the same materials in the same Class 1 location would qualify for an 1170 MAOP under § 192.619(a) based on a design factor of 0.72. After the 1470 psig pressure test was made, two additional segments of the line section have changed from Class 1 to Class 2 locations. However, under the provisions of § 192.611(a), because they were previously tested to 90 percent of SMYS, these additional Class 2 segments may operate at their previously established MAOP of 1170 psig. The § 192.553(d) limitation does not apply since these additional segments were uprated to 1170 psig before the change in Class location occurred.

In support of its waiver request, the Company states that the current 1088 operating pressure is no longer adequate to meet its delivery demands for the

300–1 line. An additional 15 mmcfd of capacity are needed for the 1982–83 heating season. This capacity can most readily be provided by uprating the two Class 2 segments for which the waiver is sought to 1170 psig, or alternatively by replacing the two segments with new pipe at an estimated cost of $319,000. The Company also points out that the line section involved has been coated and cathodically protected against corrosion since 1956, and electrical surveys and visual inspections have shown the section to be sound and in excellent condition.

MTB believes that a waiver of § 192.553(d) to permit the proposed uprating should be granted because the two Class 2 segments for which the waiver is sought are not materially different with respect to design, construction, and leak and maintenance history from similar Class 2 segments in the same line section that now have an MAOP of 1170 psig. The distinguishing factor is merely the timing of the 1470 psig qualifying pressure test. Had it been performed before the two segments involved changed from Class 1 to Class 2, the segments could have been qualified for the higher 1170 MAOP without restriction by § 192.553(d).

Interested persons are invited to comment on the proposed waiver by submitting in triplicate such data, views, or arguments as they may desire. Communications should identify the Docket and Notice numbers and be submitted to: Dockets Branch, Room 8426, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590.

All comments received before July 26, 1982 will be considered before final action is taken. Late filed comments will be considered so far as practicable. All comments will be available for inspection at the Dockets Branch, Materials Transportation Bureau, between the hours of 8:30 a.m. to 5:00 p.m., before and after the closing date for comments. No public hearing is contemplated, but one may be held at a time and place set in a Notice in the **Federal Register** if requested by an interested person desiring to comment at a public hearing and raising a genuine issue.

(49 U.S.C. 1672; 49 CFR Part 1.53(a), Appendix A of Part 1 and Appendix A of Part 106)

Issued in Washington, D.C., on June 17, 1982.

Melvin A. Judah,

Acting Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 82-16896 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-60-M

Office of the Secretary

[Notice 82-4]

Texas Offshore Port Inc.; Deepwater Port License Extension

AGENCY: Office of the Secretary, DOT.

ACTION: Extension of License Acceptance Period; request for public comment.

SUMMARY: The intent of this Notice is to solicit public comment on the request of Texas Offshore Port, Inc. (TOP) to extend for two years the date by which the deepwater port license offered TOP can be accepted. Public comments are being solicited on this Notice.

DATE: Comments must be received not later than July 26, 1982.

ADDRESS: Comments should be addressed to: Mr. Ernest T. Bauer, U.S. Department of Transportation, Office of Economics, Review and Analysis Division, Deepwater Port Staff, P–34, 400 7th Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Ernest T. Bauer, (202) 426–4144.

SUPPLEMENTARY INFORMATION: On September 21, 1981, pursuant to section 4 of the Deepwater Port Act of 1974 (33 U.S.C. 1503), the Secretary of Transportation offered to TOP a license to own, construct, and operate a deepwater port off the coast of Freeport, Texas. The license decision provides that the license would not be effective unless it is accepted by June 21, 1982. The license itself includes a condition that construction of the deepwater port complex begin not later than two years after the effective date of the license, and the port complex be, within five years from such effective date, sufficiently complete to operate at its design capacity of an average daily throughput of 500,000 barrels.

In light of the current reduced demand for petroleum products and the uncertain near-term projections for crude oil imports, TOP desires to hold in abeyance the construction of its proposed deepwater port and has requested that it be granted a two-year extension of the time within which to accept the license. As an interim matter, a 60-day extension of the current deepwater port license offer, i.e., until August 20, 1982, has been granted.

The requested two-year extension, until June 21, 1984, remains under consideration. Our concern with the request centers on the duration of the extension to be granted. Under the Deepwater Port Act of 1974, the Department is prohibited from accepting other applications for the same location for which a license offer is outstanding. Although the Department is not aware at this of any other party that desires to submit an application for such a license, we are concerned that over the next two years another group may desire to propose a deepwater port in the TOP application area. We are therefore considering granting the two-year extension subject to revocation upon 30 days notice to TOP that another deepwater port license application has been received.

Public comment is invited on TOP's request for a two-year extension, and upon any other relevant issues. All comments received prior to the deadline will be considered.

(Deepwater Port Act of 1974, 33 U.S.C. 1501, *et seq.*)

Issued in Washington, D.C. on June 17, 1982.

Darrell M. Trent,

Deputy Secretary of Transportation.

[FR Doc. 82-16895 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-62-M

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB, May 20–June 10, 1982

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, between May 20, and June 10, 1982, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426–1887 or

Donald Arbuckle or Wayne Leiss, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503, (202) 395–7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in

accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

On Mondays and Thursdays, as needed, the Department of Transportation will publish in the Federal Register a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB:

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of the DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) The form numbers used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for and uses to be made of the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above.

Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB between May 20 and June 10, 1982:

- DOT No: 1943

OMB No: None
By: Federal Highway Administration (FHWA)
Title: Planning Program Financial Recordkeeping and Status Report
Forms: None
Frequency: Quarterly
Respondents: State Highway Departments
Need/Use: The clearance of this requirement is necessary for the FHWA to determine whether Federal-aid funds should be used for projects proposed by the States and to comply with Congressional reporting requirements.
This information is needed to report the status of expenditures for individual work activities in the annual Federal-Aid Highway Planning work program.

- DOT No: 1944

OMB No: 2133–0016
By: Maritime Administration
Title: Container/Trailer Report-Foreign Trade
Forms: MA–578A
Frequency: For each voyage
Respondents: Ship operators in waterborne foreign commerce of the United States
Need/Use: To assist the Maritime Administration in determining essentiality of services and U.S. flag service requirements and in supporting the Maritime Subsidy Board formal hearing procedures in connection with the award of long range subsidy contracts or amendment of existing contracts, all as required by the Merchant Marine Act, 1936.

Issued in Washington, D.C. on June 17, 1982.

Karen S. Lee,

Deputy Assistant Secretary for Administration.

[FR Doc. 82–16797 Filed 6–2–82; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF THE TREASURY

[Supplement to Department Circular; Public Debt Series No. 15–82]

Series T–1984; Interest Rate

June 17, 1982.

The secretary announced on June 16, 1982, that the interest rate on the notes designated Series T–1984, described in Department Circular—Public Debt Series—No. 15–82 Dated June 10, 1982, will be 14⅞ percent. Interest on the notes will be payable at the rate of 14⅞ percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 82–17053 Filed 6–23–82; 8:45 am]

BILLING CODE 4810–40–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 122
Thursday, June 24, 1982

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

	Items
Depository Institutions Deregulation Committee	1
Federal Deposit Insurance Corporation	2-5
Federal Election Commission	6
Federal Maritime Commission	7
Federal Reserve System	8, 9
National Transportation Safety Board	10

1

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

TIME AND DATE: 3:30 p.m., June 29, 1982.

PLACE: Cash Room, Department of the Treasury (Use Pennsylvania Avenue Entrance), Pennsylvania Avenue between 15th Street and East Executive Avenue, Washington, D.C. 20220

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Consideration of alternative short-term deposit accounts.

2. Consideration of rules for establishment of interest rates on accounts not subject to interest rate limitations.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the DIDC office at the Department of the Treasury, and copies may be purchased for $5.00 per cassette by calling (202) 566-5152 or by writing to: Depository Institutions Deregulation Committee, Department of the Treasury, Room 1058 MT, Washington, D.C. 20220.

For further information about the DIDC and the June 29 meeting, please call (202) 566-3734.

June 22, 1982.

Steven L. Skancke,

Executive Secretary of the Committee.

[S-932-82 Filed 6-22-82; 11:51 am]

BILLING CODE 6210-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, June 28, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii), of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal procedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for consent to merge and establish three branches:

United American Bank in Hamilton County, Chattanooga, Tennessee, for consent to merge, under its charter and title, with City Bank and Trust, East Ridge, Tennessee, and to establish the three offices of City Bank and Trust as branches of the resultant bank.

Request for extension of time to establish a branch:

Bank of Newport, Newport Beach, California, for an extension of time within which to establish its approved branch to be located at the intersection of Main Street and MacArthur Boulevard, Irvine, California.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: June 21, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-930-82 Filed 6-22-82; 11:50 am]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, June 21, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Memorandum re: Accounting treatment of "goodwill" in mutual savings bank mergers.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: June 21, 1982.

Federal Deposit Insurance Corporation.
Alan J. Kaplan,
Deputy Executive Secretary.
[S-936-82 Filed 6-22-82; 3:48 pm]
BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, June 28, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,181-L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.
Memorandum and Resolution re: First State Bank and Trust Company, Rio Grande City, Texas.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Bronson, Bronson & McKinnon, San Francisco, California, in connection with the receivership of United States National Bank, San Diego, California.
Kaye, Scholer, Fierman, Hays & Handler, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Memorandum proposing the appointment of an agent for service of process in the State of Texas.

Reports of committees and officers:

Minutes of the actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.
Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Requests for information concerning the meeting may be direted to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: June 21, 1982.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S-931-82 Filed 6-22-82; 11:50 am]
BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, June 21, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:
Case No. 45,294-L (Amended)—Farmers Bank of the State of Delaware, Dover, Delaware
Case No. 45,295-L—Farmers Bank of the State of Delaware, Dover, Delaware

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: June 21, 1982.
Federal Deposit Insurance Corporation.
Alan J. Kaplan,
Deputy Executive Secretary.
[S-937-82 Filed 6-22-82; 3:48 pm]
BILLING CODE 6714-01-M

6

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, June 29, 1982 at 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Compliance. Litigation. Audits. Personnel.

PERSON TO CONTACT FOR INFORMATION:
Mr. Fred Eiland, Public Information Officer; Telephone: 202-523-4065.

Marjorie W. Emmons,
Secretary of the Commission.
[S-934-82 Filed 6-22-82; 3:02 pm]
BILLING CODE 6715-01-M

7

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., June 30, 1982.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Agreements Nos. 10392-2 and 10410-1: Applications for extensions of the U.S. Atlantic-Amazon Discussion Agreement and U.S. Gulf-Amazon Discussion Agreement, respectively.
2. Docket No. 80-56: Temporary Tariff Filing Regulations Applicable to Carriers and Conferences of such Carriers in the Foreign Commerce of the United States—Consideration of proposed final rule.
3. Proposed Rulemaking-Procedures and Requirements for Publishing Currency Adjustment Factors in the Exchange Rate of the Tariff Currency.
4. Docket No. 81-72: Seald-Sweet International, Inc. v. Sea-Land Service, Inc.—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-933-82 Filed 6-22-82; 2:38 pm]
BILLING CODE 6730-01-M

8

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:30 a.m., Tuesday, June 29, 1982.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. The Committee's agenda will consist of matters relating to (a) the general administrative policies and procedures of the Retirement Plan, Thrift Plan, Long-Term Disability Income Plan, and Insurance Plan for Employees of the Federal Reserve System; (b) general supervision of the operations of the Plans; (c) the maintenance of proper accounts and accounting procedures in respect to the Plans; (d) the preparation and submission of an annual report on the operations of each of such Plans; (e) the maintenance and staffing of the Office of the Federal Reserve Employee Benefits System; and (f) the arrangement for such legal actuarial, accounting, administrative, and other services as the Committee deems

necessary to carry out the provisions of the Plans.

Specific items will include proposed revisions to the Thrift and Retirement Plans for Employees of the Federal Reserve System.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: June 21, 1982.

William W. Wiles,

Secretary of the Board.

[S-929-82 Filed 6-22-82; 10:54 am]

BILLING CODE 6210-01-M

9

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Wednesday, June 30, 1982.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: June 22, 1982.

James McAfee,

Associate Secretary of the Board.

[S-935-82 Filed 6-22-82; 3:47 pm]

BILLING CODE 6210-01-M

10

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-82-15]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 25089, June 9, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Thursday, June 17, 1982.

CHANGE IN MEETING: On Tuesday, June 22 at 10 a.m., the Board will reconvene the meeting which was recessed at 5 p.m., June 17. At that time, the Board will continue its discussion of agenda item No. 3, "*Highway Accident Report:* Pacific Intermountain Express Tractor Cargo Tank Semitrailer/Eagle F.B. Truck Lines, Inc., Lowboy Semitrailer Collision and Fire, U.S. Route 50, near Canon City, Colorado, November 14, 1981." In addition to the remaining two items on the agenda, the following item has been added:

6. *Board policy* on Marine Summary Reports.

A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

June 21, 1982.

[S-928-82 Filed 6-21-82; 4:46 pm]

BILLING CODE 4910-58-M

federal register

Thursday
June 24, 1982

Part II

Department of Transportation

Federal Aviation Administration

Designated Airworthiness Representatives; Establishment of Category and Request for Comments on Proposed Advisory Circular

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 183

[Docket No. 23140; Notice No. 82-9]

Establishment of Designated Airworthiness Representatives (DAR) Category

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend Part 183 of the Federal Aviation Regulations (FAR) to provide for the establishment of Designated Airworthiness Representatives (DAR) as a new category of persons appointed, under Section 314 of the Federal Aviation Act (FA Act) of 1958, to act as representatives of the Adminstrator in performing certain certification functions under Title VI of the FA Act. This proposed amendment to Part 183 would enable the FAA to expand its designee program into new areas of delegation not presently provided for in Part 183. The expanded delegations proposed are necessary since the delegations presently authorized by Part 183 constrain the FAA's ability to deal with the proliferation of requests for FAA examination, inspection, and testing services necessary to the issuance of certificates, including the issuance of certificates, under Title VI of the FA Act. This proposal would enable FAA to use its fiscal and human resources in a more effective manner to meet safety objectives. In addition, the proposed amendment would ease the burden of regulation on the public by expediting accomplishment of required demonstrations of compliance with applicable airworthiness standards and would reduce or eliminate certain delays in obtaining required certifications.

DATE: Comments must be received on or before August 23, 1982.

ADDRESS: Comments on the proposals may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 23140, 800 Independence Avenue, SW., Washington, D.C. 20591 or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments delivered must be marked: Docket No. 23140. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Sandy Delucia, Aircraft Manufacturing Division (AWS-200), Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8361.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed amendment by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. The FAA is particularly interested in eliciting comments containing suggestions of specific areas in which expanded delegations and the use of DAR's in certification programs would ease regulatory burdens upon the aviation community.

Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address indicated above. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 233140." The postcard will be date/time stamped and returned to the commenter. All comments received on or before August 23, 1982 will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs; Attn: Public Information Center (APA-430), 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

Synopsis of Proposal

Section 314 of the Federal Aviation Act permits the Secretary of Transportation to delegate to any properly qualified private person, any work, business or function respecting: (1) The examination, inspection, and testing necessary to the issuance of certificates under Title VI of the FA Act, and (2) the issuance of such certificates under Title VI of the FA Act, subject to such regulations, supervision, and review as he may prescribe. These certificates include but are not limited to: Type Certificates; Supplemental Type Certificates; Production Certificates; Approved Production Inspection System Authorizations; Technical Standard Order Authorizations; Airworthiness Certificates; Export Approvals and Certificates; Components Certifications; Airmen Certificates; Air Carrier/Operators Certificates; and Air Agency Certificates.

Private persons selected to act as designees are Representatives of the Administrator as detailed in Part 183. This "designee system," has been used extensively within the FAA for over 20 years and has been highly successful. For example, there are now approximately 850 private persons with delegated authority to function as Designated Manufacturing Inspection Representatives (DMIR's) of the Administrator, augmenting a workforce of approximately 140 FAA manufacturing inspectors. DMIR's conduct numerous inspections and certifications on behalf of the FAA, thus enabling the FAA to meet its safety objectives with a minimal number of FAA manufacturing inspectors. A DMIR authorization is, however, limited to the facilities of the manufacturer by whom the DMIR is employed. For this reason, the DMIR's services may not be used by the FAA in responding to the proliferation of requests for FAA examination, inspection, and testing services relating to the certification functions under Title VI of the FA Act that are not within the very limited scope of designations now authorized by Part 183. In fact, viewed in the context of increased foreign and domestic demand for FAA inspection and certification services, Part 183 does not provide the FAA with sufficient flexibility to fully utilize its statutory authority to delegate examination, inspection, and testing functions respecting issuance of Title VI

certificates. Therefore, the FAA plans to expand the areas (maintenance, manufacturing, and engineering) where designees might effectively be used to reduce government costs. The expanded delegations would be beyond those presently contained in Part 183, yet remain within those authorized by Section 314 of the FA Act. This approach is consistent with the goal of reducing costs by streamlining the operations of the government. This proposed amendment would also ease the burden of regulation on the aviation community by expediting the accomplishment of demonstrations of compliance required before the issuance of requested certifications. It would further reduce delays commonly experienced by manufacturers during type certification programs due to unavailability of FAA personnel, and thus expedite the introduction of new product lines. Similar delays encountered by persons attempting to return aircraft to service would also be minimized.

This proposed amendment would provide for the appointment of qualified persons as DAR's to perform functions not presently authorized in Part 183. In this manner, the FAA can safely and efficiently increase the producivity of its airworthiness staff and maximize effectiveness of FAA manpower in areas most affecting safety. There are a number of areas where the FAA proposes that DAR's be utilized in the immediate future. These include: issuance of export approvals and export certificates of airworthiness; conducting conformity inspections for modification programs; issuance of airworthiness certificates for aircraft which have been approved for return to service after modification; and certification of components produced under bilateral airworthiness agreements.

As proposed, delegation of specific functions may be authorized for limited periods of time in accordance with national policy developed by the Director of Airworthiness and may be withdrawn by the appointing authority at any time, and for any reason deemed appropriate.

Since each examination, inspection, and testing function which may be delegated to DAR's under the proposed amendment cannot presently be envisioned, it is not possible to specify, by regulation, all areas where a DAR's services may be used consistently with the stated objectives of the proposed amendments. Accordingly, those specific functions which may be delegated by the Director of Airworthiness have been incorporated in an advisory circular which is being published for notice and comment concurrently with this notice. The FAA intends to revise and republish the advisory circular to seek public comment each time revisions are proposed to add or delete any authorized function. Additional areas of delegation will then be selected and authorized by the Director of Airworthiness based on recommendations from other FAA elements and the aviation community.

Consistent with the other delegations already provided for in Part 183, this proposed amendment would not require the use of DAR's. The election to use such representatives is left entirely to the discretion of the certificate applicant. Also, as with other designees, DAR's may charge the applicant a fee for their services. DAR's would also be subject to FAA surveillance, as are other designees, to monitor and supervise their delegated tasks.

Economic Evaluation

A discussion of the projected economic benefits and costs of the proposal and a determination that the proposed rule would not have a significant economic impact on a substantial number of small entities follow in the paragraphs below. FAA invites public comment on this discussion.

Benefits

FAA supervision of the DAR program will ensure that the present level of aviation safety will not be diminished. Therefore, benefits will be entirely of a cost saving or efficiency nature. Economic benefits will be derived from the reduction of delays in obtaining FAA required certifications necessary to the conduct of aviation oriented enterprises with resultant reduction of the cost to the applicants for such certifications. Reduction in the time required to obtain FAA certifications will have the following benefits:

1. Firms planning to use or introduce an improved aviation product which requires an FAA certification (e.g., a more fuel efficient airplane) will be able to do so sooner than they can under the current system.

2. Firms already offering an aviation service (e.g., aircraft broker) or those planning to offer a new aviation service will be able to obtain required FAA certifications sooner.

3. More firms than at present will have incentive to introduce new aviation products or services requiring FAA certifications because of the ability to realize the profits from such products or services sooner than under the current system.

FAA cannot envision all circumstances in which the use of a DAR will reduce the cost of an individual certification. However, an obvious example is that permitting a DAR to issue an airworthiness certificate on a U.S. manufactured aircraft purchased abroad would eliminate the necessity to ferry an aircraft to a point where FAA could issue an airworthiness certificate. It should be noted that in the past FAA would certify an aircraft at any foreign point. This option is no longer open to the applicant because of budgetary restrictions, and, in fact, FAA is preparing a Notice of Proposed Rulemaking entitled "Airworthiness Certification—Location of Aircraft" which, if adopted, would require the applicant to bring the aircraft to a point where certification would not be an "undue burden" for FAA. Another obvious circumstance would be to permit a DAR to issue export approvals, thereby eliminating costly delays incurred while awaiting FAA personnel to perform such services. In addition to the benefits for applicants, this proposal would also result in a substantial public benefit by freeing FAA certification personnel to perform other safety related services sooner than they are able to under the current certification system. This would be possible since DAR's would be performing functions which previously were not delegated.

The benefits resulting from this proposal may vary for the following reasons:

1. The use of DAR's would be optional. FAA cannot predict the annual number and types of instances when applicants would use the services of a DAR rather than FAA employees.

2. Even if a forecast of the annual number of instances of use of DAR services were possible, the extent of the cost savings resulting from those instances of use of DAR's would depend on the values of difficult-to-forecast factors such as interest rates, fuel prices, and fares.

Costs

No costs need be incurred by any applicant requiring FAA certification services since the proposed use of DAR's is only an optional means of obtaining FAA certification services. The FAA will continue to issue required certifications, in accordance with existing practices, when their issuance poses no undue burden on FAA resources. Therefore, an applicant has the option to determine when the use of a DAR would prove economically

advantageous. Accordingly, if this NPRM were adopted as a final rule, an applicant would only incur additional costs if the applicant elects to use the services of a DAR. If so, the applicant would then have to pay the fee of a self-employed DAR, or incur the cost of using its own employees as DAR's to perform certification functions on behalf of the FAA.

Regulatory Flexibility Determination

FAA has determined that the proposal, if adopted, would not have a significant economic impact on a substantial number of small entities.

This determination is based upon prior FAA experience with designees permitted to charge for their services whereby their fees invariably have been priced so that small businesses desiring certification services could afford them and would, therefore, not be placed at a competitive disadvantage. Additionally, small entities requiring certification services need not use DAR services but may continue to use the services of FAA personnel.

List of Subjects in 14 CFR Part 183

Airmen, Air safety, Safety, Aviation safety, Air transportation, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Part 183 of the Federal Aviation Regulations (14 CFR Part 183) as follows:

PART 183—REPRESENTATIVES OF THE ADMINISTRATOR

1. By amending § 183.11 by adding a new paragraph (e) to read as follows:

§ 183.11 Selection.

* * * * *

(e) The Director of Airworthiness, or the director's designee, may select Designated Airworthiness Representatives from qualified persons who apply by a letter accompanied by a "Statement of Qualifications of Designated Airworthiness Representative."

2. By amending § 183.13 by adding a new paragraph (c) to read as follows:

§ 183.13 Certification.

* * * * *

(c) A "Certificate of Authority" stating the specific functions which the person concerned is authorized to perform, and stating an expiration date is issued to each Designated Airworthiness Representative, along with a "Certificate of Designation" for display purposes.

3. By amending § 183.15 by revising paragraphs (a) and (b) by removing the words "under paragraph (c)" and inserting, in their place, the words "under paragraph (d)"; by redesignating paragraph (c) as (d) and adding a new (c) to read as follows:

§ 183.15 Duration of certificates.

* * * * *

(c) Unless sooner terminated under paragraph (d) of this section, a designation as a Designated Airworthiness Representative is effective until the expiration date shown on the certificate of authority.

* * * * *

4. By adding a new § 183.33 to read as follows:

§ 183.33 Designated Airworthiness Representative.

A designated airworthiness representative (DAR) may, within limits prescribed by, and under the general supervision of the Administrator, do the following:

(a) Perform examination, inspection, and testing services necessary to the issuance of certificates, including the issuance of certificates, in the areas of maintenance, manufacturing, and engineering as may be authorized by the Director of Airworthiness, and published in Advisory Circular 183–XX. Copies of Advisory Circular 183–XX may be obtained from the U.S. Department of Transportation, Publication Section (M–443.1), Washington, D.C. 20590.

(b) Charge a fee for his or her services.

(c) Perform authorized functions at any authorized location.

(Secs. 313(a), 314, 601, 603, 605, and 1102, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1355, 1421, 1423, 1425, and 1502); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR Sec. 11.45)

Note.—This proposed rule would establish a procedure for designating persons to perform certain certification functions presently conducted by FAA employees, thereby reducing or eliminating certain delays in obtaining required certifications. Further, this notice of proposed rulemaking involves a rulemaking action which: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under Department of Transportation Regulatory Policy and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation because the cost changes associated with the designation procedures are minimal. In addition, I certify that, under the criteria of the Regulatory Flexibility Act, the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities since it will minimally ease the burden of regulatory compliance by reducing certain delays in obtaining required certifications.

Issued in Washington, D.C., on May 27, 1982.

M. C. Beard,

Director, Office of Airworthiness.

[FR Doc. 82-17025 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[AC 183-XX]

Proposal Advisory Circular for Designated Airworthiness Representatives; Request for Comments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments on a proposed advisory circular.

SUMMARY: This proposed advisory circular (AC) will be used as the vehicle to identify examination, inspection, and testing services related to certification functions in the areas of maintenance, manufacturing, and engineering, which may be delegated to Designated Airworthiness Representatives (DAR), as may be authorized by the Director of Airworthiness.

DATE: Comments must be received on or before August 23, 1982.

ADDRESS: Interested parties are urged to submit their comments on the proposed advisory circular. Comments may be mailed to: Federal Aviation Administration, Aircraft Manufacturing Division, AWS-200, 800 Independence Avenue, SW., Washington, D.C. 20591; or delivered to: Room 301, 800 Independence Avenue, SW., Washington, D.C. Comments may be inspected at Room 301 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Sandy DeLucia, Aircraft Manufacturing Division (AWS-200), Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8361.

SUPPLEMENTARY INFORMATION:

Discussion of the Draft Advisory Circular

The FAA is proposing an amendment to Part 183 of the Federal Aviation Regulations (published elsewhere in this issue). This amendment would provide for the establishment of Designated Airworthiness Representatives (DAR) as a new category of persons appointed, under Section 314 of the Federal Aviation Act (FA Act) of 1958, to act as representatives of the Administrator in performing certain certification functions under Title VI of the FA Act. This proposed amendment to Part 183 would enable the FAA to expand its designee program into new areas of delegation not presently provided for in Part 183. The expanded delegated proposed are necessary since the delegations presently authorized by Part 183 constrain the FAA's ability to deal with the proliferation of requests for FAA examination, inspection, and testing services incident to the issuance of certificates under Title VI of the FA Act. This proposal would enable FAA to use it fiscal and human resources in a more effective manner to meet safety objectives. In addition, the proposed amendment would ease the burden of regulation on the public by expediting accomplishment of required demonstrations of compliance with applicable airworthiness standards and would, therefore, reduce or eliminate certain delays in obtaining required certifications.

As proposed, delegation of specific functions may be authorized for limited periods of time in accordance with national policy developed by the Director of Airworthiness, and may be withdrawn by the appointing authority at any time, and for any reason deemed appropriate.

Since each examination, inspection, and testing function which may be delegated to DAR's under the proposed amendment cannot presently envisioned, it is not possible to specify, by regulation, all areas where a DAR's services may be used consistent with the stated objectives of the proposed amendments. Accordingly, this proposed advisory circular contains those specific functions which would be delegated in the immediate future. The FAA intends to revise and republish this advisory circular to seek public comment each time revisions are proposed to add or delete any authorized function. Proposed new areas of delegation will be selected and authorized by the Director of Airworthiness based on recommendations from other FAA elements and the aviation community. This procedure will expedite the notification process each time a designated function is to be added or deleted. Consistent with the President's goal of streamlining the regulatory process to eliminate unnecessary requirements, the use of advisory circulars to list specific functions appropriate for delegation to DAR's will provide the FAA with the regulatory flexibility to utilize the DAR program in the most effective and innovative manner.

The Proposed Advisory Circular

In accordance with the above, the FAA publishes proposed Advisory Circular AC 183-XX, Designated Airworthiness Representatives, as follows:

M. C. Beard,
Director of Airworthiness.
May 27, 1982

Subject: Designated Airworthiness Representatives

1. *Purpose:* This advisory circular contains information and guidance concerning the selection of Designated Airworthiness Representatives (DAR) and identifies the specific functions which may be delegated to DAR's as authorized by the Director of Airworthiness.

2. *Related Federal Aviation Regulations (FAR):* Part 183.

3. *Background:*

a. The FAA has amended Part 183 of the FAR to provide for the establishment of DAR's as a new category of persons appointed, under Section 314 of the Federal Aviation Act (FA Act) of 1958, to act as representatives of the Administrator in performing certain certification functions in the areas of maintenance, manufacturing, and engineering. This was deemed necessary due to the proliferation of requests for FAA examination, inspection, and testing services necessary to the issuance of certificates, including the issuance of certificates under Title VI of the FA Act.

b. Since each examination, inspection, and testing service which may be authorized by the Director of Airworthiness could not be envisioned, it was not possible to specify, in amended Part 183, all areas where a DAR's services may be used consistent with the objectives of the amended rule. Therefore, this advisory circular will be used as the vehicle to identify and describe the specific functions which may be authorized. The FAA will republish this advisory circular for notice and comment each time revisions are proposed to add or delete any authorized functions.

4. *Selection:*

a. The Director of Airworthiness, or the Director's designee may select DAR's from persons determined to be qualified to perform examination, inspection, or testing services related to certification functions, on behalf of the FAA, in the areas of maintenance, manufacturing, and engineering.

b. Each DAR will be issued a "Certificate of Authority" which will state the specific function(s) for which the DAR is qualified and an expiration date. Each DAR will also be provided with a "Certificate of Designation" for display purposes.

5. *Authorized Functions:* The Director of Airworthiness hereby determines that the following functions may be delegated to a DAR (following a determination by the Director, or the Director's designee, that the DAR is qualified to perform the particular function). Accordingly, a DAR may, within the limits prescribed by, and under the general supervision of the Administrator:

a. Issue original or recurrent airworthiness certificates on U.S.-registered aircraft and issue airworthiness approval tags for engines, propellers, materials, parts, or appliances for installation on U.S.-registered aircraft upon a determination that such products conform to their U.S. type design and are in a condition for safe operation;

b. Issue export certificates of airworthiness and airworthiness approval tags for the export airworthiness approval of aircraft, engines, propellers, materials, parts, or appliances under the provisions of Part 21, Subpart L of the Federal Aviation Regulations;

c. Conduct conformity inspections and certify that prototype or test articles, including complete aircraft to be used for FAA design evaluation purposes, conform to the design being evaluated; or

d. Issue conformity certificates for components produced in the U.S. for export to a foreign country.

[FR Doc. 82-17022 Filed 6-23-82; 8:45 am]
BILLING CODE 4910-13-M

federal register

Thursday
June 24, 1982

Part III

Department of Transportation

Coast Guard

Deepwater Port Liability Fund; Interim Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 137 and 150

[CGD 79-158]

Deepwater Port Liability Fund

AGENCY: Coast Guard, DOT.

ACTION: Interim final rule.

SUMMARY: This document amends the Coast Guard's Marine Oil Pollution Liability and Compensation regulations by adding requirements concerning administration of the Deepwater Port Liability Fund (Fund). The Fund provides for settlement, without fault, of claims for cleanup costs and damages incurred as a result of oil spills from deepwater port activities. The regulations are intended to convey to those persons affected by them, the policies, procedures, and administrative practices regarding overall management and general operation of the Fund.

DATES: This interim final rule is effective June 24, 1982. Comments should be submitted by August 23, 1982.

ADDRESS: Comments should be submitted to and are available for inspection at Commandant (G-CMC/44), U.S. Coast Guard Headquarters, Room 4402, 2100 Second Street, SW., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: Frank A. Martin, Jr., Pollution Liability Funds Management Staff, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C. 20593 (202) 472-5052.

SUPPLEMENTARY INFORMATION: On September 29, 1980, the Coast Guard proposed to make this amendment by issuing a notice of proposed rulemaking (45 FR 65480-87, October 2, 1980). That notice provided interested persons with the details of and reasons for this amendment and established a November 17, 1980 date by which written comments on the proposals could be submitted.

Comments were received from the Coast Guard Administrative Law Judge in Houston, Tx.; the U.S. Environmental Protection Agency (EPA); Patton, Boggs, and Blow (counsel for the Louisiana Offshore Oil Port, Inc. (LOOP) deepwater port); the U.S. Department of Interior (DOI); the National Oceanic and Atmospheric Administration (NOAA); LeBoeuf, Lamb, Leiby and MacRae (representing Lloyd's Underwriters); the U.S. Maritime Administration (MARAD); Marathon Oil Company; American Institute of Merchant Shipping (AIMS); International Group of Protection and Indemnity Associations; and the Georgia State Department of Natural Resources.

Discussion of Significant Comments

As mentioned in the preamble to the proposed rules, it is the duty of the Administrator, EPA, under section 18(m)(3) of the Deepwater Port Act of 1974 (Act), to determine the "harmful quantity" of oil which constitutes a "discharge" in the context of deepwater port activities. Counsel for LOOP and NOAA commented generally on this issue.

The tenor of NOAA's comment was that until the "harmful quantity" issue is resolved, the final Fund rules leave an important gap not addressed by the federal government. The Coast Guard agrees that resolution of this issue is critical to efficient and effective administration of the Fund and the liability and discharge prohibition provisions of section 18 of the Act.

LOOP's principal concern regarding this issue was that adoption of a regulation or policy on this issue may not lawfully be accomplished, even on an interim basis, without LOOP first having an opportunity to comment. We have accordingly informed EPA of LOOP's particular views regarding this issue.

Several of the respondents commenting on the proposed rules argued that the Coast Guard exceeded its statutory authority under section 18 of the Act in several proposed sections. While the proposed rules to implement the Fund are based primarily on authority in section 18 of the Act, which was delegated to the Commandant by the Secretary of Transportation, the Coast Guard also holds through delegation the broader regulatory authority and duty under section 10(a) to prescribe procedures to prevent or minimize adverse impacts, including pollution, that may arise from construction and operation of deepwater ports.

The principal provisions of the proposed rules which several commentors believed were beyond the scope of authority were the provisions dealing with notification of imminent threats of a discharge of oil, notification contents, designation, advertisement and "damages" within the discretionary authority of the Fund Administrator. These provisions, and the final disposition thereof, are addressed in detail elsewhere in this document.

The DOI asked that the Coast Guard ensure, before publication of the final rule, that the differences between expenditures authorized under the Federal Water Pollution Control Act (FWPCA) section 311(k) fund for cleanup costs and those authorized under the Act for cleanup costs and damages be recognized in the establishment of administrative protocols designed to facilitate the most effective and efficient response by federal officials to any major spills at deepwater ports. We believe the concern here is that existing interagency agreements and oil pollution contingency plans may not clearly define the broader range of expenditures that may be reimbursable to an agency participating in response to a deepwater port pollution incident. This may be true; and consequently, there may be a need to amend and revise such administrative protocols, particularly those established when the section 311(k) fund was the only operational Coast Guard oil pollution response fund. However, we further believe that amendments need not occur before promulgation of the final Deepwater Port Liability Fund rules.

The response actions for a spill at a deepwater port will be conducted in the same manner as presently conducted under the FWPCA, as amended. The Fund Administrator, or other personnel of the Pollution Liability Funds Management Staff, will be available to advise the On-Scene Coordinator and other responding federal agency and contract personnel concerning the broader class of expenditures that will be reimbursable from the Fund. Provisions are being made in the National Contingency Plan and the Coast Guard's Marine Safety Manual for payment from the Fund to other agencies for damage assessment costs, response personnel time, etc. Other existing administrative protocols will be periodically reviewed and revised as response experience is gained under administration of the Fund.

With regard to the costs of administering the Fund, LOOP urged the Coast Guard to examine the proposed regulations to ensure that only those costs of administration essential to the Fund be paid for by the Fund, and that other functions that might be necessarily performed under section 18 of the Act be paid for from general Treasury revenues. We are of the view that the Congress generally intended the Fund to be all encompassing with regard to the costs for administration. Section 18(f)(3) specifically provides for the use of the Fund for administrative costs and imposes no functional limitation on that use. The only limitation imposed is that the payment of those costs is subject to appropriation act control. Accordingly,

subject to that control, all reasonable costs of administration of the Fund, including the costs for salaries of Fund employees, office space, overhead, settlement and adjudication of claims, etc., will be chargeable to the Fund.

Related to the issue of costs of administering the Fund is the suggestion of LOOP to include a section in the final rules that requires the Fund Administrator to provide each licensee with a quarterly or semiannual report detailing the financial position of the Fund. We intend to submit annual reports to Congress on the administration and management of the Fund. These reports will be made available to deepwater port licensees and the general public.

The remaining discussion of significant comments received on the proposed rules is presented under the subpart headings containing the specific subject matter to which the comments were directed.

Subpart C—Fund Revenues, Accounting, and Audit

LOOP requested that the final rules in this subpart contain no provisions that would preclude a licensee from using an invoicing system to collect the barrel fees and using the metric system in the record keeping and reporting provisions. We agree and have complied with LOOP's desires in this regard.

The final rule in § 137.207 regarding payment of fees has been edited for clarity. As proposed, this section raised interpretative questions as to whether the "oil throughput of the port" meant that all crude oil unloaded at the port had to completely clear the deepwater port facility, including storage onshore, before a licensee collected and paid the Fund the barrel fee on that oil. That was not the intent, and the language of the final rule now more closely parallels the language of the Act which establishes the obligation of a licensee to collect the barrel fee on oil "loaded or unloaded" at the deepwater port at the time of loading or unloading.

In commenting on the proposed audit requirements in § 137.215, LOOP questioned the intent of both paragraphs (a) and (b) regarding financial record maintenance and retention periods and whether books and data relating to the Fund must be kept separately by a licensee from all other financial records relating to the operations of the deepwater port. LOOP specifically desires that the record retention requirements not be established by regulation, but rather through discussion between the licensee and relevant interests. LOOP further recommended that paragraph (b) of proposed § 137.215 be revised to more clearly reflect the intent that the financial information necessary to a Fund audit is readily accessible for that purpose.

We agree with LOOP's views on proposed § 137.215 and accordingly revised the final rule to accommodate those views. A new paragraph (c) has been added to the final rule in this section to further clarify intent regarding these issues.

Subpart D—Vessel Financial Responsibility

This subpart received the largest portion of comments submitted on the proposed rules. Consequently, the vessel financial responsibility documentation requirements and procedures proposed have been re-examined with a view toward structuring the final rules in this subpart to meet most of the concerns raised. In so doing, we have attempted to keep in perspective our original regulatory goal for this subpart. That goal is restated in the next paragraph.

The goal is to prescribe simple, straightforward vessel financial responsibility documentation procedures that will result in reasonable, timely assurance to the Fund Administrator and deepwater port licensees that the owners and operators of vessels calling at deepwater ports can meet their liability under the Act. The procedures should keep paperwork, filing, and reporting burdens to a minimum.

Broadly summarized, the comments on this subpart indicate the above goal was not fully met with the proposed rules. Although all comments are not discussed here in detail, the significant issues are summarized.

Comments suggested two alternative methods in responding to proposed § 137.303 for documenting financial responsibility.

Under one method, LOOP suggested the Fund Administrator have the responsibility for determining the acceptability of and verifying the financial responsibility documentation presented by the vessel owner or operator.

The other method, suggested by Marathon Oil, involves an amendment to form FMC–321, Application for a Certificate of Financial Responsibility, and to form FMC–322, Certificate of Insurance. These two documents have been promulgated by the Federal Maritime Commission (FMC) under 46 CFR Part 542 for the purpose of implementing section 311(p)(1) of the Federal Water Pollution Control Act (FWPCA), as amended. Closely aligned with that suggestion is the proposal put forth by counsel for Lloyd's; i.e., insurers who are deemed acceptable by the FMC for purposes of providing evidence of financial responsibility under the FWPCA or the Outer Continental Shelf Lands Act should be presumed acceptable for that purpose under the Deepwater Port Act.

AIMS and Marathon Oil also recommended that the Fund Administrator find acceptable those insurers who are acceptable to the FMC.

Counsel for Lloyd's and LOOP also commented on proposed § 137.305(a)(1), Note 1, which they believe applies a limitation of $150 per gross ton or $20 million, whichever is lesser, to the amount of coverage a vessel owner or operator must have to establish financial responsibility. Lloyd's suggested that proposed § 137.305(a)(1) should be clarified to indicate that:

"The maximum amount for which evidence of financial responsibility is provided is not in excess of ———."

In addition to the limits on strict liability to which the vessel would be subjected in the proposed insurance coverage, the vessel under section 18(d) is subject to additional liability for gross negligence or willful misconduct. Since LOOP has been required to obtain coverage to meet a similar liability under section 18(e), LOOP states the same obligation must be imposed on vessel owners and operators. Further, LOOP states the financial responsibility requirements cannot reflect only strict liability limits imposed on vessels if LOOP is to effectively guarantee that a vessel under the Act can meet its potential liability which may be greatly beyond the monetary limits in the proposed rules.

Lloyd's further commented that proposed § 137.305(a)(2) does not allow an insurer defenses allowed under his policy, such as the defense of willful, intentional pollution (which Lloyd's argues cannot for public policy reasons be insured) or even policy conditions reflecting the defenses available under the Act. This condition, making an insurer absolutely liable, would be expensive, if not impossible, to insure. At a minimum, Lloyd's says the certification should set forth, with clarity, the liabilities and rights of the insurer.

As concerns proposed § 137.305(a)(5), commenters raised the issue of notification of termination of a vessel's insurance. Lloyd's wants the word "terminate" changed to "cancel" because of ambiguity of this section concerning the expiration date of the insurance coverage. The argument is made that since the expiration date is already stated in the evidence of

financial responsibility, it would be an unnecessary burden on the insurers to have to notify regulatory bodies.

Regarding cancellation of insurance coverage, LOOP recommends that the proposed § 137.305(a)(5) be changed to require the Fund Administrator to immediately notify the licensee of any cancellations.

In proposed § 137.305(a)(6), Lloyd's points out the regulations provide for insurers who jointly execute the certification to be jointly and severally liable. Lloyd's maintains this requirement is contrary to the practice of covering larger risks, such as writing insurance in layers and pooling the risks by many insurers, who are severally liable for their respective shares. Lloyd's says the joint and several liability requirement for insurers is not based upon the terms of the Act, which only imposes joint and several liability on owners and operators of vessels using the deepwater port. An alternative was suggested by Lloyd's where evidence of financial responsibility is established by several insurance interests. Each insurer would be liable only to the limits of the insurers' agreed coverage. Lloyd's feels this provision will encourage greater insurance capacity. If the joint and several requirement of the regulations remains as proposed, Lloyd's, as underwriters, cannot guarantee that insurance will be written.

For proposed § 137.307, the general overall opinion reflected in comments is to either accept FMC's vessel certification process under the FWPCA or to amend FMC's certificates of financial responsibility for purposes of the deepwater port financial responsibility requirements under the Act. From a practical point of view, it would be more efficient and effective to have FMC handle the review and processing of an application for a vessel certificate of financial responsibility. LOOP's suggestion that the financial responsibility documentation be submitted to the licensee at the time of a vessel's nomination, i.e., (45) days in advance of the vessel's actual arrival at the port, is one method that would allow LOOP to check the documentation before the ship's arrival. The suggestion by Marathon Oil of requesting the FMC, if they are willing, to provide a monthly listing of vessels properly certified to LOOP would probably be less burdensome and time consuming than sending the actual documentation.

The foregoing and other concerns were reduced to the following seven questions that required consideration in developing the final rules for this subpart.

1. What is the appropriate form of documentation of financial responsibility, and how should it be verified? The legislative history of the Act shows that it was intended the licensee share responsibility for assuring all vessels using the port have appropriate liability coverage (Cong. Record, Oct. 9, 1974, p. S18652).

2. What are the possibilities of amending FMC forms 321 and 322 to reflect the additional coverage required by the Act?

3. What is the possibility of presuming acceptable, under the Act, guarantors already found acceptable as providers of financial responsibility by FMC under other oil pollution laws?

4. How do we reconcile in the final rule the amount of financial responsibility required for strict liability limits with effectively guaranteeing that a vessel can meet its full potential liability (unlimited in gross negligence and willful misconduct situation)? Or do we need to?

5. Should a guarantor's liability be limited to the amount of financial responsibility provided, and should the required coverage be allowed to exclude liability for damages and cleanup costs resulting from the willful or intentional acts of the liable party? Should these matters be addressed in the regulations? If so, how should they be addressed?

6. How should we treat the concerns that proposed § 137.305(a)(6) would establish joint and several liability on guarantors, would prevent financial responsibility coverage, and would go beyond the scope of the Act which only makes vessel owners/operators jointly and severally liable? Should this provision be dropped?

7. What is the feasibility of documenting financial responsibility by using some existing method currently serving related purposes for marine oil pollution by vessels?

As noted in the preamble to the proposed rules, the vessel financial responsibility documentation, and certification contents provisions of that document were based, in part, upon the existing FMC approach to vessel financial responsibility for marine oil pollution governed by the other pollution statutes, principally the FWPCA, as amended. Under the FMC procedures, vessel operators apply for certificates of financial responsibility. The application includes demonstration of the operator's financial ability to meet its potential pollution removal cost liability, either as a self-insurer, or by insurance, surety bond, or guaranty. This ability is demonstrated in the case of insurance and surety by filing with the application an insurance form signed by the insurer or a surety bond form signed by the surety. If the application and supporting documentation are satisfactory, FMC issues the required certificate which must be retained on the operator's vessel.

However, unlike the use of existing FMC financial responsibility documentation procedures, the only documentation proposed for financial responsibility demonstration under the Act would have been a certification (proposed § 137.303(b)(2)) prepared and signed by the insurer or surety; including the vessel owner or operator where self-insurance was being provided. This certification (proposed § 137.305) would have generally followed the FMC's insurance form contents and would have been retained on board any vessel using a deepwater port. A deepwater port licensee would have been required to verify that valid certifications were on board the vessels using the deepwater port facility (proposed § 137.307). The Coast Guard would not issue certificates, but would oversee, through spot checks on board vessels in the safety zone, the documentation supporting financial responsibility.

Comments received from insurance interests indicated generally they are unwilling to undertake the paperwork burden necessary to execute the certification proposed in § 137.305(a). In this regard, it should be noted the insurance form currently used under FMC procedures to establish financial responsibility is essentially filed only once by insurers. When coverage is extended to a new vessel, the vessel's gross tonnage and the current date are added to a schedule of the form previously filed with the FMC. Under proposed §§ 137.303(b) and 137.305(a), a separate certification would have been required for each vessel using a deepwater port.

The insurer's role is critical to the effectiveness of the vessel financial responsibility scheme established hereby to implement section 18(1) of the Act. We cannot require prospective insurers to provide cover. However, if we can reduce or minimize their administrative burden without jeopardizing the public interest, it is probable that some will find it desirable to provide the necessary cover.

As previously indicated, a number of comments on the proposed financial responsibility requirements pointed out the desirability of tying in procedurally to the FMC certification system. In pursuing this option with FMC staff, in light of comments received, we believe we have developed for the final rule an

optional scheme so associated and which would impose an insignificant paperwork burden on insurers. Under this scheme, each prospective insurer (most probably P & I Clubs in the main) would be allowed to file with the FMC a single blanket endorsement or rider applicable to existing FMC insurance forms the insurer already has filed with FMC for FWPCA pollution coverage purposes. The endorsement or rider would certify that the vessels included in schedules to the FMC forms also were covered by the insurer for the additional amount of financial responsibility required under section 18(1) the Act.

The endorsement or rider, to be acceptable to the Fund Administrator, must either incorporate by reference the certification contents set forth in § 137.305(a) of the final rule or include provisions paralleling those contents. The detailing of the certification approach to demonstrating financial responsibility coverage remaining in the final rule at § 137.305(a) is necessary for two reasons. First, this approach details the terms and conditions of the coverage required for compliance with section 18(1) of the Act. Second, the certification in § 137.305(a) can be used by guarantors who do not wish to use the endorsement or rider approach and by sureties who cannot. From the comments received, we believe the endorsement or rider approach will be the method of documentation most often used to demonstrate financial responsibility under the Act because vessels using any deepwater port are presently required to carry FMC FWPCA certificates. Further, surety coverage to meet financial responsibility requirements under other pollution laws is rarely used.

Comments from representatives of P & I Clubs proposed a suggested rider which, rather than incorporating the contents contained in § 135.305(a) by reference, essentially stated those requirements in full. Since it is our intent to provide the greatest degree of flexibility in the vessel certification process, such an approach will be acceptable to the Fund Administrator, as well as that which would incorporate the contents of § 135.305(a) by reference. The endorsement or rider approach to demonstrating vessel financial responsibility appears in the final rule as a new paragraph (b) in § 137.303. Proposed paragraph (c) of this section has been redesignated paragraph (d) in the final rule.

In connection with the above described endorsement or rider approach to demonstrate vessel financial responsibility under the Act by insurance, the Coast Guard considered imposing a requirement that vessel operators keep on board the vessel with their FMC Certificate of Financial Responsibility (Water Pollution) some form of evidence identifying the insurer, such as a receipt of entry into a P & I Club, insurer premium receipt, or valid certification issued under the 1969 Convention on Civil Liability for Oil Pollution Damage. This insurer-identifying procedure was considered desirable because a FMC certificate carried by a vessel for FWPCA purposes does not identify the underwriter who provided the evidence of financial responsibility leading to the issuance of the FMC certificate. However, since there is presently only one operational deepwater port, the Coast Guard determined to not impose this recordkeeping requirement on the vessel owners or operators. Any necessary verification of financial responsibility evidenced by the insurance endorsement or rider option provided for in the final rule at § 137.303(b) can be easily accomplished between the licensee, the FMC, and the Fund Administrator.

As stated in the preamble to the proposed rule, conditions in deepwater port licenses impose obligations on licensees to ensure that vessels using deepwater ports have financial responsibility coverage sufficient to meet their pollution liability under the Act. The final rule at § 137.303(d) addresses the Fund Administrator's responsibility regarding review and verification of that coverage. The Coast Guard will overview all documentation issues and accept its appropriate verification and enforcement responsibilities under the Act. To facilitate a licensees' ability to meet its license and regulatory obligations regarding financial responsibility verification, the FMC staff has agreed to make available to licensees, current lists of insurers who have filed the aforementioned endorsements or riders. Since vessels are normally scheduled 45 days in advance of port arrival, any questions regarding financial responsibility can be easily resolved. Proposed § 137.307 regarding examination of documentation has been deleted from the final rule since the revisions to § 137.303 now provide all requisite parties with copies of financial responsibility documentation for verification.

As revised in the final rule, the paperwork burden is negligible. Vessels are not required to maintain any additional evidence of financial responsibility. Insurers will only need to file a single blanket endorsement or rider to existing FMC insurance forms. Owners have the option of filing a certification respecting liability however it is anticipated the insurance endorsement method will be used by virtually all vessels. It is anticipated that less than 10 additional reports will be required to satisfy financial responsibility requirements. Therefore, no OMB control number is required under the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

Even though comments by LOOP and Lloyd's suggested a need to clarify proposed § 137.305(a)(1) regarding the amount of financial responsibility coverage required to be demonstrated, the final rule was not changed substantively in this regard. The amount of coverage required for a vessel is stated in the terms of section 18(d) of the Act regarding the limits of strict liability imposed on vessel owners or operators. This provision has been moved in the final rule from a note under §137.305(a) to a new paragraph (c) in § 137.303. Any sums, higher than the limits prescribed for strict liability, will likely frustrate the use of insurance, sureties or bonding, particularly as regards attempting to establish by regulation a workable scheme for demonstrating financial responsibility by these methods for the potential unlimited liability the Act establishes in cases of gross negligence or willful misconduct on the part of a vessel owner or operator.

Serious consideration was given to the comments respecting the liability of the party providing financial responsibility, i.e., (1) that the regulations should limit that party's liability and (2) that the required coverage should exclude damage and costs resulting from the liable party's own intentional and willful acts.

As to the first point, it should be kept in mind that neither the Act nor the regulations establish a direct cause of action against parties providing financial responsibility. Actions brought against such parties would be based upon other law. Consequently, we feel it would be inappropriate to provide for the limitation of those parties' liability in this rulemaking. Therefore, we have rejected the first point. The second point has been accepted and is addressed in the final rule at § 137.305(a)(2).

The proposal in § 137.305(a)(6) which would have imposed joint and several liability on guarantors of financial responsibility has been omitted from the final rule in its entirety. Comments argued we went beyond our scope of authority under the Act by proposing to

extend the statutorily required vessel owner and operator joint and several liability provision to guarantors of financial responsibility.

The language throughout proposed § 137.305(a) which referred to "termination" of financial responsibility coverage has been changed in the final rule (for clarity) to either "cancellation" or "expiration", depending upon the context used.

In further regard to the cancellation or expiration of financial responsibility coverage under proposed § 137.305(a)(5), LOOP suggested the final rule contain a provision requiring the Fund Administrator to notify licensees of such cancellation or expirations. The Fund Administrator will do so but does not have to regulate in this regard.

Subpart E—Notification, Designation, and Advertisement

LOOP, EPA, AIMS, and internal Coast Guard comments expressed concern about the notification requirements proposed in § 137.403. The primary concern was that the proposed rule was not consistent with the established notification provisions under the other oil pollution laws the Coast Guard administers. In addition, LOOP strongly argued that we went beyond the scope of our authority in requiring notice of an imminent threat of a discharge in addition to an actual discharge, and by requiring the detailed information proposed to be contained in the notice.

We agree with the first concern and have accordingly restructured the final § 137.403 to more closely parallel the notification provisions under the other pollution laws.

We also agree with LOOP on the notice of "imminent threat" requirement and have deleted that provision of the proposal from the final rule. The final rule at § 137.403(a) now addresses only the procedure for giving the notification of an actual discharge of oil as required by section 18(b) of the Act.

We disagree with LOOP on the "notification contents" issue and have left that provision in the final rule at § 137.403(b). The information required is both reasonable and necessary to ensure the best informed judgments in determining the appropriate government response action to an oil spill resulting from deepwater port activities.

NOAA questioned the wisdom of the discretionary nature of designation and advertisement under proposed §§ 137.405 and 135.407. The principal concern indicated was that if there were no formal designation or advertisement, the public would not receive notice of both the existence and source of a discharge. NOAA further pointed out that in situations where there is no designation or advertisement, the regulations are not clear whether a claimant may go directly to the Fund where the source is unknown or whether the claimant must take the initiative to discover the source of the discharge and then proceed first against the owner or operator of the source.

The purpose of proposing the designation and advertisement requirements was to include a procedure to inform potential claimants when a discharge occurred from a particular deepwater port or a vessel within its safety zone which may result in damage. In addition, designation and advertisement would serve to inform the source and potential claimants of the procedures available under the Act to satisfy damage claims arising from a particular discharge of oil. If there were no designation or advertisement for a discharge of oil, it would have been because the On-Scene Coordinator (OSC), after consultations with the Fund Administrator and others, would have determined there was little likelihood damages would be sustained by the general public.

The OSC may determine it unnecessary to formally designate the source of a discharge of oil in situations such as where the discharge is of a minor operational nature, or minimal amount, or not likely to result in damage because immediate response actions undertaken by the source or others appeared effective enough to avoid damages. Thus designation and advertisement as proposed in §§ 137.405 and 135.407 were discretionary in nature.

In regard to NOAA's concern that in situations where there is no designation or advertisement the regulations offer no clear guidance to claimant access to the Fund where the source is unknown, it should be noted that the Fund is not liable in the case where the source of oil pollution is unknown. It is liable only for cleanup costs and damages in excess of those actually compensated under the Act by or on behalf of liable vessel owners, operators, or licensees. The existing designation and advertisement procedures for the Offshore Fund will serve to alert the public to OCS spills from offshore facilities in the vicinity of deepwater ports, as distinguished from unadvertised discharges occurring at deepwater ports.

LOOP questioned the designation and advertisement proposals on factual grounds but also pointed out that it did not feel these proposals were authorized by the Act.

After evaluating all the comments received concerning the proposed sections on designation and advertisement, and upon advice of regulatory project counsel, we have eliminated these sections from the final rules. In taking that course of action, we recognize that we are losing a degree of procedural consistency and uniformity that we had attempted to incorporate in all of the pollution laws the Coast Guard is administering. On the other hand, eliminating these sections from the final rule minimizes regulatory burdens but does not otherwise prevent the Fund Administrator from causing advertisement of the existence and source of a discharge when he believes such advertisement will serve a useful Fund related purpose. We take this course of action because a clear showing of need for imposing this procedure by regulation has not been defined.

Subpart F—Claims Procedures

NOAA comments on this subpart of the proposed rules pointed out a number of specific sections in the existing 33 CFR Part 136, claims procedures for the Offshore Oil Pollution Compensation Fund, which are not adequate or appropriate for application to administering claims under the Deepwater Port Liability Fund. The primary reason given for this view is the underlying differences in the statutes authorizing the regulations. The Coast Guard agrees and has accordingly made adjustments to the final rules in this subpart.

Section 137.501 has been revised to clarify that the procedures in Subpart F of this rule will apply only to claims presented against the Fund. The liability of the source of a discharge is statutory and may be asserted against the source by claimants through negotiation or by appropriate judicial remedies. Since the Fund is liable only for "cleanup costs and damages in excess of those actually compensated" (section 18 (f)(2)), § 137.507 has been revised to require that a claim be filed first against the party having primary liability and to put claimants on notice that no action will be taken by the Fund unless it appears that settlement will not be reached. The section heading for this section has also been changed to more accurately reflect the subject matter in the section.

A new paragraph (b) has been added to § 137.503 to clarify differences in terminology used in the claims procedures in existing 33 CFR Part 136, that apply to the settlement process for the Fund. The new paragraph (b) equates the terms "economic loss," "offshore facility," and "vessel" in Part 136 to "damages," "deepwater port,"

and "vessel" respectively, as those terms are defined in the Act or in § 137.5 of the final rule. Paragraph (b) of the proposed § 137.503 is designated as paragraph (c) in the final rule. Also, references throughout this subpart to "economic losses" have been changed in the final rule to "damages."

Section 137.503(c)(2) of the final rule also deletes reference to time limitations for the processing of claims contained in §§ 136.105, 136.109, and 136.129(c) of this chapter. The limitation to sixty days for processing claims and the authority of the Secretary to require an owner, operator or guarantor to transmit a claim file to the Offshore Fund are specifically provided for in section 307 of the OCS Lands Act Amendments of 1978. No similar provisions exist in section 18 of the Act.

Another adjustment made in the final rules in response to NOAA's comments deals with a new provision appearing in the final rule at § 137.503(c)(3). This provision excludes the 33 CFR 136.213 requirement as an inappropriate procedure for filing of similar natural resource claims under section 18 of the Act. The reason this exclusion is in the final rule is that under the Act it is the Secretary of Transportation who has the broader authority to assert claims on behalf of the public for damages to the natural resources of the marine environment. The Secretary has not delegated this authority to the Coast Guard. Under Title III of the Outer Continental Shelf Lands Act Amendments of 1978, the legal authority for 33 CFR Part 136, § 136.213 authorizes federal agencies designated by the President as trustee of natural resources to assert claims for damages, but only for the narrower scope of natural resources over which the U.S. has sovereign rights or exercises exclusive management authority. Since the Secretary's authority in this regard is clearly stated in section 18(i)(3) of the Act, it is not necessary to have a specific provision in the final rule addressing this issue.

The final rule at § 137.503(c)(3) also now excludes the procedures in §§ 136.231 through 136.235 of this chapter applicable to claims for loss of tax revenue. This type of claim is specifically provided for in the Offshore Fund statute, as is the one-year limitation on the period of loss. Section 18 of the Act contains no parallel provision regarding this issue. Therefore, the final rule excludes tax losses because it is not clear that such losses would be compensable as "damages" to real or personal property.

LOOP commented as follows regarding section 18(i) class action claims by the Attorney General: "The relationship between such action by the Attorney General and administrative proceedings undertaken by claimants under the Act is not made clear in the [proposed] regulations. An action by the Attorney General should not be proceeding simultaneously. The final regulations should make the relationship between these two proceedings clear."

We disagree with this LOOP comment. The provisions of section 18(i) of the Act expressly give the Attorney General the exclusive right to initiate such action within 90 days of a discharge, and preserves the right of any person to initiate a class action if the Attorney General fails to act. Since a claim need not even necessarily be filed against the Fund for three years (section 18(j)(2) of the Act), it is clear that there is no authority to prohibit initiation of class actions until administrative consideration of settlement by the source has been completed. Nothing prohibits settlement of a class action while litigation is pending.

Several comments pointed out that loss of use of natural resources should be included in the listing in proposed § 137.509 of the type of damages for which claims are allowed. Other comments suggested the paraphrasing of proposed § 137.509 to parallel the similar types of damages for which claims are authorized under the Offshore Fund (43 U.S.C. 1813(a)) may create a problem due to the difference between 43 U.S.C. 1813(a) and 33 U.S.C. 1517(m)(2).

Additionally, both LOOP and Lloyd's objected to the proposed § 137.509(a)(2)(vi) provision under which the Fund Administrator would determine if types of damages other than those specifically listed will be allowed to be claimed. Their objections were to the discretionary nature of this provision and a belief that the Act and its legislative history provided no statutory basis for such discretion. Further, NOAA offered in its comments a view which tends to support that the Congress intended to provide the fullest damage compensation possible. We agree with the NOAA position as follows:

The definition of "damages" given in section 18(m)(2) of the Act does not limit damages to purely economic losses but allows for recovery of "*all* [emphasis added] damages * * * involving * * * the natural resources of the *marine environment* [emphasis added] * * * including damages claimed without regard to ownership of any affected lands * * * fish or biotic or natural resources;". Section 3(13) of the Act defines the term "marine environment" as including the "coastal environment" (defined at section 3(6) of the Act), "* * * waters of the contiguous zone, and waters of the high seas; the fish, wildlife, and other living resources of such waters; and the *recreational and scenic values* [emphasis added] of such waters and resources;".

It is our view the definition of damages is an unrestricted one and the specific inclusion of the phraseology "recreational and scenic values" in the definitions in the Act of both "coastal environment" and "marine environment" indicates Congressional intent that the interests being protected are not to be limited solely to economic interests, nor are the damages limited to economic loss. This view is consistent with the legislative history of the Act which affirms that one of the three major objectives of the provisions of the Act regarding liability for damages is "* * * to provide the fullest * * * compensation possible;" (p. 15, Senate Report No. 93–1217, October 2, 1974). Accordingly, the final rule at § 137.509 has been revised to more closely parallel the unrestricted definition of damages given at section 18(m)(2) of the Act. At the same time, the specific reference in the proposed rule to the Fund Administrator's discretion to determine damages has been deleted to meet the objections raised.

NOAA and several others commented on the administrative review of claims requirements proposed in § 137.513. There were several concerns raised with this section. First, administrative review, as proposed, would have only been conducted by an administrative law judge and not optionally by a panel appointed by the Secretary of Transportation as is the case under the Offshore Oil Pollution Compensation Fund. Second, the proposed section was not clear on judicial review appeals of final claims determinations. Finally, the question was raised as to whether the Act authorizes use of an administrative law judge for administrative review of claims and specifically whether an administrative law judge would have subpoena powers as proposed in § 137.513(b) without specific Congressional authorization as was contained in the law establishing the Offshore Oil Pollution Compensation Fund.

As concerns the first issue, the panel option was specifically not included in the review process because it is not required by the Act as in the case of the Offshore Fund. Furthermore, unlike the Offshore Fund, the Secretary of Transportation has delegated full administrative review responsibility to

the Coast Guard. Thus the final § 137.513 does not include the panel option.

As concerns the second issue, we have added a new paragraph (c) in the final § 137.513 to clarify the judicial appeal review option provided for under the Act. The section heading has also been changed because the final § 137.513 now addresses both administrative and judicial review of claims against the Fund.

Review of the issue concerning use of an administrative law judge for administrative review of claim determinations has led us to conclude that we indeed lack specific authority under section 18 of the Act for such a procedure and that in fact such review of claims can be conducted by the Fund Administrator efficiently and effectively. Therefore, paragraphs (a) and (b) of the final rule at § 137.513 have been revised to provide for administrative review of claims by the Fund Administrator, with the Fund Administrator's decision being the final agency action on administrative review of claims.

Regulatory Evaluation

The Coast Guard considers this regulatory action to be "non-major" under Executive Order 12291 published at 46 FR 13193 of February 19, 1981 and "non-significant" under the regulatory policies and procedures established by the Department of Transportation and published at 44 FR 11034–45 (February 26, 1979, as amended by 44 FR 28126, May 14, 1979). Although exempt from the requirement for Regulatory Impact Analysis under E.O. 12291, a final regulatory evaluation has been prepared, copies of which are available for inspection or copying at the Marine Safety Council, Commandant (G–CMC/44), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday.

In summary, the final evaluation sets forth the need for and other background information on this rulemaking, explores the range of major alternatives considered in arriving at the final rule, and contains an assessment of the economic and other relevant consequences of this rulemaking action. As in the draft regulatory evaluation, the regulations were determined to be primarily procedural. The economic burdens derive from the statute rather than the rules. Compliance costs to the public in general are expected to be minimal, approximately $10,000 over a 20 year period. This is based on number of manhours consumed in collecting and reporting fees and generating documentation of financial responsibilities. No comments were received on the draft regulatory evaluation.

The Coast Guard has considered the environmental impact of this rulemaking action and concluded that the impact will be minimal. In accordance with Commandant Instruction M16475.1A of May 19, 1980, National Environmental Policy Act (NEPA) Implementing Procedures, this rulemaking action is categorically excluded from the need to prepare detailed environmental impact documents in support of this conclusion.

The Regulatory Flexibility Act [94 Stat. 1164–70; 5 U.S.C. 601–612] requires an agency analysis of the impact of its proposed rules on small businesses, organizations, and small governmental jurisdictions. These final Deepwater Port Liability Fund rules are of primary concern to deepwater port licensees and the owners and operators of vessels calling at deepwater ports. There is presently only one operational deepwater port and it will be served by approximately 130 Very Large Crude Carrier tankers. Because of the substantial capital investment needed to own, construct, and operate a deepwater port, deepwater port licensees generally have the substantial backing of major corporations, not small businesses. Also, because the rules are primarily procedural in nature, and, as concerns the relatively few vessel owners and operators involved, have been deliberately structured to build upon established Federal Maritime Commission vessel financial responsibility documentation concepts, there will be minimal impact caused by these rules on the maritime community. For these reasons, it is certified under section 605(b) of the Regulatory Flexibility Act [5 U.S.C. 605(b)] that the final rules will not have a significant economic impact on a substantial number of small entities.

Effective Date

The LOOP, Inc. deepwater port began initial testing and oil transfer operations in May 1981. Since the potential for liability under section 18(d), (e), and (f) of the Act arises when oil is at the port, LOOP has been operating with respect to the Fund under interim guidelines provided by the Fund Administrator in April 1981. These guidelines consisted primarily of following the proposed rules with some minor modifications. The LOOP port is the first and only currently operational licensed U.S. deepwater port. Initial port start-up and shakedown operations are now basically complete. Vessels are now calling at the port to offload crude oil on a more regularly scheduled and frequent basis. The Coast Guard, therefore, finds this good cause to make these final rules effective upon publication. However, since the scope of these rules has been narrowed considerably in response to comments on, and objections to, the proposed rules, they are being established as interim rules. Comments on these interim rules are invited, particularly on these provisions which were changed from the proposed rules. Comments should be submitted within sixty days. Following the close of this comment period, the Coast Guard will either reaffirm or modify these interim rules, as appropriate.

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

List of Subjects in 33 CFR 137 and 150

Deepwater ports, Oil imports, Environmental protection, Water pollution control.

1. In Subchapter M, Marine Oil Pollution Liability and Compensation, by adding a new Part 137, as follows:

PART 137—DEEPWATER PORT LIABILITY FUND

Subpart A—General

Sec.

137.1 Purpose.
137.3 Applicability.
137.5 Definitions.

Subpart B—Fund Organization, Administration, and Management

137.101 General.
137.103 Fund Administrator's authority, delegation.
137.105 Fund address.
137.107 Fund Administrator's powers, duties, and obligations.

Subpart C—Fund Revenues, Accounting, and Audit

137.201 Purpose.
137.203 Applicability.
137.205 Computation of barrel fees due the Fund.
137.207 Payment of fees.
137.209 Adjustments.
137.211 Suspension of fee collections.
137.213 Oil excluded from fee collections.
137.215 Audit.

Subpart D—Vessel Financial Responsibility

137.301 Purpose.
137.303 Financial responsibility documentation.
137.305 Certification contents.

Subpart E—Notification

137.401 Purpose.
137.403 Notification.

Subpart F—Claims Procedures

137.501 Purpose.
137.503 General.

Sec.

137.505 Information.
137.507 Filing claims.
137.509 Claims allowed.
137.511 Trans-Alaska pipeline oil pollution.
137.513 Review of claims against the fund.

Authority: Secs. 10(a), 18(j)(1), 88 Stat. 2137, 2144 (33 U.S.C. 1509(a), 1517(j)(1); 49 CFR 1.46.

Subpart A—General

§ 137.1 Purpose.

This part contains the policies, procedures, and administrative practices regarding the management and operation of the Deepwater Port Liability Fund and related requirements.

§ 137.3 Applicability.

This part applies to each person who—

(a) Has been granted a license by the Secretary of Transportation to construct, operate, and maintain a deepwater port facility offshore of the United States;

(b) Owns or operates any vessel using a deepwater port;

(c) Provides financial responsibility for any vessel using a deepwater port; and

(d) Sustains cleanup costs or damages as a consequence of oil pollution from United States deepwater port activities.

§ 137.5 Definitions.

As used in this part—

"Act" means the Deepwater Port Act of 1974 (33 U.S.C. 1501–24);

"Barrel" means 42 U.S. gallons at atmospheric pressure and 60° fahrenheit;

"Commandant" means the Commandant of the Coast Guard;

"Fund" means the Deepwater Port Liability Fund established by section 18(f)(1) of the Act;

"Fund Administrator" means the person to whom the authorities and functions of the Commandant as administrator of the Fund are delegated;

"Fund Claims Adjuster" means a person authorized to receive, review, adjust, and pay claims on behalf of the Fund; and

"Vessel" means any vessel moored at a deepwater port or within the designated safety zone of a deepwater port for the purpose of loading or unloading oil, and any vessel which has received oil from another vessel at a deepwater port.

Subpart B—Fund Organization, Administration, and Management

§ 137.101 General.

(a) The Fund Administrator is the Chief of the Pollution Liability Funds Management Staff within the Office of Marine Environment and Systems at U.S. Coast Guard Headquarters.

§ 137.103 Fund Administrator's authority, delegation.

(a) The Fund Administrator is delegated authority to perform those functions of the Commandant under section 18(f) of the Act that are necessary to administration of the Fund.

(b) The Fund Administrator may redelegate and authorize successive redelegations of the authority granted in paragraph (a) of this section.

§ 137.105 Fund address.

The address to which correspondence relating to the administration of the Fund should be directed, and the location of the Fund Administrator, is Commandant (G–WF), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593 (202) 472–5052.

§ 137.107 Fund Administrator's powers, duties and obligations.

(a) The Fund Administrator conducts the activities of the Fund, including but not limited to the following:

(1) Development, promulgation, and timely revision of program policies and regulations incidental to implementation and administration of the Fund.

(2) Receipt and verification of Fund revenues comprising barrel fees, penalties and interest income earned on Fund investments of those revenues.

(3) Verification and payment of costs and expenses reasonably necessary to the administration of the Fund and the settlement of claims against the Fund.

(4) Investment, as provided in section 18(f)(3) of the Act, of all Fund revenues not needed for administration and the satisfaction of claims.

(5) Recovery of any monies to which the Fund is entitled as subrogee under circumstances set forth in section 18(h)(3) and (4) of the Act.

(b) Except for cleanup costs incurred under section 18(c) of the Act, or under section 311(c) of the Federal Water Pollution Control Act, as amended, the Fund Administrator determines the character and nature of Fund obligations and expenditures, and the manner in which those obligations and expenditures are incurred, allowed, and paid.

Subpart C—Fund Revenues, Accounting, and Audit

§ 137.201 Purpose.

This subpart contains the requirements concerning the calculation and delivery to the Fund by deepwater port licensees of the barrel fee revenues collected from the owners of oil loaded or unloaded at a deepwater port and the accounting for and audit of the Fund revenues.

§ 137.203 Applicability.

This subpart applies to each deepwater port licensee.

§ 137.205 Computation of barrel fees due the Fund.

Each deepwater port licensee shall compute the barrel fees due the Fund, at the rate of 2¢ per barrel, on the basis of the monthly oil throughput report required by § 150.707 of this chapter.

§ 137.207 Payment of fees.

(a) Each licensee shall pay the barrel fees due the Fund on oil loaded or unloaded at the port during the preceding month by one of the methods listed in paragraph (b) of this section.

(b) Barrel fees due the Fund must be paid by—

(1) Electronic transfer of funds as arranged with the Fund Administrator;

(2) Certified check or draft made payable to the U.S. Coast Guard and marked for deposit in the Deepwater Port Liability Fund; or

(3) Money order drawn to the order of the U.S. Coast Guard and marked for deposit in the Deepwater Port Liability Fund.

(c) The payment must be transmitted in time to be received by the Fund Administrator at the address listed in § 137.105 by the fifteenth of each month, or the closest following business day.

(d) Each payment to the Fund must be for the exact amount of oil loaded or unloaded at the port during the preceding month unless the licensee is concurrently reporting a variance under § 137.213(b) of this subpart.

§ 137.209 Adjustments.

(a) The Fund Administrator reviews each payment to the Fund and notifies each licensee if any apparent discrepancies are found.

(b) In general, each licensee may make adjustments to correct mathematical errors resulting in either overpayment or underpayment of the fees due the Fund.

(c) The manner and time by which adjustments for overpayment or underpayment are made are determined by the Fund Administrator and normally will occur with the following month's payment to the Fund.

§ 137.211 Suspension of fee collections.

(a) When the Fund Administrator determines the Fund balance has reached $100 million, less adjudicated claims not yet settled, and there are sufficient amounts above that level being generated by Fund investments available to sustain normal and routine administrative costs of the Fund, collection of the 2¢ barrel fee by any

licensee may be suspended, but only when advised by the Fund Administrator.

(b) The Fund Administrator notifies each licensee by the twentieth of the month if the collection of fees is to be suspended.

(c) After any suspension of fee collections by the Fund Administrator, each licensee shall resume collection of barrel fees from the owners of any oil loaded or unloaded at the deepwater port operated by such licensee, at the time of loading or unloading, and resume the payments to the Fund as prescribed in § 137.207, when directed by the Fund Administrator.

(d) Any suspension of barrel fee collections under this section does not relieve a deepwater port licensee of the oil throughput reporting requirements in § 150.707 of this chapter.

§ 137.213 Oil excluded from fee collections.

(a) A deepwater port licensee shall not collect any barrel fees from the owner of any bunker or fuel oil for the use of any vessel, or any oil which was transported through the Trans-Alaska Pipeline System (TAPS).

(b) When making the barrel fee payments due the Fund, each licensee shall explain in writing, in the oil throughput report, at the time of each payment, the reasons for any variance in the number of barrels of oil reported and payment submitted that is attributed to any bunker or fuel oil or the TAPS oil referred to in paragraph (a) of this section.

§ 137.215 Audit.

(a) Each deepwater port licensee shall permit the Fund Administrator or his representative access, for purposes of audit, to all financial records, reports, and files maintained by the licensee relevant to the computation, charging, collecting, and payment to the Fund, including the oil throughput log required by § 150.757 of this chapter.

(b) To facilitate Fund audits, each licensee shall maintain the financial data identified in paragraph (a) of this section in a manner which makes it readily accessible for audit.

(c) The period of retention for which a licensee shall keep the financial records necessary to Fund audits and the specific type of records to be kept shall be agreed upon by each licensee and the Fund Administrator. The period of retention will generally be for three years or until any Fund audits are approved by the Fund Administrator, whichever occurs first.

Subpart D—Vessel Financial Responsibility

§ 137.301 Purpose.

This subpart contains the requirements concerning the demonstration of financial responsibility by the owner or operator of any vessel, in an amount sufficient to meet the liabilities imposed on such owner or operator by section 18 of the Act.

§ 137.303 Financial responsibility documentation.

(a) In addition to complying with the requirements of any other applicable laws and regulations, the owner or operator of any vessel shall—

(1) Have insurance (or self-insurance where elected) or surety bond coverage adequate to meet the additional liability imposed by section 18 of the Act; and

(2) Provide the Fund Administrator and the deepwater port licensee a certification respecting that additional liability, containing the statements set forth in § 137.305(a).

(b) The owner or operator of a vessel need not comply with paragraph (a)(2) of this section if—

(1) The insurer providing the vessel financial responsibility cover to meet the liability imposed by section 18 of the Act has executed an endorsement, as approved by the Fund Administrator, to an existing Form FMC–225 or FMC–322 (46 CFR Part 542) demonstrating that the insurer has provided vessel financial responsibility cover; and

(2) The insurer has submitted the endorsement to the Federal Maritime Commission [Bureau of Certification and Licensing], and a copy thereof to the Fund Administrator.

(c) Each vessel must be covered by evidence of financial responsibility submitted by or on behalf of the vessel owner or operator, for additional liability under the Act, in the amount of $150 per gross ton of the vessel or $20,000,000, whichever is lesser.

(d) No document signed by or on behalf of a person who the Fund Administrator determines is not acceptable for providing financial responsibility shall constitute valid documented evidence of financial responsibility cover.

§ 137.305 Certification contents.

(a) The additional certification referred to in § 137.303(a) may be in any form but must be signed and dated by the person or authorized representative of the person, providing the insurance or surety (including the owner or operator where self-insurance is provided) and must include the following statements:

(1) _____

(Name of insurer or surety)

[hereinafter [the "Insurer"] [the "Surety"]] hereby certifies that, for the purposes of complying with the regulations in Subpart D of 33 CFR Part 137, and the provisions of section 18(1) of the Deepwater Port Act of 1974 (hereinafter "Act"),

[_____

(Name of the vessel owner or operator) ["owner"] ["operator"], is insured by it] [it has bonded as surety for

_____,

(Name of the vessel owner or operator) ["owner"] ["operator"]], in respect of the

_____

(Name of the vessel)

against cleanup cost and damages liability to which such [owner] [operator] could be subjected under section 18 of the Act. The amount for which [insurance] [the surety bond] is provided is

_____

(Amount applicable to vessel)

(2) The foregoing amount of [insurance coverage] [the surety bond] provided by the [Insurer] [Surety] in respect to _____ (Name of the vessel) is not conditioned or dependent in any way upon any agreement or understanding between the [owner] [operator] and the [Insurer] [Surety] other than an agreement or understanding under which the [insurance] [surety bond] does not apply to cleanup costs or damages resulting from the [owner's] [operator's] own intentional or willful misconduct.

(3) _____ (Name of agent), with offices in the United States located at _____ is hereby designated as the [Insurer's] [Surety's] United States agent for service of process for the purposes of section 18 of the Act. If the designated agent cannot be served due to his death, disability, or unavailability, the Commandant, United States Coast Guard, acts as the agent for the service of process.

(4) The [insurance] [surety bond] evidenced by this certification applies only to incidents occurring on or after the effective date and before the expiration date of this certification, and only to incidents giving rise to claims under section 18 of the Act in respect to _____ (Name of the vessel).

(5) The effective date of this certification is

_____

(Date and time)

This certification expires at 0001 hours Eastern Standard Time on the thirtieth day following the date that written notice has been received by the Fund Administrator that the [Insurer] [Surety] has elected to cancel or not renew the [insurance] [surety bond] evidenced by this certification and has so notified the [owner] [operator]. However, if oil has been loaded as cargo for a deepwater port on the _____ (Name of Vessel) before the above date and time of expiration, the expiration shall not take effect until: (1) the oil has been completely offloaded; or (2) 0001 hours Eastern Standard Time on the sixtieth day following the date that written notice has been received by the Fund Administrator that the [Insurer] [Surety] has elected to cancel or not renew the [insurance] [surety bond] evidenced by this certification, whichever time is earlier. Expiration of this certification does not affect the liability of the

[Insurer] [Surety] in connection with a discharge of oil occurring before the date and time the expiration becomes effective.

(6) The definitions contained in the Act and 33 CFR 137.5 apply to the language of this certification.

(7) _____

(Name of [Insurer] [Surety])

_____

_____

(Mailing address)

by: _____

(Signature of official signing on behalf of the [Insurer] [Surety])

_____

(Typed Name and Title of Signing Official)

(Date Signed) _____

(b) No provision contained in the certification referred to in paragraph (a) of this section may nullify, modify or limit the effect or intent of the seven statements listed in that paragraph. Any provision which may be construed as so nullifying, modifying, or limiting is void to the extent of such nullification, modification, or limitation.

Subpart E—Notification

§ 137.401 Purpose.

This subpart contains the requirements concerning the notice of a discharge of oil from a vessel or from a deepwater port.

§ 137.403 Notification.

(a) The notification of a discharge of oil required by 33 U.S.C. 1517(b) must be made by telephone, radiotelecommunication, or a similar rapid means of communication, to one of the following officials, listed in order of priority:

(1) Duty Officer, National Response Center, U.S. Coast Guard, 400 Seventh Street, SW., Washington, D.C. 20590, toll free telephone number (800) 424–8802.

(2) The government official predesignated in the applicable Regional Contingency Plan as the On-Scene Coordinator for the geographic area in which the discharge occurs.

Note.—Regional Contingency Plans are available for examination at Coast Guard District Offices and Environmental Protection Agency (EPA) Regional Offices, as listed in 33 CFR Part 153.

(3) Commanding Officer or Officer-in-Charge of any Coast Guard unit in the vicinity of the discharge of oil.

(4) Commander of the Coast Guard District nearest the vicinity of the discharge.

(b) In each notification under paragraph (a) of this section, the person giving the notice shall provide, to the extent known, the information in § 135.307 of this chapter.

Subpart F—Claims Procedures

§ 137.501 Purpose.

This subpart contains the procedures for the filing and payment of claims against the Fund for cleanup costs and damages resulting from a discharge of oil from deepwater port activities.

§ 137.503 General.

(a) Except where modified or supplemented by the provisions of this subpart, or excepted in paragraph (c) of this section, the requirements in Part 136 of this chapter, Offshore Oil Pollution Compensation Fund Claims Procedures, apply to the settlement and adjudication of claims against the Fund.

(b) For the purpose of this subpart, the terms "economic loss," "offshore facility," and "vessel," as used in Part 136 of this chapter, mean "damages or cleanup costs," "deepwater port," and "vessel" respectively as defined in the Act and § 137.5 of this part.

(c) The following sections of Part 136 of this chapter do not apply to the filing, processing, and payment of claims authorized under section 18 of the Act:

(1) Subpart A—§§ 136.1 through 136.7;

(2) Sections 136.101, 136.105, 136.109, 136.115 (a)(4) and 136.129(c);

(3) Sections 136.213, 136.231 through 136.235; and

(4) Subpart D—§§ 136.301 through 136.309.

§ 137.505 Information.

Any person who desires to file a claim under section 18 of the Act may obtain information and specific guidance from the Fund staff by writing to Pollution Liability Funds Management Staff (G-WF/21), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, or calling (202) 472–5052.

§ 137.507 Filing claims.

(a) A claim may not be filed against the Fund without filing a claim against the deepwater port licensee or the owner or operator of the vessel which is the source of the discharge.

(b) A claim may be filed with the Fund simultaneously with filing a claim against the deepwater port licensee or the owner or operator of a vessel which is the source of the discharge, however, the Fund will not act on the claim until it appears, to the satisfaction of the Fund Administrator, that a settlement of the claim against the source of the discharge will not be reached.

(c) A claim against the Fund must be filed not more than three years after the date of the discharge giving rise to the claim. A claim against the Fund is considered filed on the date the claim is actually received by a Fund Claims Adjuster or the Fund Administrator.

§ 137.509 Claims allowed.

(a) Claims arising out of or directly resulting from a discharge of oil may be filed for cleanup costs and damages, including but not limited to damages—

(1) Suffered by any person;

(2) Involving real or personal property;

(3) Involving natural resource of the marine environment;

(4) Involving the coastal environment of any nation.

(b) The damages in paragraph (a) of this section may be claimed without regard to ownership of any affected lands, structures, fish, wildlife, or biotic or natural resources.

(c) For all claims, in lieu of complying with § 136.115(a)(4) of this chapter, a claimant must establish that the source of the oil pollution was a deepwater port, a vessel within a safety zone, or a vessel which has received oil from another vessel at a deepwater port.

(d) For claims involving loss of income due to injury to, or destruction of, property or natural resources, the limitations in § 136.207 of this chapter, that at least 25 percent of the claimant's annual income is derived from activities which utilize the property or natural resource, does not apply.

§ 137.511 Trans-Alaska pipeline oil pollution.

Damages from a discharge of Trans-Alaska pipeline oil from a deepwater port are compensated in accordance with section 18 of the Act and the requirements of this part.

Note.—Claims involving Trans-Alaska Pipeline oil discharged from a vessel are filed under the provisions of 43 CFR Part 29.

§ 137.513 Review of claims against the fund.

(a) Administrative review of any determination by a Fund Claims Adjuster concerning the denial of a claim against the Fund is conducted by the Fund Administrator in accordance with section 18 of the Act and the regulations in this part. The Fund Administrator's decision constitutes final agency action.

(b) A claimant must initiate administrative review of a claim against the Fund within 30 days of the denial of a claim, by submitting a written request for review, together with any supporting data, to the Fund Administrator.

(c) Judicial review of any final determination on claims against the Fund is in accordance with section 18(j)(3) of the Act.

* * * * *

PART 150—OPERATIONS

2. In Subchapter NN, Deepwater Ports, by amending the Table of Contents for Part 150, Subpart G, as follows:

Subpart G—Reports and Records

Sec.

* * * * *

150.707 Oil throughput report.
150.709 [Removed]

* * * * *

3. In Part 150, Subpart G, by revising § 150.707 and by removing 150.709 respectively to read as follows:

§ 150.707 Oil throughput report.

(a) Each deepwater port licensee shall mail or deliver to the Administrator of the Deepwater Port Liability Fund, at the address listed in § 137.105 of this chapter, on a monthly basis, beginning the fifteenth day of the month immediately following the commencement of oil transfer operations, and the fifteenth of each month thereafter, a report on the oil throughput of the deepwater port.

(b) The oil throughput report required by paragraph (a) of this section may be submitted in any format but must contain the volume of oil cargo, measured in barrels, loaded or unloaded at the deepwater port during the previous month.

§ 150.709 [Removed]

(Secs. 10(a), 18(j)(1), 88 Stat. 2137, 2144 (33 U.S.C. 1509(a), 1517(j)(1)); 49 CFR 1.46)

Dated: March 25, 1982.

W. E. Caldwell,

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

[FR Doc. 81-17068 Filed 6-23-82; 8:45 am]

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Thursday
June 24, 1982

Part IV

Department of Transportation

Coast Guard

Documentation of Vessels

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 66, 67, 68, and 69

[CGD 80-107]

Documentation of Vessels

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Federal documentation of vessels, a form of national licensing, is required for the operation of certain vessels in certain trades, serves as evidence of vessel nationality, and, with certain exceptions, permits vessels to be subject to preferred mortgages. The Coast Guard is revising the regulations pertaining to vessel documentation in response to the mandate of the Vessel Documentation Act of 1980 (Pub. L. 96-594)—to revise and simplify the regulations controlling documentation administrative procedures and paperwork without working substantive changes in the underlying requirements. The Vessel Documentation Act of 1980 becomes effective July 1, 1982 and these revised regulations are required to be promulgated by that time. The regulations do not affect rights and duties that matured, penalties that were incurred, nor proceedings that were begun before their effective date.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mrs. Phyllis D. Carnilla (Project Manager), Office of Merchant Marine Safety, Room 1312, or Lieutenant Michael P. Drzal (Staff Attorney), Office of the Chief Counsel, Room 3402, U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, D.C. 20593. Mrs. Carnilla may be contacted at (202) 426-1492 and Lieutenant Drzal may be contacted at (202) 426-1467. Normal office hours are between 7:00 a.m. and 5:30 p.m., Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking on this subject was published on November 16, 1981 (46 FR 56318). Interested persons were given until January 15, 1982 to submit comments.

OMB Control Number: 2115-0110.

Drafting Information: The principal persons involved in drafting this rulemaking are Mrs. Phyllis D. Carnilla (Project Manager), Office of Merchant Marine Safety; Lieutenant Michael P. Drzal (Staff Attorney), Office of the Chief Counsel; and Lieutenant Commander William B. Short (Project Attorney), Office of the Chief Counsel.

Discussion of Effective Date: The Vessel Documentation Act of 1980 (Pub. L. 96-594) becomes effective on July 1, 1982. The effective date of this rulemaking must coincide with the effective date of that statute, therefore good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register.**

Background

The Vessel Documentation Act is aimed at updating and simplifying the procedures for documenting vessels. It is not intended to make any substantive changes to the prerequisites for documentation such as the citizenship of vessel owners and the requirement that vessels engaged in certain trades be built in the United States. Accordingly, the proposed rules and these final rules reflect existing laws and longstanding agency interpretations of those laws.

Since the Notice of Proposed Rulemaking was promulgated, statutory revisions to the citizenship requirements for partnerships have occurred. The changes are reflected in the final rule to a limited extent. In addition, major policy changes affecting the maritime industry are under consideration and legislative and regulatory changes are under development. These changes concern removing or relaxing restrictions on the use of vessel components built or procured outside the United States; relaxing the citizenship requirements; and charging fees for Coast Guard services, including documentation of commercial vessels.

Further rulemaking would be necessary to reflect these changes. However, the imminent implementation date for the Vessel Documentation Act and the concurrent termination of existing documentation laws requires these final rules to be published without delay. There must be no lapse in the ability of vessel owners and financial institutions to document vessels properly and to record mortgages.

Discussion of Comments

Comments from approximately 55 sources were received. The commentors included ship brokers, attorneys, vessel owners, and individual Coast Guard Documentation Officers. In general, the comments heralded the proposed rulemaking as a long overdue revision of the archaic regulations now controlling merchant vessel documentation procedures and paperwork requirements. Some comments then went on to address specific substantive issues of particular concern to the commenter. Most, however, merely proposed various editorial, stylistic, and/or grammatical changes; those have been accommodated as appropriate. Other comments received were beyond the scope of the rulemaking in that they would require statutory change. These comments are not addressed for this reason. Some comments raised very specific issues not capable of being addressed in the context of a rule of general applicability. These issues are best handled in the context of an agency ruling on a case-by-case basis. A discussion of substantive issues having broad impact follows.

Two commenters requested an extension of the comment period. Since such an extension would delay publication of the final rule beyond the July 1, 1982, effective date of the Vessel Documentation Act of 1980, we did not grant the request. One of the commenters requesting a time extension submitted numerous questions concerning various documentation issues. These questions have been addressed in separate correspondence.

Section 67.03-1 Requirement for Citizen Owner. Three of the four comments received on this section focused on language within it restricting the availability of a Certificate of Documentation to vessels "wholly owned by United States citizens." All three commenters objected to the failure of the regulations to explain more fully the term. These same commenters then focused on an earlier Coast Guard ruling in which the Coast Guard looked beyond the form of a charter arrangement, approved by the Maritime Administration, and found prohibited foreign involvement to be present. The commenters argued that such an examination is beyond Coast Guard authority, and suggested in effect that Maritime Administration approval of a charter arrangement precludes Coast Guard examination of the arrangement for any other reason.

The term "wholly owned" has its origins in 46 U.S.C. 11, predecessor to Section 104 of the Vessel Documentation Act. Section 11, and 46 U.S.C. 19 reflect a clear Congressional concern with the substance, rather than the form, of ownership transactions. Those statutory sections, and the various rulings promulgated under them, have served to provide guidance in everyday vessel transactions. It is neither proper nor possible to attempt to regulate prospectively every conceivable ownership and/or financing arrangement which may be devised in conjunction with vessel documentation. Such specialized transactions are best handled in the context of specific letter rulings, as was done in the specific case complained of.

The specific ruling about which the commenters complained is neither part of nor affected by this rulemaking. However, underlying the comments is

an apparent confusion concerning the function of the inquiries made by the Maritime Administration and by the Coast Guard. The Coast Guard conducts its examination to determine whether a vessel is eligible to be a vessel of the United States while the Maritime Administration determines the advisability of allowing certain interests in a United States vessel to be transferred to non-citizens. Thus we see no reason why examination by one agency should preclude examination by the other.

The fourth comment noted that there is no indication as to "which, if any, regulations apply where a corporate interest is owned by a U.S. citizen who is married to a non-citizen." This comment poses a situation not conducive to general regulation. Whether or not an alien spouse would prohibit a citizen from participating in the ownership of a corporation is dependent on a number of variables, including the extent of participation, the contractual arrangements between the spouses, and the relevant state law characterization of the interest as it relates to the alien spouse. For this reason, specific issues arising under this scenario should be the subject of letter rulings rather than regulations of general applicability.

Section 67.03–5 Partnership, association, or joint venture. Approximately one month after the publication of the proposed rule, section 104 of the Vessel Documentation Act of 1980 (Pub. L. 96–594) was amended by section 10 of the Coast Guard Authorization Act of 1982 (Pub. L. 97–136) to provide, among other things, that a partnership is a citizen of the United States for documentation purposes if the "general partners are citizens of the United States and the controlling interest in the partnership is owned by citizens of the United States." The definition found at section 67.03–5 has been modified to conform to this language but no attempt has been made to define the term "controlling interest." This term is new to vessel documentation law and is deserving of further treatment; therefore a further rulemaking limited to this definitional problem will be initiated as soon as feasible.

Section 67.09–3 United States built. Six of the comments received on this proposed section focused on subsection (c), which provides that at least fifty (50) percent of the cost of all machinery (including propulsion) and components which are not an integral part of the hull or superstructure relates to items procured in the United States. One commenter observed that this requirement would present great difficulties in terms of proof where older vessels are involved. Two comments stated that the imposition of this standard represents a departure from previous practice and that the proposed definition is more restrictive than what has been accepted by industry. Five of the comments asserted that the "fifty percent rule" has no basis in law and that it should be withdrawn on that ground. Another commenter questioned who would determine that the materials and supplies used to build a vessel were manufactured in the United States. This commenter also questioned whether invoices for the items procured would be required as evidence that they were procured in the United States. Another observation was that the definition was vague in that it fails to specify who must procure the component in the United States, the point being that materials of foreign manufacture would have at some point been procured foreign. Successive purchasers could procure the item in the United States, but the commenter felt that the proposed regulation does not sufficiently specify the point at which the machinery or component would become an item "procured in the United States." Two other commenters asserted that the use of the term "procured" was vague in and of itself. On a slightly different tack, two commenters attacked the inclusion of "components" in the definition of United States built, one on the ground that the term was vague and the other on the ground that previous documentation regulations did not mention components.The use of the term "superstructure" was attacked in the same manner. Finally, one commenter observed that § 67.09–3 as written constitutes a non-tariff customs barrier which robs the vessel owner of the opportunity to rig his vessel with the best available equipment.

Because the existing regulations are totally deficient in their treatment of these issues and because § 67.09–3 does, in fact, reflect current agency policy, we elected not to change the proposed regulation. As stated in the summary of both the proposed rule and this, the final rule, these rules do not affect rights that inured before the effective date, so we perceive no problem with respect to vessels currently characterized as United States built. In light of the relatively large number of comments received, however, we recognize that the prospective administration of this section may prove a problem, so a further rulemaking limited to this topic will be initiated to address the issues raised, with an Advanced Notice of Proposed Rulemaking being published in August 1982.

Section 67.13–3 Home port designation. Four commenters expressed an opinion that the proposed rules controlling home port designation were too restrictive in terms of not providing vessel owners with a sufficient number of options. A yacht brokerage was opposed to § 67.13–3(b)(1) because it allegedly restricts the ability of a broker to act as agent for a vessel owner who anticipates a change of address or extensive cruising. Two customs house brokers were opposed to § 67.13–3 on the ground that it restricts the ability of vessel owners to avoid state and/or local taxes by designating a home port in a location having more favorable tax rules than the home port which would be required by application of the rules contained therein. One commenter, representing the interests of American flag operators, felt that the proposed rule was too restrictive because shipping concerns often like to designate certain home ports for public relations purposes.

The final rule does not attempt to accommodate any of these comments. The process of designating a home port is not for the sole benefit of vessel owners. A home port is the place where a vessel's records are kept. All registration and recordation systems of which we are aware employ some logical nexus between the entity affected by the registration and the place of registration. For example, the Boating Safety Act requires that motorboats be numbered in their state of principal use. Filings with respect to real estate are made in the county where the property is located. The rationale for such a nexus is that all persons having an interest in the particular property must have a rational basis for accessing the records pertaining to that property. The same holds true for documented vessels. Thus, any rule which makes the home port designation process completely arbitrary, makes the registration and recordation system difficult to administer and limits its effectiveness for use by the public.

The specific concern with respect to a brokerage acting as agent for an owner is misplaced, as nothing in the proposed regulation prevents such an arrangement. The place of documentation is not determinative of liability for state and local taxes. Finally, the public relations aspects of designating home ports can be accommodated by most businesses. The Coast Guard is not aware of any substantial problems in this regard.

One commenter suggested that the vessel owner's domicile or principal residence be adopted as the criteria for home port designations in the case of individuals in order to eliminate confusion and unnecessary disputes. This suggestion has been adopted in the final rule and simultaneously addresses the concern expressed by three commenters over the use of post office boxes for illicit purposes in home port determinations.

A final comment addressed a perceived deficiency in the home port rules with respect to vessels being operated pursuant to trust charter arrangements, a deficiency which would unnecessarily add to the administrative burden of the trustee. As a result of this comment, a new paragraph, § 67.13(b)(10) has been added to accommodate such charter arrangements.

Section 67.15–7 Evidence of Marking. Five commenters objected to the requirement that clear photographs accompany CG–1322 as evidence of marking on the grounds that it was inconsistent with the other, generally relaxed evidence standards contained in the proposed rule. As a result of these comments, the photograph submission requirement has been eliminated from the final rule.

Section 67.19–9 Wrecked Vessels. Two comments were received objecting to the provisions of § 67.19–9(b)(2), which requires, among other things, that the appraised salved value of a wrecked vessel (used as the basis for determining whether sufficient repairs have been put on the vessel to gain it coastwise and fisheries privileges) include the future economic value of the vessel arising from its potential employment once the vessel has gained those privileges. The commenters contend that this element is not permitted by the legislative history of the Wrecked Vessel statute, by past practice, nor by the Vessel Documentation Act of 1980.

A review of *The Wreck Bill: Hearings on S. 5958,* before the Committee on the Merchant Marine and Fisheries, 62nd Cong., 44–46 (1913) shows that, about two years before the passage of the Wrecked Vessel statute, the House Committee considered alternative language on this point. One clause would have made it clear that attainment of coastwise privileges should be considered as part of the salved value and one clause would have made it clear that it should not. Neither version was adopted.

The result is that the language of the current law reflects an almost studied indifference to this concept; it excludes neither possibility. Of course, in operation, the law either does or does not include this element of value. One thread that seems to run through the legislative history is that the vessel as rebuilt shall be three-quarters (¾) United States built to overcome the "taint" of its foreign origin. The only way to ensure that result is to tie the appraised value of the wreck to the cost of construction in United States shipyards; i.e., by using the coastwise privilege as an element of the salved value appraisal. The market value of and fees charged by vessels enjoying coastwise privileges reflect the cost of United States construction. The appraised salved value should thus properly contain a similar cost factor.

One commenter pointed out that the proposed regulation would effectively fix the upper limit of value of a wrecked vessel at one-fourth (¼) of the value of a similar vessel with coastwise privileges. This is only true as to the market which buys the wreck to put it into the coastwise trade. If the wreck is worth more than one-fourth (¼) of the value of the vessel in the coastwise trade, it can be repaired in a United States shipyard with the minimum work required to return it to its original foreign service. This was suggested in a Department of Commerce and Labor letter contained in S. Rep. No. 816, 63d Cong., 2d Sess. 2, and indicates that this regulation is consistent with the view taken in 1915. It appears that the Congress intended this result.

In fact, past practice had been to assume that this level of value was being placed on the wreck by appraisers if it was destined for the coastwise trade. Events have shown, however, that foreign vessels requiring little repair or renovation were being appraised at a low value which did not account for future coastwise privileges, thus allowing these vessels to attain those privileges with very little work actually being performed in United States shipyards. The Coast Guard subsequently learned that these vessels were being sold before renovation to United States purchasers for a much higher price. This permitted vessels to attain coastwise privileges with relatively little cost and to compete unfairly with more expensive United States built vessels. Further, foreign owners could sometimes sell a vessel for more than its *sound* value before the wreck. This anomaly resulted because, before the wreck, the vessel could not qualify for use in the coastwise trade. Obviously, these financial inducements could provide considerable rewards for intentional wrecking of a foreign-built vessel on United States shores; surely this was not Congress' intent in enacting the Wrecked Vessel statute.

With respect to the contention that the Vessel Documentation Act does not permit such a change, it is true that the Act was not intended to work any substantive change in the documentation laws. The Act does not, however, inhibit normal regulatory development. The fact that the Wrecked Vessel regulation is being issued along with regulations changed because of the Act is coincidental. This is a change prompted by a perceived inadequacy in the administration of existing documentation laws, not a requirement of the new law.

Having carefully weighed the observations of the commenters, and further researching the issue of appraised salved value, the Coast Guard has decided that the regulations with respect to the calculation of that value will not be changed from those appearing in the Notice of Proposed Rulemaking. The Coast Guard feels that those regulations will insure that the Wrecked Vessel statute is being administered in accordance with Congressional intent. Any difficulty appraisers experience in reaching the required valuation will be addressed by additional instructions to appraisers on a case-by-case basis. Since the issue of appraised salved value has proved problematic and experience has shown that there have been inconsistencies in the methodology of determining that value, the final regulations reflect a Coast Guard decision to use a board of three (3) appraisers appointed by the Commandant to determine salved value and repair value for all applications made under the Wrecked Vessel Statute.

Section 67.23–1 Requirement for renewal. Three commenters objected to the one year renewal requirement contained in this section, suggesting either a five-year renewal period, a ten-year renewal period or no renewals at all. The final rule was not changed to accommodate these comments because annual renewal is considered essential to maintaining the integrity of the records the Coast Guard maintains as part of its documentation function. Most changes in vessel data are discovered during the annual renewals which occur under the present regulations.

Two commenters objected to the extension of the annual renewal requirement to registered vessels, contending that this would represent an unreasonable burden on the owners of these vessels. Since the former requirement for physically presenting the vessel's document at the time of renewal has been eliminated with the

adoption of a decal renewal system, the reason for excluding registered vessels from the renewal requirement no longer exists.

With this former impediment removed, the interest in preserving the integrity of the Coast Guard's records becomes paramount. Therefore the final rule preserves this requirement.

Subpart 67.43—Fees. Five commenters advocated charging fees for commercial vessel documentation transactions to parallel those charged in the case of pleasure vessels. Three commenters stated that the $100.00 fee for the initial documentation of a pleasure vessel is excessive; two other commenters claimed they are not high enough. Two commenters stated that the $50.00 fee for replacement or surrender of a pleasure vessel license is excessive. Four commenters suggested charging fees for renewals and lost documents. One commenter suggested that recordation fees should not be based on the number of words in a recorded instrument. Another suggested that fees for issuing certificates of ownership, abstracts of title and recordations should be raised.

The suggestion that fees be charged in connection with commercial vessel documentation transactions cannot be adopted at this time because charging fees in such cases is precluded by 46 U.S.C. 331. The fees related to pleasure vessel documentation, which drew conflicting comments, will remain unchanged in the final rule. Section 114 of the Vessel Documentation Act authorizes the collection of fees in association with pleasure vessel documentation; the fees must be based on the cost of providing that service. Preliminary calculations indicate that the proposed fees may not in fact recoup the full costs of the pleasure vessel documentation program. The proposed fees can therefore not be lowered. When the new documentation procedures have been in place for a period of time, a further rulemaking may be initiated to raise the pleasure vessel fees enough to cover the costs of providing this service. The suggestion to charge fees for lost documents for commercial vessels was not adopted because it is statutorily precluded; the proposed regulations already impose such a fee for pleasure vessels. The suggestion to charge fees for renewals was not adopted because such a charge would considerably complicate the renewal system, making it more burdensome for the public. In addition, the cost of collecting such a fee would exceed the revenues generated by it. The fees concerning recordation are fixed by the Ship Mortgage Act of 1920 and are not susceptible to regulatory adjustment without statutory change.

Two comments were received with respect to the fees associated with name changes. One asserted that the cost of a name change should bear some relationship to the size of the vessel. This comment was not adopted because the size of the vessel undergoing the name change has no bearing on the administrative cost of such a transaction. The other commenter maintained that $150.00 for a simultaneous pleasure vessel documentation and name change is excessive. A note clarifying that the fee for such a transaction is $100.00 has been added, as it was not the intent of the original rulemaking to impose a fee of $150.00.

Subpart 67.45 Prohibitions. The Vessel Documentation Act of 1980 provides for increased penalties for violations of its provisions. Seven commenters felt that the amount of these penalties should be repeated in the regulations. The regulations are intended to implement, not to repeat statutory provisions; therefore these comments were not accommodated. For the general information of readers not having ready access to the Vessel Documentation Act, the amounts provided therein for violations are as follows:

Violation	Maximum penalty
Fraudulent application	Forfeiture of vessel.
Fraudulent use of certificate	Do.
Operation in unauthorized trade	Do.
Use of pleasure vessel for other than pleasure.	Do.
Any other violation of the Act or the regulations.	$500, each day of violation being a separate violation.

A comment on § 67.45–7 by the United States Customs Service of the Department of the Treasury requested that officials of the Customs Service be specifically identified as persons for whom a Certificate of Documentation must be produced on demand. This comment was not accommodated because the authority of the U.S. Customs Service derives from a statutory source other than the Vessel Documentation Act. Further, officials other than those of the Customs Service are authorized to board vessels. An attempt to list all such officials could result in the inadvertent exclusion of some such individuals. It should be noted that nothing in the Act precludes Customs officials from boarding a vessel and requesting production of a Certificate of Documentation.

A number of comments were received concerning the proposed forms which were reproduced in rough form in the preamble of proposed rulemaking. Three commenters, each representing another government agency, requested that additional information be collected on Coast Guard documentation forms. In general, these comments were not accommodated, since the additional information sought to be collected was not germane to the legal requirements pertaining to vessel documentation. A number of commenters noted the elimination of a government form for mortgages. This form has been eliminated in recognition of the fact that a mortgage instrument should reflect the contractual arrangements arrived at by the parties; such an instrument should therefore be devised by those parties.

Subpart 68.01 concerns the qualification of certain corporations for limited coastwise employment. One editorial comment was received on this subpart. The comment has been accommodated.

Regulatory Analysis

These regulations were reviewed in accordance with the "Policies and Procedures for Simplification, Analysis and Review of Regulations" (DOT Order 2100.5 of May 22, 1980) in the Notice of Proposed Rulemaking (46 FR 56335) and were determined to be non-significant. The regulations were also found to be non-major under the criteria established in Executive Order 12291. No information has been received which alters those determinations. An Initial Regulatory Flexibility Analysis (IRFA) pursuant to the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601) was published in the Notice of Proposed Rulemaking (46 FR 56335).

As stated in that evaluation, these rules should result in over 200,000 fewer occasions on which the public will be required to complete government paperwork. This is expected to save over 250,000 hours of time and result in a net saving to the public of over $5,000,000.00 a year. In no instance will there be an increased burden or cost on any individual or entity.

In the Notice of Proposed Rulemaking, we estimated that over 22,000 small businesses or entities might be affected by these rules, including: businesses, entities and individuals owning vessels, brokers and attorneys handling documentation matters, shipbuilders, boat dealers, and financial institutions. The only potential detrimental impact was on brokers and attorneys who might have less business due to the simplified procedures. Although we specifically asked for additional data concerning the potential impact on small entities, none was received.

The analysis and conclusions of the IRFA are therefore adopted as the Final Regulatory Flexibility Analysis (FRFA).

Paperwork Reduction Act: The information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2115-0110.

Implementation

The documents of a vessel other than one under a registry must be exchanged, at the vessel's home port, for an appropriately endorsed Certificate of Documentation at the normal time of renewal. Owners of these vessels will be contacted by their respective home port documentation officers when renewal is due. The document of a vessel under registry must be exchanged for an appropriately endorsed Certificate of Documentation. In this case, the burden is on the vessel owner to exchange the document of his vessel before July 1, 1983, by contacting the documentation officer at the vessel's home port. There will be no charge for the exchange of old-style marine documents to new. Failure to exchange a vessel's outstanding marine document for a Certificate of Documentation may result in the deletion of the vessel from Coast Guard records as a vessel of the United States.

List of Subjects in 46 CFR Parts 67 and 68

Vessels, Documentation.

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

PART 66—[RESERVED]

1. 46 CFR Part 66 is amended by eliminating its existing provisions and reserving the Part.

2. By revising Part 67 to read as follows:

PART 67—DOCUMENTATION OF VESSELS

Subpart 67.01—General

Sec.
67.01-1 Definitions of terms used in this part.
67.01-3 Purpose of documentation.
67.01-5 Vessels requiring documentation.
67.01-7 Vessels exempt from documentation.
67.01-9 Vessels eligible for documentation.

Subpart 67.03—Citizenship Requirements for Vessel Documentation

67.03-1 Requirement for citizen owner.
67.03-3 Individual.
67.03-5 Partnership, association or joint venture.
67.03-7 Trust.
67.03-9 Corporation.
67.03-11 Governmental entity.
67.03-13 Evidence.

Subpart 67.05—Title Requirements for Vessel Documentation

67.05-1 Requirement for title evidence.
67.05-3 Requirement for removal from foreign registry.
67.05-5 Extent of title evidence required for coastwise or Great Lakes license.
67.05-7 Extent of title evidence required for initial documentation.
67.05-9 Extent of title evidence required upon subsequent transfers.
67.05-11 Extent of title evidence required for change in general partners of partnership.
67.05-13 Extent of title evidence required for vessels returning to documentation.
67.05-15 Extent of title evidence required for captured, forfeited, special legislation and wrecked vessels.
67.05-17 Extent of evidence required for change of legal name of owner.

Subpart 67.07—Acceptable Title Evidence; Waiver

67.07-1 Original owner.
67.07-3 Subsequent transfers by sale or donation.
67.07-5 Passage of title by court action.
67.07-7 Passage of title without court action.
67.07-9 Passage of title in conjunction with corporate mergers, etc.
67.07-11 Passage of title by extrajudicial repossession and sale.
67.07-13 Change in general partners of partnership.
67.07-15 Change of legal name of owner.
67.07-17 Waiver of recordable evidence.

Subpart 67.09—Build Requirements for Vessel Documentation

67.09-1 Requirement for determination.
67.09-3 United States built.
67.09-5 Foreign built.
67.09-7 Evidence.
67.09-9 Waiver of evidence.

Subpart 67.11—Tonnage and Dimension Requirements for Vessel Documentation

67.11-1 Requirement for determination.
67.11-3 Method of determination.

Subpart 67.13—Designations Required for Vessel Documentation

67.13-1 Official number designation.
67.13-3 Home port designation.
67.13-5 Vessel name designation.
67.13-7 Hailing port designation.

Subpart 67.15—Marking Requirements for Vessel Documentation

67.15-1 Official number marking requirement.
67.15-3 Name and hailing port marking requirements.
67.15-5 Requirement for evidence of marking.
67.15-7 Evidence of marking.
67.15-9 Disputes.

Subpart 67.17—Form of Documentation; Types of License; Eligibility

Sec.
67.17-1 Form of documentation—all licenses.
67.17-3 Registry.
67.17-5 Coastwise license.
67.17-7 Great Lakes license.
67.17-9 Fishery license.
67.17-11 Pleasure license.

Subpart 67.19—Applications for Special Qualification of Vessels for Documentation

67.19-1 Submission of applications.
67.19-3 Captured vessels.
67.19-5 Forfeited vessels.
67.19-7 Special legislation.
67.19-9 Wrecked vessels.

Subpart 67.21—Initial Application for Documentation

67.21-1 Application form—all licenses.
67.21-3 Obtaining of official number.
67.21-5 Subsequent submissions.

Subpart 67.23—Period of Validity of Certificate of Documentation; Mortgagee Consent

67.23-1 Requirement for renewal.
67.23-3 Requirement for surrender.
67.23-5 Restrictions on surrender; mortgagee consent.
67.23-7 Requirement for replacement.
67.23-9 Requirement for deletion.
67.23-11 Requirement for cancellation.

Subpart 67.25—Subsequent Applications—Renewals, Changes, etc.

67.25-1 Renewals.
67.25-3 Surrender—Change of name.
67.25-5 Surrender—Change of home port.
67.25-7 Surrender—All other causes.
67.25-9 Surrender—Procedure for mortgagee consent.
67.25-11 Replacements.
67.25-13 Deletions.
67.25-15 Cancellations.

Subpart 67.27—Miscellaneous Applications

67.27-1 Application for as a new vessel determination.
67.27-3 Required application for rebuilt determination.
67.27-5 Registration of funnel marks and house flags.

Subpart 67.29—Recordation of Instruments—General Provisions

67.29-1 Instruments eligible for recordation.
67.29-3 Restrictions on recordation.
67.29-5 Requirement for vessel identification.
67.29-7 Requirement for date and acknowledgement.
67.29-9 Required number of copies.
67.29-11 Requirement for citizenship declaration.
67.29-13 Place of recordation.
67.29-15 Date and time of recordation.

Subpart 67.31—Recordation of Instruments—Bills of Sale, etc.

67.31-1 General requirements.
67.31-3 Required signatures.
67.31-5 Required recitations.
67.31-7 When filing permitted.

Subpart 67.33—Recordation of Instruments—Chattel Mortgages and Related Instruments

Sec.
67.33–1 General requirements for chattel mortgages.
67.33–3 Required signatures.
67.33–5 Required recitations.
67.33–7 General requirements for assignments of chattel mortgages.
67.33–9 Required signatures.
67.33–11 Required recitations.
67.33–13 General requirements for assumptions of chattel mortgages.
67.33–15 Required signatures.
67.33–17 Required recitations.
67.33–19 General requirements for amendments of or supplements to chattel mortgages.
67.33–21 Required signatures.
67.33–23 Required recitations.

Subpart 67.35—Recordation of Instruments—Notices of Claims of Lien

67.35–1 General requirements.
67.35–3 Required signatures.
67.35–5 Required recitations.
67.35–7 Restrictions on recordation.

Subpart 67.37—Recordation of Instruments—Preferred Mortgages and Related Instruments

67.37–1 General requirements for preferred mortgages.
67.37–3 Necessity for presentation of Certificate of Documentation.
67.37–5 Restrictions on recordation.
67.37–7 Required number of copies.
67.37–9 Requirements for instruments supplemental to preferred mortgages.
67.37–11 Restrictions on recordation.

Subpart 67.39—Removal of Encumbrances

67.39–1 General requirements.
67.39–3 Requirements for removal of encumbrances by court order.
67.39–5 General requirements for instruments evidencing satisfaction or release.
67.39–7 Required signatures.
67.39–9 Required recitations.

Subpart 67.41—Abstracts of Title and Certificates of Ownership

67.41–1 Requirement for Abstract of Title.
67.41–3 Optional request for Abstract of Title.
67.41–5 Request for Certificate of Ownership.

Subpart 67.43—Fees

67.43–1 Application for registration of funnel marks and house flags.
67.43–3 Application for name change.
67.43–5 Application for new vessel determination.
67.43–7 Application for qualification as a wrecked vessel classification.
67.43–9 Copies of records.
67.43–11 Pleasure vessel.
67.43–13 Recordation of instruments.

Subpart 67.45—Prohibitions

67.45–1 Alteration of Certificate.
67.45–3 Command by non-citizen.
67.45–5 Failure to have Certificate on board.
67.45–7 Failure to produce Certificate.
67.45–9 Failure to renew Certificate.
Sec.
67.45–11 Failure to surrender Certificate.
67.45–13 Fraudulent application for Certificate.
67.45–15 Fraudulent use of Certificate.
67.45–17 Improper markings.
67.45–19 Violation of license.
67.45–21 Operation without documentation.
67.45–23 Operation under invalid Certificate.
67.45–25 Unauthorized name change.

Appendices

A—Requirements for specially qualified vessels under 46 CFR Subpart 67.19
B—Requirements for initial documentation under 46 CFR Subpart 67.21
C—Requirements for subsequent documentation transactions under 46 CFR Subpart 67.25
D—Ports of documentation

Authority: 94 Stat. 3453 (46 U.S.C. 65 a, c, d, e, t, v); 65 Stat. 290 (31 U.S.C. 483a); 41 Stat. 1002, 80 Stat. 795 (46 U.S.C. 927); 41 Stat. 1006 (46 U.S.C. 983); 94 Stat. 978 (42 U.S.C. 9101)

OMB Control Number: Information collection requirements contained in this Part have been approved by the Office of Management and Budget under the Provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control number 2115–0110.

Subpart 67.01—General

§ 67.01–1 Definitions of terms used in this part.

Certificate of Documentation refers to form CG–1270.

Commandant means the Commandant of the United States Coast Guard.

Note.—Submissions and correspondence made to the Commandant pursuant to this part should be addressed to Commandant (G–MVD), U.S. Coast Guard, Washington, D.C. 20593.

Documentation officer means the Coast Guard official who is authorized to approve and process applications made under this Part.

Documented vessel means a vessel for which a valid Certificate of Documentation is outstanding.

Home port means the port of documentation where the records of a vessel are kept.

Officer in Charge, Marine Inspection (OCMI) means the Coast Guard official designated as such by the Commandant and who, under the superintendence and direction of the Coast Guard District Commander, is in charge of an inspection zone for the performance of duties with respect to the inspection, enforcement, and administration of Title 52, Revised Statutes, and acts amendatory thereof or supplemental thereto, and rules and regulations thereunder.

Port of documentation means a port which has been designated by the Commandant as a place which may serve as the home port of a vessel. A documentation office is located in each port of documentation. A list of designated ports of documentation may be found in Appendix D to this Part.

Superstructure means any structural part of a vessel above or including its deck.

United States, except as otherwise specified, in this Part includes the fifty (50) states, Guam, the Northern Mariana Islands, the United States Virgin Islands, Puerto Rico, and the District of Columbia.

Vessel includes every description of watercraft or other contrivance used or capable of being used as a means of transportation on water, but does not include aircraft. Vessel also includes ocean thermal energy facilities and ocean thermal energy conversion plantships.

(a) *Ocean thermal energy conversion facility* means any facility which is standing or moored in or beyond the territorial sea of the United States and which is designed to use temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work.

(b) *Ocean thermal energy conversion plantship* means any vessel which is designed to use temperature differences in ocean water while floating unmoored or moving through such water to produce electricity or another form of energy capable of being used directly to perform work.

Note.—Definitions of coastwise trade and fisheries can be obtained from U.S. Customs Service, Washington, D.C. (ATTN: Carrier Rulings Branch.)

§ 67.01–3 Purpose of documentation.

Documentation is required for the operation of vessels in certain trades, serves as evidence of vessel nationality, and, with certain exceptions, permits vessels to be subject to preferred mortgages.

§ 67.01–5 Vessels requiring documentation.

Any vessel of at least 5 net tons which engages in the fisheries, Great Lakes trade, or coastwise trade, unless exempt under § 67.01–7, must be documented.

§ 67.01–7 Vessels excluded or exempt from documentation.

(a) A vessel of less than five net tons is excluded from documentation.

(b) A vessel which does not operate on the navigable waters of the United States is excluded from the requirement to be documented. Such vessel may, at the option of the owner, be documented,

if at least 5 net tons and wholly owned by citizen(s) of the United States.

(c) A non-self-propelled vessel, qualified to engage in the coastwise trade is exempt from documentation when used in that trade:

(1) Within a harbor;

(2) In whole or in part on the rivers or inland lakes of the United States; or

(3) In whole or in part on the internal waters or canals of any state.

§ 67.01-9 Vessels eligible for documentation.

Any vessel of at least 5 net tons, wholly owned by a United States citizen or citizens, is eligible for documentation. This includes, but is not limited to, vessels used exclusively for pleasure and vessels used in foreign trade.

Subpart 67.03—Citizenship Requirements for Vessel Documentation

§ 67.03-1 Requirement for citizen owner.

Certificates of Documentation are available only to vessels which are wholly owned by United States citizens. For the purposes of obtaining a Certificate of Documentation, the persons and entities discussed in §§ 67.03-3 through 67.03-11 are citizens.

§ 67.03-3 Individual.

An individual is a citizen if he is a native-born, naturalized, or derivative citizen of the United States, or otherwise qualifies as a United States citizen.

§ 67.03-5 Partnership, association, or joint venture.

(a) A partnership is a citizen for the purposes of obtaining a registry, a fishery license, or a pleasure license if all of its general partners are citizens and the controlling interest in the partnership is owned by citizens of the United States. A partnership is a citizen for the purposes of obtaining a coastwise license or a Great Lakes license if all of its general partners are citizens and 75% of the interest in the partnership is owned by citizens of the United States.

(b) An association is a citizen if each of its members is a citizen.

(c) A joint venture is a citizen if each of its members is a citizen.

§ 67.03-7 Trust

A trust arrangement fulfills the citizenship requirements if each of its trustees and each of its beneficiaries is a citizen.

§ 67.03-9 Corporation.

(a) A corporation is a citizen for the purposes of obtaining a registry, a fishery license, or a pleasure license if:

(1) It is incorporated under the laws of the United States, including any federal scheme of incorporation;

(2) Its chief executive officer, by whatever title, is a United States citizen;

(3) Its chairman of the board of directors is a United States citizen; and

(4) No more of its directors are non-citizens than a minority of the number necessary to constitute a quorum.

(b) A corporation is a citizen for the purposes of obtaining a coastwise or Great Lakes license endorsement if

(1) It meets all the requirements of paragraph (a) of this section; and

(2) At least 75% of the interest in the corporation is owned by United States citizens. (See 46 U.S.C. 802)

(c) A corporation which does not meet the requirements of paragraph (b) of this section may qualify for limited coastwise trading privileges by meeting the requirements of Subpart 68.01.

(d) Although a corporation meets the requirements of paragraph (a) of this section, it may be limited in its ability to document a vessel which is either documented or was last documented pursuant to these regulations or any predecessor regulations thereto. If the controlling interest in that corporation is not held by U.S. citizens, it may not document such a vessel unless it evidences that the Maritime Administration approved that corporation's acquisition of the vessel. (see 46 U.S.C. 802, 808)

§ 67.03-11 Governmental entity.

A governmental entity is regarded as a citizen if it is a government of the United States as defined in § 67.01-1.

§ 67.03-13 Evidence.

An original form CG-1258 establishes a rebuttable presumption that the applicant is a United States citizen.

Subpart 67.05—Title Requirements for Vessel Documentation

§ 67.05-1 Requirement for title evidence.

The owner of a vessel must present title evidence, to the extent specified in this subpart:

(a) When application is made for a coastwise license or a Great Lakes license on behalf of a vessel which has not previously been qualified for such license;

(b) For the initial documentation of the vessel;

(c) When the ownership of a documented vessel changes in whole or in part;

(d) When the general partners of a partnership owning a documented vessel change by addition, deletion, or substitution, without dissolution of the partnership;

(e) When a vessel which has been deleted from documentation is returned to documentation and there has been an intervening change or changes of ownership; or

(f) When the legal name of the owner of a documented vessel changes.

§ 67.05-3 Requirement for removal from foreign registry.

Whenever a vessel which is entering or re-entering documentation has last been registered under the laws of a foreign country, the applicant must provide evidence of the removal of the vessel from foreign registry.

§ 67.05-5 Extent of title evidence required for coastwise or Great Lakes license.

When the owner of a vessel makes application for a coastwise license on behalf of a vessel which is eligible for but which has not previously acquired such license, the owner must provide evidence which establishes a complete chain of title for the vessel accompanied by competent and persuasive evidence establishing the citizenship of each entity in the chain.

§ 67.05-7 Extent of title evidence required for initial documentation.

(a) New vessels—the only title evidence required for a vessel being documented by the owner for whom the vessel was built shall be the certification of builder (CG-1261) described in § 67.09-7, regardless of the license endorsement sought.

(b) Used vessels—the title evidence required for such vessels varies with the type of license endorsement sought:

(1) Where a coastwise or Great Lakes license endorsement is sought, title evidence must be presented in accordance with § 67.05-5.

(2) Where a registry or fishery license endorsement is sought, the vessel owner must produce a copy of the last registration of the vessel (state, federal, or foreign) and evidence which establishes chain of title from that registration to the present owner. (See § 67.09-1 concerning the requirement for a certification of builder where a fisheries license is sought.)

(3) Where a pleasure license endorsement is sought, the owner may, at his option, comply with either paragraph (b)(1) or (b)(2) of this section.

Note.—Imported pleasure vessels are subject to duty under Schedule 6, Part 6, items 696.05 or 696.10 of the Tariff Schedules. Further information on the importation of pleasure vessels may be obtained from the U.S. Customs Service, Washington, D.C. 20229 (Attn: Carrier Rulings Branch).

§ 67.05–9 Extent of title evidence required upon subsequent transfers.

When the ownership of a documented vessel changes, in whole or in part, the applicant for documentation must present the title evidence required by Subpart 67.07 to reflect all ownership changes and citizenship evidence for all owners subsequent to the last documentation.

§ 67.05–11 Extent of title evidence required for change in general partners of partnership.

When a change in the general partners of a partnership owning a documented vessel occurs, the partnership must present the evidence required by § 67.07–13 to reflect the change.

§ 67.05–13 Extent of title evidence required for vessels returning to documentation.

(a) Except as provided in paragraph (b) of this section, when the owner of a vessel which has been deleted from documentation applies to have the vessel returned to documentation, the owner must provide evidence establishing complete chain of title from the last owner under documentation, and citizenship evidence for all owners in that chain.

(b) When a vessel is returned to documentation after having been under foreign registry, the owner must provide evidence establishing complete chain of title from the last owner under the foreign registry. No citizenship evidence need be provided for the owners in that chain.

§ 67.05–15 Extent of title evidence required for captured, forfeited, special legislation, and wrecked vessels.

(a) In the case of a captured or forfeited vessel, the owner must provide evidence establishing chain of title from the point of judicial decree of capture or forfeiture and citizenship evidence for all owners in that chain.

(b) In the case of a wrecked vessel or a vessel which is the subject of special legislation, the owner must provide:

(1) For initial documentation of the vessel, a copy of the last registration, evidence establishing chain of title from the point of that registration, and citizenship evidence for all owners subsequent to the Commandant determination that the vessel is eligible for documentation under 46 U.S.C. 14.

(2) For a previously documented vessel, the title evidence reflecting all ownership changes and citizenship evidence for all owners subsequent to the last documentation.

§ 67.05–17 Extent of evidence required for change of legal name of owner.

When the legal name of the owner of a documented vessel changes, the owner must present such evidence as is required by § 67.07–15 to reflect the change.

Subpart 67.07—Acceptable Title Evidence; Waiver

§ 67.07–1 Original owner.

The builder's certification required by § 67.09–7 serves as evidence of the original owner of a vessel.

§ 67.07–3 Subsequent transfers by sale or donation.

(a) Except as otherwise provided in this Subpart, transfers of vessel title must be evidenced by a bill of sale in recordable form, as described in § 67.31–1, accompanied by a declaration of citizenship from the new owner, executed on the appropriate Maritime Administration form. (See § 67.29–11).

(b) The bill of sale form used may be form CG–1340, or form CG–1356, if appropriate.

(c) An applicant for documentation who cannot produce title evidence which is required in recordable form may apply for a waiver of that requirement by complying with the provisions of § 67.07–17.

§ 67.07–5 Passage of title by court action.

(a) When title to a vessel has passed by court action, that passage must be established by certified copies of the relevant court order(s).

(b) When the authority to transfer title to a vessel has been conferred by court action, that authority must be established by certified copies of the relevant court order(s).

(c) Passage of title subsequent to such court orders must be established in accordance with the remainder of this Subpart.

§ 67.07–7 Passage of title without court action.

(a) When title to a vessel has passed to a surviving joint tenant or tenants or a tenant by the entirety, by reason of the death of a tenant, such passage must be established by a certified copy of the death certificate for the deceased tenant.

(b) Where the laws of the applicable jurisdiction permit passage, without court action, of title to a vessel which was formerly owned in whole or in part by a person now deceased, an applicant seeking to document the vessel must present evidence of compliance with the applicable state law.

(c) Passage of title subsequent to such devolutions must be established in accordance with the remainder of this Subpart.

§ 67.07–9 Passage of title in conjunction with corporate mergers, etc.

(a) When title to a vessel has passed as the result of a corporate merger or similar transaction, wherein the assets of one corporation have been transferred to another, the passage of title must be established by materials which specifically identify the vessel as being among the assets transferred. An example of suitable materials includes the resolution of the board of directors or shareholders of the corporation which held title to the vessel before the transaction.

(b) In jurisdictions where there is an official recognition of the accomplishment of such merger, etc., a certified copy of such official recognition must be provided in addition to the material required by paragraph (a) of this section.

(c) Passage of title subsequent to such merger must be established in accordance with the remainder of this Subpart.

§ 67.07–11 Passage of title by extra-judicial repossession and sale.

(a) When title to a vessel has passed by reason of an extra-judicial repossession and sale, such passage must be established by:

(1) A copy of the instrument under which foreclosure was made;

(2) An affidavit from the foreclosing party setting forth the reasons for foreclosure, the chronology of foreclosure, the statute(s) under which foreclosure was made, and the steps taken to comply with the relevant instrument and statute(s);

(3) Evidence of substantial compliance with the relevant instrument(s) and statutes; and

(4) A bill of sale in recordable form from the foreclosing party as agent for the defaulting owner(s).

(b) Passage of title subsequent to such sale must be established in accordance with the remainder of this Subpart.

§ 67.07–13 Change in general partners of partnership.

(a) When the general partners of a partnership owning a documented vessel change by addition, deletion, or substitution, the change must be established by a written statement from a surviving general partner detailing the nature of the change.

(b) Passage of title subsequent to such change must be established in accordance with the remainder of this Subpart.

§ 67.07-15 Change of legal name of owner.

(a) When the name of a corporation which owns a documented vessel changes, the owner must present certification from the appropriate secretary of state evidencing registration of the change.

(b) When the name of an individual who owns a documented vessel changes for any reason, competent and persuasive evidence establishing the change must be provided.

(c) Passage of title subsequent to such changes must be established in accordance with the remainder of this Subpart.

§ 67.07-17 Waiver of recordable evidence.

(a) When the evidence of title passage required by this Subpart is a recordable bill of sale, and the applicant is unable to produce a bill of sale in recordable form, such applicant may request that the documentation officer where application for documentation or redocumentation is made waive that requirement.

(b) The request for waiver must consist of:

(1) A written statement from the applicant, detailing the reasons why a recordable instrument cannot be obtained; and

(2) Other competent and persuasive evidence of the passage of title.

(c) No waiver of the requirement to produce a recordable bill of sale shall be granted absent other competent and persuasive evidence of title passage.

Subpart 67.09—Build Requirements for Vessel Documentation

§ 67.09-1 Requirement for determination.

Evidence that a vessel was built in the United States must be on file for any vessel for which a coastwise license, a Great Lakes license, or a fishery license is sought, unless the vessel is otherwise qualified for those licenses under Subpart 67.19.

§ 67.09-3 United States built.

A vessel is considered built in the United States if:

(a) All major components of its hull and superstructure are fabricated in the United States; and

(b) The vessel is assembled entirely in the United States; and

(c) At least fifty (50) percent of the cost of all machinery (including propulsion) and components which are not an integral part of the hull or superstructure relates to items procured in the United States.

(d) For the purposes of this section, United States includes American Samoa.

§ 67.09-5 Foreign built.

A vessel is considered foreign built if it does not meet the requirements of § 67.09-3.

§ 67.09-7 Evidence.

(a) Evidence of the facts of building shall be an original form CG-1261, or other original document containing the same information, executed by a person having personal knowledge of the facts of build because he:

(1) Constructed the vessel; or

(2) Supervised the actual construction of the vessel.

(b) The applicant must file a separate certificate from each builder involved in the construction of the vessel.

§ 67.09-9 Waiver of evidence.

(a) If an applicant is unable to obtain the evidence required by § 67.09-7, the owner may apply to the documentation officer at the documentation office where application for documentation is made for a waiver of that requirement.

(b) The application for waiver must consist of:

(1) A request for the waiver, setting forth the reasons why the evidence required by § 67.09-7 cannot be furnished; and

(2) Other competent and persuasive evidence of the facts of building.

(c) No waiver of the requirements imposed by § 67.09-7 may be granted in the absence of competent and persuasive evidence of the facts of build.

Subpart 67.11—Tonnage and Dimension Requirements for Vessel Documentation

§ 67.11-1 Requirement for determination.

Documentation is available only to vessels of at least five (5) net tons. The tonnage and dimensions of a vessel must be determined:

(a) For initial documentation;

(b) Whenever there is a change in the gross or net tonnage or dimensions of a documented vessel; or

(c) When the gross or net tonnage or dimensions of a vessel returning to documentation has changed since the vessel's last documentation.

§ 67.11-3 Method of determination.

The gross and net tonnage and dimensions of a vessel are determined in accordance with 46 CFR Part 69. A Certificate of Admeasurement issued by an authorized official is the only acceptable evidence of the gross and net tonnage and dimensions of a vessel.

Subpart 67.13—Designations Required for Vessel Documentation

§ 67.13-1 Official number designation.

(a) The owner of a vessel must apply to the Commandant, via a documentation officer, using form CG-1258, for designation of an official number for the vessel:

(1) Upon application for initial documentation of the vessel; and

(2) When an existing vessel has been severed, with two (2) or more vessels resulting. In this case, the official number of the original vessel is retired and the owner of each resulting vessel must apply for designation of a new official number.

§ 67.13-3 Home port designation.

(a) The owner of a vessel must designate a home port for that vessel:

(1) Upon initial documentation;

(2) When there is a change in the ownership of the vessel, in whole or in part; or

(3) When there is a change in the home port of the vessel.

(b) The owner must designate the home port according to the following rules:

(1) The home port of a vessel owned by one person is the port of documentation closest to that person's domicile address.

(2) Where two (2) or more persons with different addresses own a vessel, the home port must be the port of documentation closest to the domicile address of any one of the owners.

(3) Where a vessel is owned by a partnership, the home port must be the port of documentation closest to the business address of the partnership.

(4) Where a vessel is owned in a trust arrangement, the home port must be the port of documentation closest to the business address of any one of the trustees.

(5) Where the vessel is owned by a corporation, the home port must be the port of documentation closest to its address within its state of incorporation or the address of its principal place of business.

(6) Where the vessel owner does not reside in the United States or does not have a permanent address in the United States, the home port must be Washington, D.C. For the purposes of this section, the term United States includes American Samoa.

(7) Where the vessel is owned by the federal government or any agency thereof, the home port must be Washington, D.C.

(8) Where the vessel is owned by a state, territory, or possession or any

agency thereof, the home port must be the port of documentation closest to the capital of that entity.

(9) Where the vessel is owned by a political subdivision of a state, territory, or possession, the home port must be the port of documentation closest to that subdivision.

(10) Where the vessel will be operated under a bareboat charter for a term of five (5) years or more, the home port must be determined, in accordance with paragraphs (b) (1)–(9) of this section, using the rule applicable to either the vessel owner or the vessel charterer.

(c) The owner must make application for approval of the home port designated using form CG–1258, which serves as prima facie evidence of the propriety of the designation.

(d) The home port of a documented vessel must not be changed without the approval of the documentation officer at the documentation office where application for home port change is made. Procedures for home port change are discussed at § 67.25–5.

(e) The original form CG–1258 approved by the documentation officer at the documentation office where application for home port change is made constitutes official record of the designated home port.

(f) Until such time as the owner of a vessel is required to designate a home port by paragraphs (a) (2) or (3) of this section, the provisions of this section do not apply to vessels validly documented before the effective date of these regulations.

(g) The OCMI for the documentation office where application for approval of home port designation is made has final authority to settle disputes as to the propriety of that designation.

§ 67.13–5 Vessel name designation.

(a) The owner of a vessel must designate, using form CG–1258, a name for the vessel:

(1) For initial documentation; or

(2) When the owner elects to change the name.

(b) The name designated may not actually be, nor be phonetically identical to, any word or words used to solicit assistance at sea.

(c) The name of a documented vessel may not be changed without the prior approval of the documentation officer at the documentation office where application for name change is made, and payment of the fee prescribed in § 67.43–3. Procedures for changing the name of a vessel are discussed at § 67.25–3.

§ 67.13–7 Hailing port designation.

(a) The owner of a documented vessel must designate a hailing port to be marked on that vessel.

(b) Except as provided in paragraph (d) of this section, the hailing port must be:

(1) The vessel's home port; or

(2) The place which the owner used to determine the home port of the vessel.

(c) When the home port of a vessel is determined in accordance with § 67.13–3(b)(6), the hailing port must be Washington, D.C.

(d) The hailing port must include the state, territory, or possession, and must be a place recognized by the United States Post Office as a bona fide mailing address.

(e) An original form CG–1322 shall be evidence of the hailing port designated.

(f) The OCMI for the documentation office at which application for documentation is made has final authority to settle disputes as to the propriety of the home port designated.

(g) Until such time as the owner of a vessel is required to designate a home port by § 67.13–3(a) (2) or (3), the provisions of this section do not apply to vessels validly documented before the effective date of these regulations.

Subpart 67.15—Marking Requirements for Vessel Documentation

§ 67.15–1 Official number of marking requirement.

The official number of the vessel, preceded by the abbreviation "No." must be marked by any permanent method which cannot be obliterated or obscured, in block-type arabic numerals not less than three (3) inches in height on some clearly visible interior structural part of the hull.

§ 67.15–3 Name and hailing port marking requirements.

(a) Pleasure vessels. For vessels documented exclusively for pleasure, the name and hailing port of the vessel must be marked together in clearly legible letters not less than four (4) inches in height on some clearly visible exterior part of the hull.

(b) Vessels with square bow. For vessels having a square bow, the name of the vessel may be marked in clearly legible letters not less than four (4) inches in height on some clearly visible exterior part of the bow, rather than as specified in paragraph (c) of this section, in order to avoid obliteration. The name and hailing port must be marked in clearly legible letters not less than four (4) inches in height on some clearly visible exterior part of the stern.

(c) Other vessels. For vessels other than those covered in paragraphs (a) and (b) of this section, the name of the vessel must be marked in clearly legible letters not less than (4) inches in height on some clearly visible exterior part of the port and starboard bow and the stern of the vessel. The hailing port of such vessels must be marked in clearly legible letters not less than four (4) inches in height on some clearly visible exterior part of the stern of the vessel.

(d) The markings required by paragraphs (a), (b), and (c), of this section may be made by use of any means and materials which result in durable markings.

§ 67.15–5 Requirement for evidence of marking.

The owner of a vessel must submit evidence of marking:

(a) For every initial documentation;

(b) Whenever there is a change in the name, home port, or hailing port of a documented vessel;

(c) Whenever a vessel which has held a pleasure license only obtains any other license; and

(d) Whenever an official number is designated under the provisions of § 67.13–1(a)(2).

§ 67.15–7 Evidence of marking.

Evidence of marking must be submitted on an original form CG–1322.

§ 67.15–9 Disputes.

The OCMI for the documentation office at which application for documentation is made has final authority in any disputes concerning the permanency, durability, legibility, or placement of a vessel's markings. When such a dispute has been resolved, the owner may file, at the home port of the vessel, photographs depicting the approved markings.

Subpart 67.17—Form of Document; Types of License; Eligibility

§ 67.17–1 Form of document—all licenses.

(a) The form of document is a Certificate of Documentation, form CG–1270.

(b) Upon qualification and proper application, the Certificate of Documentation is endorsed for registry, coastwise license, Great Lakes license, fishery license, or pleasure license.

(c) The Certificate of Documentation may be simultaneously endorsed for operation under as many licenses as the vessel is qualified for (including operation under Subpart 68.01), and for which application has been made. A registry is considered a license.

Note.—Where a vessel possesses a certificate of documentation bearing two (2) or more endorsements, the actual use of the vessel determines the license under which it is operating.

§ 67.17-3 Registry.

(a) A registry endorsement is available to a vessel to be employed in foreign trade; trade with Guam, American Samoa, Wake, Midway, or Kingman Reef; and in other employments for which a coastwise license or Great Lakes license or fishery license is not required.

(b) Any vessel of at least 5 net tons which is wholly owned by a United States citizen or citizens is eligible for a registry endorsement.

Note.—A foreign-built vessel documented under this section is not permitted to engage in dredging or towing in the United States, except in the United States Virgin Islands.

§ 67.17-5 Coastwise license.

(a) A coastwise license endorsement entitles the vessel to employment in the coastwise trade, the fisheries, and in any other employment for which a registry or Great Lakes license is not required.

(b) The following vessels, if at least 5 net tons, if wholly owned by a United States citizen or citizens, and if not restricted from coastwise use by paragraph (c) of this section, are eligible for a coastwise license endorsement:

(1) Vessels built in the United States (§ 67.09-3);

(2) Wrecked vessels (§ 67.19-9);

(3) Forfeited vessels (§ 67.19-5);

(4) Captured vessels (§ 67.19-3);

(5) Vessels granted coastwise trading privileges by special legislation (§ 67.19-7); and

(6) Vessels purchased, chartered, or leased from the Secretary of Commerce by persons who are citizens of the United States. (46 U.S.C. 808)

(c) A vessel otherwise eligible for a coastwise license endorsement under paragraph (b) of this section permanently loses that eligibility if:

(1) It is thereafter sold in whole or in part to an owner that is not a citizen as defined in §§ 67.03-3, 67.03-5, 67.03-7, 67.03-9(a), 67.03-11;

(2) It is thereafter registered under the laws of a foreign country;

(3) It measures 500 gross tons or over and undergoes rebuilding abroad (§ 67.27-3);

(4) It is a crude oil tanker of 20,000 deadweight tons or above, and after 17 October 1978 has installed outside the United States or its territories (not including trust territories) segregated ballast tanks, a crude oil washing system, or an inert gas system.

(d) A vessel otherwise eligible for coastwise license endorsement under paragraph (b) of this section loses that eligibility during any period in which it is owned by a corporation which does not meet the citizenship requirements of § 67.03-9(b).

§ 67.17-7 Great Lakes license.

(a) A Great Lakes license endorsement entitles the vessel to engage in the coastwise trade and the fisheries on the Great Lakes and their tributary and connecting waters, in trade with Canada, and in any other employment for which a registry, a coastwise license, or a fishery license is not required.

(b) The following vessels, if at least 5 net tons, if wholly owned by a United States citizen or citizens, and if not restricted from Great Lakes use by paragraph (c) of this section, are eligible for a Great Lakes license endorsement:

(1) Vessels built in the United States (§ 67.09-3);

(2) Wrecked vessels (§ 67.19-9);

(3) Forfeited vessels (§ 67.19-5);

(4) Captured vessels (§ 67.19-3);

(5) Vessels granted Great Lakes trading privileges by special legislation (§ 67.19-7); and

(6) Vessels purchased, chartered, or leased from the Secretary of Commerce by persons who are citizens of the United States. (46 U.S.C. 808)

(c) A vessel otherwise eligible for a Great Lakes license endorsement under paragraph (b) of this section permanently loses that eligibility if:

(1) It is thereafter sold in whole or in part to an owner that is not a citizen as defined in §§ 67.03-3, 67.03-5, 67.03-7, 67.03-9(a), or 67.03-11;

(2) It is thereafter registered under the laws of a foreign country;

(3) It measures 500 gross tons or over and undergoes rebuilding abroad (§ 67.27-3); or

(4) It is a crude oil tanker of 20,000 deadweight tons or above, and after 17 October 1978, has installed outside the United States or its territories (not including trust territories) segregated ballast tanks, a crude oil washing system, or an inert gas system.

(d) A vessel otherwise eligible for a Great Lakes license endorsement under paragraph (b) of this section loses that eligibility during any period in which it is owned by a corporation which does not meet the citizenship requirements of § 67.03-9(b).

§ 67.17-9 Fishery license.

(a) Subject to federal and state laws regulating the fisheries, a fishery license endorsement entitles the vessel to fish within the fishery conservation zone as defined in 16 U.S.C. 1811 and landward of that zone, and to land its catch, wherever caught, in the United States.

(b) The following vessels, if at least 5 net tons and wholly owned by a United States citizen or citizens, are eligible for a fisheries license endorsement:

(1) Vessels built in the United States (§ 67.09-3);

(2) Wrecked vessels (§ 67.19-9);

(3) Forfeited vessels (§ 67.19-5);

(4) Captured vessels (§ 67.19-3);

(5) Vessels granted fisheries privileges by special legislation. (§ 67.19-7)

§ 67.17-11 Pleasure license.

(a) A pleasure license entitles a vessel to pleasure use only.

(b) Any vessel of at least 5 net tons which is wholly owned by a United States citizen or citizens, is eligible for a pleasure license endorsement.

Note.—A vessel operating under a pleasure license endorsement only may be bareboat chartered for pleasure use only. Guidance on the elements of a valid bareboat charter should be obtained through competent private legal counsel.

Subpart 67.19—Application for Special Qualification of Vessels for Documentation

§ 67.19-1 Submission of applications.

(a) Except as provided in § 67.19-9(b), all applications made under this subpart and all subsequent filings to effect documentation may be submitted to the documentation officer at the home port of the vessel or at the documentation office nearest where the vessel is located.

(b) Once a transaction under this subpart has been initiated at a documentation office, all subsequent filings to complete the transaction must be made at that same port.

§ 67.19-3 Captured vessels.

(a) A captured vessel is one which has been taken by citizens of the United States during a period of war and is thereafter lawfully condemned as a prize by a court of competent jurisdiction.

(b) The applicant must submit a certified copy of the court order stating that the vessel was lawfully captured to establish that the vessel was condemned as a prize.

(c) In addition to the evidence required by paragraph (b) of this section, the owner must make the other submissions required by this Part. Appendix A contains a tabular listing of these requirements.

§ 67.19-5 Forfeited vessels.

(a) A forfeited vessel is:

(1) One which has been adjudged forfeited, by a federal district court, to the federal government of the United States for a breach of its laws; or

(2) One which has been seized by the federal government of the United States for a breach of its laws and which has been sold at an interlocutory sale, the proceeds of which have been adjudged forfeited to the federal government of the United States by a federal district court.

Note.—A vessel is considered forfeited within the meaning of this section even if the proceeds, though adjudged forfeited to the United States, do not actually accrue to that entity.

(b) The applicant must submit a certified copy of the court order declaring the vessel itself to be forfeit or the proceeds of its sale to be forfeit to the federal government of the United States to establish that the vessel is forfeited within the meaning of this section.

(c) In addition to the evidence required by paragraph (b) of this section, the owner must make other submissions required by this Part. Appendix A contains a tabular listing of these requirements.

§ 67.19-7 Special legislation.

(a) Vessels not otherwise entitled to be operated in the coastwise trade, Great Lakes trade or in the fisheries may obtain these privileges as the result of special legislation by the Congress of the United States.

(b) The applicant must submit a copy of the law to establish such entitlement.

(c) In addition to the evidence required by paragraph (b) of this section, the owner must make other submissions required by this Part. Appendix A contains a tabular listing of those requirements.

§ 67.19-9 Wrecked vessels.

(a) Under the provisions of 46 U.S.C. 14, a wrecked vessel is one which:

(1) Has incurred substantial damage to its hull or superstructure as a result of natural or accidental causes which occurred in the United States or its adjacent waters; and

(2) Has undergone, in a shipyard in the United States or its possessions, repairs equaling three (3) times the appraised salved value of the vessel.

(b) The determinations of the appraised salved value and that the repairs made upon the vessel are equal to three (3) times that value must be made by a board of three (3) appraisers. The Commandant will appoint the members of the board, and the cost of the board must be borne by the applicant. The owner of a vessel wishing a determination that the vessel is wrecked within the meaning of 46 U.S.C. 14 must submit to the Commandant:

(1) Competent and persuasive evidence of the casualty and its location. Coast Guard situation or investigation reports are acceptable. Other competent and persuasive evidence may be accepted by the Commandant in his discretion.

(2) A writing setting forth the physical location of the vessel, containing a guarantee that the requesting party assumes full responsibility for all costs, liabilities, and other expenses that arise in conjunction with the services performed by the board of appraisers, and stating that, at the time of documentation, the vessel will be owned by a citizen of the United States.

Note.—Calculation of appraised salved value will include consideration of the fact that the vessel, if in compliance with the Act, will attain costwise and fishery privileges.

(c) After the Commandant's determination that the vessel qualifies for documentation under 46 U.S.C. 14, the owner must submit to the documentation officer at the documentation office at the home port of the vessel or the documentation office nearest where the vessel is located:

(1) The Commandant's letter containing that determination; and

(2) Other submissions required by this Part. Appendix A contains a tabular listing of these requirements.

Subpart 67.21—Initial Application for Documentation

§ 67.21-1 Application form—all licenses.

An owner seeking to document a vessel which has never been documented must begin the application process by filing an original form CG-1258 with the documentation officer at the documentation office at the desired home port of the vessel or at the documentation office nearest where the vessel is located.

§ 67.21-3 Obtaining of official number.

Upon receipt of a properly executed form CG-1258, the documentation officer at the port where application for documentation is made obtains from the Commandant an official number for the vessel, and provides that number to the owner.

§ 67.21-5 Subsequent submissions.

Thereafter, the owner must make, to the documentation officer at the port where the form CG-1258 was filed, the other submissions required by this Part to complete initial documentation. Appendices A or B, as applicable, contain a tabular listing of these requirements.

Subpart 67.23—Period of Validity of Certificate of Documentation; Mortgage Consent

§ 67.23-1 Requirement for renewal.

(a) Except as provided in this Subpart, a Certificate of Documentation is valid for one year. Upon expiration of that year, the owner must apply for renewal of the Certificate, in accordance with § 67.25-1.

§ 67.23-3 Requirement for surrender.

(a) Except as specified in paragraphs (b) and (c) of this section, a Certificate of Documentation issued to a vessel is invalid and subject to surrender upon the occurrence of one or more of the following:

(1) The ownership of the vessel changes in whole or in part;

(2) The general partners of a partnership owning the vessel change by addition, deletion, or substitution;

(3) The home port of the vessel changes;

(4) The gross or net tonnages, or dimensions of the vessel change;

(5) The name of the vessel changes;

(6) The restrictions imposed on the vessel change by addition, deletion, or substitution;

(7) The legal name of any owner of the vessel changes;

(8) A tenant by the entirety owning any part of the vessel dies;

(9) A self-propelled vessel becomes non-self-propelled or a non-self-propelled vessel becomes self-propelled.

(10) The trade endorsements for the vessel change by addition, deletion, or substitution;

(11) The discovery of a substantive or clerical error made by the issuing documentation officer;

(12) The vessel is placed under the command of a person who is not a citizen of the United States. (The document may be re-validated when the vessel is once again placed under the command of a citizen of the United States.); or

(13) The vessel attains a special entitlement under 46 CFR Subpart 67.19.

(b) A Certificate of Documentation remains valid, but is subject to surrender, when the address of the owner changes.

(c) A Certificate of Documentation remains valid for the purposes of Subpart 67.37 only, but is subject to surrender, when the vessel to which the Certificate is issued is covered by a preferred mortgage outstanding of

record and a requirement for surrender arises under paragraph (a) of this section.

(d) When a cause for surrender of a Certificate arises, the owner of the vessel must comply with the provisions of §§ 67.25–3, 67.25–5, 67.25–7, and 67.25–9, as appropriate.

(e) Evidence of surrender shall be the original form CG–1270, properly noted by the documentation officer to whom application is made to reflect the cause(s) of surrender.

§ 67.25–3 Restrictions on surrender; mortgagee consent.

(a) A Certificate of Documentation issued to a vessel which is the subject of a preferred mortgage outstanding of record may not be surrendered for a cause arising under § 67.23–3(a) (1) through (9) without the consent of the mortgagee.

(b) When the consent of the preferred mortgagee is required under paragraph (a) of this section, the owner must comply with the provisions of § 67.25–9.

§ 67.23–7 Requirement for replacement.

(a) An owner must replace a Certificate of Documentation upon the occurrence of one or more of the following:

(1) A cause of surrender arises under § 67.23–3 (a) or (b), and the existing Certificate contains no further spaces for notation of that change; or

(2) The Certificate is lost, mutilated, or wrongfully withheld from the vessel owner.

(b) When a Certificate is replaced because the notation spaces are filled or because the Certificate is mutilated, the existing Certificate must be physically given up to the documentation officer to whom application is made.

(c) When a cause of replacement of a Certificate arises, the owner must make application for replacement in accordance with § 67.25–11.

(d) Evidence of replacement shall be the issuance of a new Certificate of Documentation by the documentation officer at the documentation office where application for replacement is made.

§ 67.23–9 Requirement for deletion.

(a) Except as provided in paragraph (c) of this section, a Certificate of Documentation issued to a vessel is invalid and the vessel is subject to deletion from the roll of actively documented vessels when:

(1) The vessel is placed under foreign flag;

(2) The vessel is transferred in whole or in part to a non-citizen;

(3) Any owner of the vessel ceases to be a citizen within the meaning of §§ 67.03–3, 67.03–5, 67.03–7, or 67.03–9(a);

(4) The owner fails to renew the Certificate as required by § 67.23–1;

(5) The owner fails to surrender the Certificate as required by § 67.23–3;

(6) The owner no longer elects to document the vessel;

(7) The vessel is no longer at least 5 net tons; or

(8) The vessel ceases to be capable of being used as a means of transportation on water.

(b) Where a cause for deletion arises, except when it arises under paragraphs (a) (4) and (5) of this section, the owner must make application for deletion in accordance with § 67.25–13.

(c) A Certificate of Documentation issued to a vessel which is the subject of a preferred mortgage remains valid for the sole purpose of preserving the preferred status of that mortgage and the vessel may not be deleted under the provisions of paragraph (a) of this section so long as the preferred mortgage remains outstanding of record.

(d) Certificates issues to vessels subject to deletion must be physically given up to a documentation officer.

Note.—Certificates for vessels which have been deleted are filed with Commandant (G–MVD).

§ 67.23–11 Requirement for cancellation.

(a) Except as provided in paragraph (c) of this section, a Certificate of Documentation is invalid and subject to cancellation upon a determination by the Commandant or a documentation officer that the issuance of the Certificate was improper for any reason.

(b) When a Certificate is subject to cancellation, the owner must comply with the provisions of § 67.25–15.

(c) A Certificate of Documentation issued to a vessel which is the subject of a preferred mortgage remains valid for the sole purpose of preserving the preferred status of that mortgage and may not be cancelled so long as the preferred mortgage remains outstanding of record. Such a Certificate may, however, be subject to surrender to correct the error which would normally give rise to cancellation.

Note.—Certificates which have been cancelled are filed with Commandant (G–MVD).

Subpart 67.25—Subsequent Applications—Renewals, Changes, Etc.

§ 67.25–1 Renewals.

(a) When the renewal of a vessel's Certificate of Documentation is required under § 67.23–1, the owner must execute and submit an original form CG–1280 to the documentation officer at the vessel's home port before the last day of the month in which the Certificate expires.

(b) Upon receipt of a properly executed form CG–1280, reflecting that the Certificate of Documentation remains in existence and accurate, the documentation officer forwards to the vessel owner a renewal decal, form CG–1280–A. The owner must affix that decal to the Certificate of Documentation. The presence of a current renewal decal is evidence that the Certificate of Documentation has been renewed.

§ 67.25–3 Surrender—Change of name.

(a) When the owner of a documented vessel elects to change the name of that vessel, the owner must:

(1) File an original form CG–1258 and the fee prescribed by § 67.43–3 with the documentation officer at the documentation office at the vessel's home port or the port of documentation nearest where the vessel is located;

(2) If the vessel is the subject of a preferred mortgage outstanding of record file an original form CG–4593, evidencing mortgagee consent to the change;

(3) Upon being notified that the name change is approved, mark the new name in accordance with § 67.15–3 and file with the documentation officer to whom application was made evidence of that marking, in accordance with § 67.15–7, and surrender the outstanding Certificate of Documentation for notation of the change.

(b) Evidence that approval for a name change has been granted shall be an original form CG–1258, approved by the documentation officer.

(c) An approval for change of name lapses after three (3) months from the date of approval unless the vessel is properly marked with the new name and the Certificate of Documentation is appropriately surrendered within that time.

§ 67.25–5 Surrender—Change of home port.

When the owner of a documented vessel elects or is required to change the home port of a vessel, the owner must:

(a) In accordance with §§ 67.41–1 and 67.43–9(b), request that the documentation officer at the present home port forward an Abstract of Title (form CG–1332) to the home port to be designated for the vessel;

(b) File an original form CG–1258 with the documentation officer at the documentation office at the home port to be designated for the vessel or the port of documentation nearest where the vessel is located;

(c) If the vessel is the subject of a preferred mortgage outstanding of record file an original form CG–4593, evidencing mortgagee consent to the change;

(d) Upon being notified that the designation has been approved, mark the hailing port of the vessel in accordance with § 67.15–3; and

(e) Submit evidence of that marking, as required by § 67.15–7, to the documentation officer where application for home port change was made; and

(f) Surrender the Certificate of Documentation for notation of that change.

Note.—In the case of a simultaneous change of owner and home port these procedures must be followed by the new owner of the vessel.

§ 67.25–7 Surrender—All other causes.

For all other causes of surrender, the owner of the vessel must file CG–1258, present the original Certificate of Documentation, and make the other submissions required by this Part to the documentation officer at the documentation office at the home port or port of documentation nearest where the vessel is located. Appendix C contains a tabular listing of these requirements. Appendix A contains a tabular listing of these requirements for vessels which attain special privileges under 46 CFR Subpart 67.19.

§ 67.25–9 Surrender—Procedure for mortgagee consent.

(a) When mortgagee consent to surrender is required by 46 CFR 67.23–5, the applicant must submit a properly executed original form CG–4593 to the documentation officer at the documentation office where application for surrender is made.

(b) If application for surrender is made to a documentation officer at a documentation office other than the office at the vessel's home port, form CG–4593 must be accompanied by an original Certificate of Ownership (form CG–1330) issued at the home port not more than fifteen (15) days prior to the date of the application.

(c) For the purposes of this section, a simultaneous surrender and replacement is considered a surrender.

§ 67.25–11 Replacements.

(a) When the owner of a documented vessel alleges that the Certificate of Documentation for that vessel has been wrongfully withheld the owner must:

(1) Submit to the Commandant via the documentation officer at the documentation office at which application for replacement will be made a statement setting forth the reasons for that allegation;

(2) Upon the Commandant's finding a wrongful withholding, apply for and receive a replacement document by submitting a CG–1258 to the same documentation office.

(b) In all other cases in which a requirement for replacement arises under § 67.23–7, the owner must apply for a replacement Certificate by filing form CG–1258, the original Certificate of Documentation, if appropriate, and the other submissions required by this Part to the documentation officer at the documentation office at the home port or port of documentation nearest where the vessel is located. Appendix C contains a tabular listing of these requirements.

§ 67.25–13 Deletions.

(a) When a Certificate of Documentation is required to be deleted because the vessel has been placed under foreign flag or has been sold in whole or in part to a non-citizen, the owner of that vessel must file, with the documentation officer at the vessel's home port, evidence of the sale or transfer, if any, evidence that the Maritime Administration has consented to the transfer or sale, and the original Certificate of Documentation.

(b) In all other cases where deletion is required by § 67.23–9, the owner must deliver the original Certificate of Documentation to the documentation officer at the documentation office at the home port of the vessel. Appendix C contains a tabular listing of the deletion requirements.

§ 67.25–15 Cancellations.

When a Certificate of Documentation is required to be cancelled under § 67.23–11, the owner of the vessel, upon being notified of such requirement, must deliver the Certificate to the documentation officer at the documentation office which issued the certificate.

Subpart 67.27—Miscellaneous Applications

§ 67.27–1 Application for new vessel determination.

(a) A vessel is new if:

(1) Its hull and superstructure are constructed entirely of new materials; or

(2) It is constructed using structural parts of an existing vessel, which parts have been torn down so that they are no longer advanced to a degree which would commit them to use in the building of a vessel.

(b) When the vessel has been constructed entirely of new materials, no application need be made under this section. A normal application for initial documentation must be made in accordance with Subpart 67.21.

(c) When the owner of a vessel has used parts of an existing vessel in construction of that vessel, and wishes a determination that the resulting vessel is new, he must file with the Commandant:

(1) A builder's certification, as described in § 67.09–7;

(2) A certificate describing the extent to which materials from the existing vessel were used in the construction and the extent to which those materials were torn down;

(3) Accurate sketches or blueprints of the hull and superstructure which identify, where practicable, components of the old vessel; and

(4) The fee prescribed by § 67.43–5.

§ 67.27–3 Required application for rebuilt determination.

(a) A vessel is rebuilt when any considerable part of its hull or superstructure is built upon or is substantially altered.

(b) The owner of a vessel which measures at least 500 gross tons and which has not previously lost its coastwise privileges must file with the Commandant the items listed in paragraph (c) of this section if:

(1) The vessel is altered outside the United States in a manner which gives rise to a reasonable belief that the vessel is rebuilt; or

(2) A major component of the hull and superstructure, not built in the United States, is added to the vessel.

For the purpose of this section, the term United States includes American Samoa.

(c) The required submissions must consist of:

(1) A certificate outlining the work performed and naming the place where the work was performed; and

(2) Accurate sketches or blueprints describing the work performed.

§ 67.27–5 Registration of funnel marks and house flags.

(a) The owner of a vessel or vessels seeking to register a house flag or funnel mark or both must submit an application to the Commandant accompanied by the fee prescribed in § 67.43–1.

(1) The application for registration of a house flag must consist of three (3) copies of technical drawings describing such flag in detail, showing the colors, shape, and proportionate dimensions of the flag, field, union, or canton, and any insignia, markings, or stripes thereon in relation to the length of the hoist.

(2) The application for registration of funnel marks must consist of three (3) copies of technical drawings showing

those marks in detail, the colors to be used, and the position of any insignia, markings, or stripes with relation to the top or collar of the funnel, the size of such insignia, markings, or stripes in relation to the diameter of the funnel, and the color of the remainder of the funnel.

(3) The drawings may not exceed 6" by 4" in size, may be made in any permanent medium, and must reasonably depict the colors actually used.

(4) The flag or funnel mark must be clearly distinguishable from any previously registered and clearly distinguishable from distress signals prescribed by treaty, custom, statute, or regulation.

Subpart 67.29—Recordation of Instruments—General Provisions

§ 67.29–1 Instruments eligible for recordation.

The following instruments, and no others, are eligible for recordation:

(a) Bills of sale and instruments in the nature of bills of sale;

(b) Deeds of gift;

(c) Chattel mortgages, and assignments, assumptions, supplements, amendments, satisfactions, and releases thereof;

(d) Preferred mortgages, and assignments, assumptions, supplements, amendments, satisfactions, and releases thereof;

(e) Notices of claim of lien and satisfactions and releases thereof; and

(f) Abstracts of title upon the change of the home port of a documented or previously documented vessel.

§ 67.29–3 Restrictions on recordation.

(a) An instrument otherwise eligible for recordation under § 67.29–1 (a), (b), or (c) may not be recorded if any vendee, donee, mortgagee, or assignee under the instrument is not a citizen of the United States as defined in 46 U.S.C. 802 unless the Maritime Administration has consented to the grant to a non-citizen made under the instrument.

(b) The restriction imposed by paragraph (a) of this section does not apply to a bill of sale or deed of gift conveying an interest in a vessel which was neither documented nor was last documented pursuant to these regulations or any predecessor regulations thereto, at the time the instrument was executed.

(c) An instrument otherwise eligible for recordation under § 67.29–1(d) may not be recorded as preferred if any vendee, donee, mortgagee, or assignee under the instrument is not a citizen as defined in 46 U.S.C. 802.

(d) An instrument otherwise eligible for recordation under § 67.29–1 (a) through (e) may not be recorded if it bears a material alteration.

§ 67.29–5 Requirement for vessel identification.

(a) Except as specified in paragraph (b) of this section, every instrument presented for recordation must identify the vessel(s) it concerns by name(s) and official number(s).

(b) When an instrument in the nature of a bill of sale or a deed of gift is presented for a vessel which has never been documented, the instrument, in lieu of stating the official number, must contain sufficient information to identify the vessel clearly.

§ 67.29–7 Requirement for date and acknowledgement.

(a) Every instrument presented for recordation, except an Abstract of Title, must:

(1) Bear the date of its execution; and

(2) Contain an acknowledgement taken in accordance with the laws of the state in which the instrument was executed.

(b) No officer or employee of the Coast Guard is authorized to take such acknowledgements.

§ 67.29–9 Required number of copies.

Except as provided in § 67.37–7 with respect to preferred mortgages, all instruments submitted for recordation must be submitted in duplicate; at least one copy must bear original signatures.

§ 67.29–11 Requirement for citizenship declaration.

(a) The instruments specified in Subparts 67.31, 67.33, and 67.37, are not recordable unless accompanied by a properly executed citizenship declaration from the grantee.

(b) The requirement for presentation of a citizenship declaration does not apply to instruments in which the grantee is a government of the United States or a political subdivision thereof. The requirement does apply to corporate entities which are not agencies of such governments.

(c) Citizenship declarations must be executed on the form prescribed by the Maritime Administration at 46 CFR 221.11. These forms are available from documentation officers at all ports of documentation.

§ 67.29–13 Place of recordation.

(a) All recordations are made at the documentation office at the home port of the vessel(s) affected by the instrument.

(b) No recordation may be made unless there is a valid and approved designation of home port for the vessel(s) affected by the instrument.

(c) Where the home port of a vessel is being changed, and recordation is sought at the new home port, the recordation cannot be effected until the documentation officer at the new home port has received and recorded the vessel's Abstract of Title as provided in § 67.41–1.

§ 67.29–15 Date and time of recordation.

The date and time of recordation of an instrument is the actual date and time at which the recording documentation officer designates the book into which the instrument will be placed and the page it will occupy in that book. The designation of book and page is not made until the documentation officer is satisfied that all requirements for recordation are met.

Subpart 67.31—Recordation of Instruments—Bills of Sale, Etc.

§ 67.31–1 General requirements.

An instrument in the nature of a bill of sale or a deed of gift presented for recordation must meet all the requirements of Subpart 67.29, in addition to the requirements of this subpart and must be accompanied by citizenship declarations from all buyers or donees.

§ 67.31–3 Required signatures.

An instrument presented for recordation under this subpart must be signed by or on behalf of the seller(s) or donor(s).

§ 67.31–5 Required recitations.

An instrument presented for recordation under this subpart must recite:

(a) The name(s) of the seller(s) or donor(s) and the individual interest in the vessel held by each seller or donor; and

(b) The name(s) of the buyer(s) or donee(s) and the individual interest in the vessel transferred to each buyer or donee.

§ 67.31–7 When filing permitted.

An instrument presented for recordation under this subpart must be filed in conjunction with either an application for initial documentation or redocumentation of the vessel or a surrender of the vessel's outstanding Certificate of Documentation.

Subpart 67.33—Recordation of Instruments—Chattel Mortgages and Related Instruments

§ 67.33-1 General requirements for chattel mortgages.

(a) A chattel mortgage presented for recordation must meet all the requirements of Subpart 67.29, and the requirements of §§ 67.33-3 and 67.33-5, and must be accompanied by a citizenship declaration from each mortgagee.

(b) An instrument which meets the requirements of paragraph (a) of this section is nonetheless not eligible for recordation if the mortgagor did not actually hold legal title to the interest in the vessel being mortgaged at the time of execution and recordation of the mortgage.

§ 67.33-3 Required signatures.

A chattel mortgage presented for recordation must be signed by or on behalf of the mortgagor.

§ 67.33-5 Required recitations.

A chattel mortgage presented for recordation must recite:

(a) The name(s) of the mortgagor(s) and the individual interest in the vessel held by each mortgagor;

(b) The name(s) of the mortgagee(s) and the individual interest in the vessel mortgaged to each mortgagee; and

(c) The amount and maturity date of the mortgage. A mortgage reciting the amount in foreign currency must also recite the amount in United States currency at the then applicable conversion rate.

Note.—Where doubt exists as to the adequacy or clarity of the notice provided in a contemplated mortgage instrument, with respect to amount or maturity date, a prospective letter ruling should be sought from the Commandant.

§ 67.33-7 General requirements for assignments of chattel mortgages.

An assignment of chattel mortgage presented for recordation must meet all the requirements of Subpart 67.29, and the requirements of §§ 67.33-9 and 67.33-11, and must be accompanied by a citizenship declaration from each assignee.

§ 67.33-9 Required signatures.

An assignment of chattel mortgage presented for recordation must be signed by or on behalf of the assignor(s).

§ 67.33-11 Required recitations.

An assignment of chattel mortgage presented for recordation must recite:

(a) The name(s) of the assignor(s) and the individual interest in the mortgage held by each assignor;

(b) The name(s) of the assignee(s) and the individual interest in the vessel assigned to each assignee; and

(c) The date and time of recordation of the mortgage being assigned and the book and page where that mortgage is recorded.

§ 67.33-13 General requirements for assumptions of chattel mortgages.

(a) An assumption of chattel mortgage presented for recordation must meet all the requirements of Subpart 67.29, and the requirements of §§ 67.33-15 and 67.33-17.

(b) An instrument which meets the requirements of paragraph (a) of this section is nonetheless not eligible for recordation if the assuming party did not hold legal title to the interest in the vessel covered by the assumption at the time of execution and recordation of the assumption.

§ 67.33-15 Required signatures.

An assumption of chattel mortgage presented for recordation must be signed by or on behalf of the original mortgagor(s), the mortgagee(s) and the assuming party(ies).

§ 67.33-17 Required recitations.

An assumption of chattel mortgage presented for recordation must recite:

(a) The name(s) of the original mortgagor(s) and the individual interest in the vessel mortgaged by the original mortgagor(s);

(b) The name(s) of the assuming party(ies) and the individual interest in the mortgage assumed by each party;

(c) The date and time of recordation of the mortgage being assumed and the book and page where that mortgage is recorded.

§ 67.33-19 General requirements for amendments of or supplements to chattel mortgages.

An amendment of or supplement to a chattel mortgage presented for recordation must meet all the requirements of Subpart 67.29 and the requirements of §§ 67.33-21 and 67.33-23.

§ 67.33-21 Required signatures.

An amendment of or supplement to a chattel mortgage presented for recordation must be signed by or on behalf of the mortgagor(s) and the mortgagee(s).

§ 67.33-23 Required recitations.

An amendment of or supplement to a chattel mortgage must recite:

(a) The names of the mortgagor(s) and mortgagee(s);

(b) The nature of the change effected by the instrument; and

(c) The date and time of recordation of the mortgage being amended or supplemented, and the book and page where that mortgage is recorded.

Subpart 67.35—Recordation of Instruments—Notices of Claims of Lien

§ 67.35-1 General requirements.

A notice of claims of lien presented for recordation must meet all the requirements of Subpart 67.29 and the requirements of this subpart.

§ 67.35-3 Required signatures.

A notice of claim of lien presented for recordation must be signed by or on behalf of the claimant.

§ 67.35-5 Required recitations.

A notice of claim of lien presented for recordation must recite:

(a) The name and address of the claimant;

(b) The nature of the lien claimed;

(c) The date(s) on which the claim arose; and

(d) The amount of the claim.

§ 67.35-7 Restrictions on recordation.

A notice of claims of lien is not entitled to recordation unless the vessel against which the lien is claimed is the subject of a preferred mortgage outstanding of record.

Subpart 67.37—Recordation of Instruments—Preferred Mortgages and Related Instruments

§ 67.37-1 General requirements for preferred mortgages.

(a) A mortgage presented for recordation, indexing, and endorsement as a preferred mortgage must:

(1) Meet all the requirements for recordation of a chattel mortgage contained in Subpart 67.29 and §§ 67.33-1 and 67.33-3;

(2) Cover the whole of a vessel which was a documented vessel at the time the mortgage was made;

(3) Be accompanied by an affidavit from the mortgator(s) to the effect that it is made in good faith and without any design to hinder, delay or defraud any existing or future creditor or any lienor of the vessel; and

(4) If covering a vessel measuring less than twenty-five (25) gross tons, include or be accompanied by a statement that the vessel is not a towboat, barge, scow, lighter, car float, canal boat or tank vessel.

(b) A mortgage which also secures property other than a vessel is not eligible for indexing and endorsement as a preferred mortgage unless it clearly

identifies the separate property and provides a separate discharge for that property.

(c) A mortgage which secures more than one (1) vessel may, at the option of the parties, provide for separate discharge of such vessels.

§ 67.37-3 Necessity for presentation of certificate of documentation.

(a) Under the provisions of 46 U.S.C. 922, a mortgage which meets the requirements of § 67.37-1 may not be treated as a preferred mortgage in the vessel records until that mortgage has been endorsed on the Certificate of Documentation by the documentation officer at the documentation office at the vessel's home port, or at the port of documentation nearest where the vessel is located.

(b) The date and time of endorsement are the date and time when the mortgage information is physically entered on the original Certificate of Documentation.

§ 67.37-5 Restrictions on recordation.

An instrument which meets the requirements of § 67.37-1 is nonetheless not eligible for indexing and endorsement as a preferred mortgage if:

(a) The mortgagee is not a citizen of the United States as defined in 46 U.S.C. 802;

(b) The mortgage contains language which constitutes a waiver of the preferred status of that mortgage; or

(c) The mortgagor did not actually hold legal title to the subject vessel at the time of the execution and recordation of the mortgage.

§ 67.37-7 Required number of copies.

(a) Except as provided in paragraph (b) of this section, each filing of a preferred mortgage must consist of an original, a copy to be retained at the home port, a copy to be certified for the owner, and a copy to be certified for each vessel covered by the mortgage. The original mortgage, the mortgage copy retained by the home port, and the affidavit described in § 67.37-1(a)(4) must bear original signatures.

(b) A copy for certification is not required for a non-self-propelled vessel.

§ 67.37-9 Requirements for instruments supplemental to preferred mortgages.

An assignment, assumption, amendment or supplement to a preferred mortgage presented for recordation, indexing, and endorsement must:

(a) Meet the recordability requirements of equivalent instruments in Subpart 67.33;

(b) Be filed in the number of copies required by § 67.37-7; and

(c) Be accompanied by an affidavit as described in § 67.37-1(a)(4), from the assignor(s), assuming party(ies), or mortgagor(s), as appropriate.

§ 67.37-11 Restrictions on recordation.

An assignment, assumption, amendment, or supplement to a preferred mortgage otherwise entitled to recordation shall not be recorded, indexed or endorsed as preferred if:

(a) It results in a mortgage interest being held by other than a citizen of the United States as defined in 46 U.S.C. 802; or

(b) It contains language that constitutes a waiver of the preferred status of the mortgage.

Subpart 67.39—Removal of Encumbrances

§ 67.39-1 General requirements.

A chattel mortgage, notice of claim of lien, or preferred mortgage outstanding on the record on a vessel may be removed from that record by the filing of:

(a) A court order described in § 67.39-3; or

(b) A recordable satisfaction or release instrument described in §§ 67.39-5 through 67.39-9.

§ 67.39-3 Requirements for removal of encumbrances by court order.

The encumbrances described in § 67.39-1 are removed from the record of a vessel upon presentation of:

(a) A certified copy of an order from a court of competent jurisdiction declaring title to the vessel to be free and clear, or declaring the encumbrance to be of no effect, or ordering the removal of the encumbrance from the record; or

(b) A certified copy of an order from a federal district court in an *in rem* action requiring the free and clear sale of a vessel at a marshal's sale accompanied by a certified copy of the order confirming such sale, where issued under local judicial procedures.

§ 67.39-5 General requirements for instruments evidencing satisfaction or release.

An instrument satisfying or releasing a chattel mortgage, a notice of claim of lien, or a preferred mortgage, which is presented for recordation must meet all the requirements of Subpart 67.29, and the requirements of §§ 67.39-7 and 67.39-9.

§ 67.39-7 Required signatures.

(a) A satisfaction or release of a chattel or preferred mortgage must be signed by or on behalf of the mortgagee(s).

(b) A satisfaction or release of a notice of claim of lien must be signed by or on behalf of the claimant(s).

§ 67.39-9 Required recitations.

A satisfaction or release instrument must recite:

(a) The name(s) of the mortgagor(s) if any and the name(s) of the mortgagee(s) or claimant(s);

(b) The amount of the mortgage or lien; and

(c) The date and time of recordation of the mortgage or lien being satisfied or released and the book and page where the mortgage or lien is recorded.

Subpart 67.41—Abstracts of Title and Certificates of Ownership

§ 67.41-1 Requirement for Abstract of Title.

Whenever the home port of a documented vessel changes, the owner of the vessel must apply to the documentation officer at the documentation office at the existing home port of the vessel for forwarding to the new home port an Abstract of Title, on form CG-1332.

§ 67.41-3 Optional request for Abstract of Title.

Any person may request from the documentation officer at the documentation office at the home port of a vessel and Abstract of Title for that vessel. Abstracts of Title issued pursuant to this section shall not be used to effect a change of home port.

§ 67.41-5 Request for Certificate of Ownership.

Any person may request a certification on form CG-1330 setting forth the ownership of that vessel and the encumbrances outstanding on the record of that vessel. The request must be made to the documentation officer at the documentation office at the home port of the vessel.

Subpart 67.43—Fees

§ 67.43-1 Application for registration of funnel marks and house flags.

The fee for registering a funnel mark or a house flag is $100.00.

§ 67.43-3 Application for name change.

The fee for applying for permission to change the name of a documented vessel is $100.00. This fee also applies when a previously documented vessel is returned to documentation under a new name.

§ 67.43–5 Application for new vessel determination.

The fee for applying for a new vessel determination under § 67.27–1 is $200.00.

§ 67.43–7 Application for qualification as a wrecked vessel.

The fee for applying for a vessel to be qualified as a wrecked vessel is $200.00. This fee is in addition to the costs associated with the vessel appraisals.

§ 67.43–9 Copies of records.

(a) Certificates of Ownership—The fee for issuance of a Certificate of Ownership is $1.00.

(b) Abstract of Title—The fee for issuance of an abstract of title, whether or not for record, is $0.20 for each folio (100 words), with a minimum fee of $1.00.

(c) Recorded instruments—The fee for furnishing a certified copy of a recorded instrument is the same as the original recording fee.

(d) Other Documents: The fee for furnishing a copy of any other document is calculated in accordance with 49 CFR 7.95.

§ 67.43–11 Pleasure vessels.

(a) The fee for initial documentation of a pleasure vessel is $100.00.

(b) The fee for surrender or replacement or the simultaneous surrender and replacement of a Certificate of Documentation issued to a pleasure vessel is $50.00. This fee also applies when a previously documented vessel is returned to documentation. The simultaneous occurrence of several reasons for surrender does not result in multiple application of fees. This fee does not apply to (1) surrenders or replacements occurring solely by reason of a change in the owner's address; (2) surrenders or replacements occurring solely by reason of a clerical error on the part of a documentation officer; nor (3) replacements occurring because of a wrongful withholding.

(c) The fees imposed in paragraphs (a) and (b) of this section are in addition to those imposed by §§ 67.43–13.

Note.—The fees imposed in paragraph (b) of this section do not apply when a transaction results in the imposition of a fee under § 67.43–3.

§ 67.43.13 Recordation of instruments.

(a) The fee for recording a bill of sale, deed of gift, chattel mortgage, or instrument supplemental to a chattel mortgage, shall be $0.20 for each folio (100 words), with a minimum charge of $1.00.

(b) The fee for recording a preferred mortgage, assignment of preferred mortgage, supplement to a preferred mortgage, or amendment of preferred mortgage, shall be $0.20 for each folio, with a minimum charge of $1.00. The fee is applied to the original instrument and each certified copy thereof, up to ten (10) certified copies. The fee for certified copies in excess of ten (10) is $1.00 for each copy.

Subpart 67.45—Prohibitions

§ 67.45–1 Alteration of Certificate.

No person other than a documentation officer shall intentionally alter a Certificate of Documentation.

§ 67.45–3 Command by non-citizen.

No documented vessel shall be commanded by other than a United States citizen.

§ 67.45–5 Failure to have Certificate on board.

(a) The person in command of a documented vessel must have on board that vessel the Certificate of Documentation issued to that vessel.

(b) This requirement shall not apply:

(1) To non-self-propelled vessels not engaged in foreign trade; nor

(2) When the Certificate of Documentation is being submitted to a documentation officer for purposes of surrender, replacement, or the endorsement of a preferred mortgage; nor

(3) When the vessel is in storage or out of the water.

§ 67.45–7 Failure to produce certificate.

(a) The person in command of a documented vessel must produce the Certificate of Documentation issued to that vessel upon the lawful demand of any person acting in an official public capacity.

(b) This requirement shall not apply:

(1) To non-self-propelled vessels not engaged in foreign trade; nor

(2) When the Certificate of Documentation is being submitted to a documentation officer for purposes of surrender, replacement, or the endorsement of a preferred mortgage; nor

(3) When the vessel is in storage or out of the water.

§ 67.45–9 Failure to renew Certificate.

The owner of a documented vessel must renew the Certificate of Documentation issued that vessel, as required by § 67.23–1.

§ 67.45–11 Failure to surrender Certificate.

The owner of a documented vessel must surrender a Certificate of Documentation which has become invalid under Subpart 67.23.

§ 67.45–13 Fraudulent application for Certificate.

(a) No owner of a vessel, no person purporting to act on behalf of an owner, shall knowingly falsify or conceal a material fact in connection with the documentation of that vessel.

(b) No owner of a vessel, nor person purporting to act on behalf of an owner, shall knowingly make a false statement or representation in connection with the documentation of that vessel.

§ 67.45–15 Fraudulent use of Certificate.

No Certificate of Documentation shall be knowingly used in a fraudulent manner.

§ 67.45–17 Improper markings.

The owner of a documented vessel must not permit the operation of that vessel unless it is marked in accordance with Subpart 67.15.

§ 67.45–19 Violation of license.

A vessel may not be employed in any trade other than a trade covered by the Certificate of Documentation issued for that vessel. A documented pleasure vessel may not be used for purposes other than pleasure.

§ 67.45–21 Operation without documentation.

No vessel which is required by § 67.01–5 to be documented shall engage in the coastwise trade, the Great Lakes trade, nor the fisheries without being documented.

§ 67.45–23 Operation under invalid Certificate.

No vessel shall be operated under a Certificate of Documentation which has become invalid under Subpart 67.23.

§ 67.45–25 Unauthorized name change.

The owner of a documented vessel may neither change nor allow the change of the name of that vessel without authorization under §§ 67.13–5 and 67.25–3.

Appendix A to 46 CFR Part 67

ADDITIONAL REQUIREMENTS FOR SPECIALLY QUALIFIED VESSELS UNDER 46 CFR SUBPART 67.19

Vessel type	Initial or subsequent application for documentation	Requirements	Refer to
Captured (§ 67.19-3); or forfeited (§ 67.19-5).	Initial	1. Application form CG-1258)	Section 67.21-1.
		2. Tonnage evidence	Section 67.11-3.
		3. Marking evidence	Section 67.15-7.
		4. Title evidence from point of court determination	Section 67.05-15(a); Subpart 67.07.
		5. Citizenship evidence from point of court determination	Section 67.05-15(a).
		6. [Citizenship declaration]	Section 67.29-11.
		7. [Recording fee]	Section 67.43-13.
	Subsequent	1. Application form (CG-1258)	Section 67.21-1.
		2. [Marking evidence]	Section 67.15-5, 7.
		3. Title evidence from point of court determination	Section 67.05-15(a); Subpart 67.07.
		4. [Citizenship declaration]	Section 67.29-11
		5. [Recording fee]	Section 67.43-13.
Special legislation (§ 67.19-7)	Initial	1. Application form (CG-1258)	Section 67.21-1.
		2. Tonnage evidence	Section 67.11-3.
		3. Marking evidence	Section 67.15-7.
		4. Copy of last registration	Section 67.05-15(b)(1).
		5. Title evidence from last registration	Section 67.05-15(b)(1); Subpart 67.07.
		6. Citizenship evidence from point of last registration	Section 67.05-15(b)(1).
		7. [Evidence of removal from foreign registry]	Section 67.05-15(b)(1).
		8. [Citizenship declaration]	Section 67.29-11.
		9. [Recording fee]	Section 67.43-13.
	Subsequent	1. Application form (CG-1258)	Section 67.21-1.
		2. [Marking evidence]	Section 67.15-5, 7.
		3. [Evidence of removal from foreign registry]	Section 67.05-15(b)(2).
Special legislation	Subsequent	4. Title evidence from last documentation	Section 67.05-15(b)(2); Subpart 67.07.
		5. [Citizenship declaration]	Section 67.29-11.
		6. [Recording fee]	Section 67.43-13.
Wrecked (§ 67.19-9)	Initial	1. Application form (CG-1258)	Section 67.21-1.
		2. Tonnage evidence	Section 67.11-3.
		3. Marking evidence	Section 67.15-7.
		4. Title evidence from point of administrative determination	Section 67.05-15(a).
		5. Citizenship evidence from point of administrative determination	Section 67.05-15(a).
		6. [Citizenship declaration]	Section 67.29-11.
		7. [Recording fee]	Section 67.43-13.
	Subsequent	1. Application form (CG-1258)	Section 67.21-1.
		2. Tonnage evidence	Section 67.11-3.
		3. Marking evidence	Section 67.15-5, 7.
		4. Title evidence from point of administrative determination	Section 67.05-15(a).
		5. [Citizenship declaration]	Section 67.29-11.
		6. [Recording fee]	Section 67.43-13.

NOTE.—Brackets indicates requirement not necessarily applicable to all transactions. These requirements apply regardless of license sought.

Appendix B to 46 CFR Part 67

REQUIREMENTS FOR INITIAL DOCUMENTATION UNDER 46 CFR SUBPART 67.23

License sought	Vessel	Method	Requirements	Refer to
Registry (§ 67.17-3)	New	N/A	1. Application form (CG-1258)	Section 67.21-1.
			2. Tonnage evidence	Section 67.11-3.
			3. Marking evidence	Section 67.15-7.
			4. Build evidence to establish title	Sections 67.09-7, 11, 67.05-7(a), and 67.07-1.
	Used	N/A	1. Application form (CG-1258)	Section 67.21-1.
			2. Tonnage evidence	Section 67.11-3.
			3. Marking evidence	Section 67.15-7.
			4. Copy of last registration	Section 67.05-7(b)(2).
			5. [Evidence of removal from foreign registry]	Section 67.05-3.
			6. Title evidence from last registration	Section 67.05-7(b)(2); Subpart 67.07.
			7. [Citizenship declaration]	Section 67.29-11.
			8. [Recording fee]	Section 67.43-13.
Coastwise or Great Lakes (§§ 67.17-5 and 7).	New	N/A	1. Application form (CG-1258)	Section 67.21-1.
			2. Tonnage evidence	Section 67.11-3.
			3. Build evidence	Sections 67.09-1,7, 67.05-7(a), and 67.07-1.
			4. Marking evidence	Section 67.15-7.
	Used	N/A	1. Application form (CG-1258)	Section 67.21-1.
			2. Tonnage evidence	Section 67.11-3.
			3. Marking evidence	Section 67.15-7.
			4. Build evidence	Section 67.09-1, 7.
			5. Evidence of complete chain of title	Section 67.05-5, Subpart 67.07.
			6. Citizenship evidence for all owning entities in chain	Section 67.05-5.
			7. [Citizenship declaration]	Section 67.29-11.
			8. [Recording fee]	Section 67.43-13.

REQUIREMENTS FOR INITIAL DOCUMENTATION UNDER 46 CFR SUBPART 67.23—Continued

License sought	Vessel	Method	Requirements	Refer to
Fishery (§ 67.17-9)	New	N/A	1. Application form (CG-1258)	Section 67.21-1.
			2. Tonnage evidence	Section 67.11-3.
			3. Marking evidence	Section 67.15-7.
			4. Build evidence	Sections 67.09-1, 7, 67.05-7(a) and 67.07-1.
	Used	N/A	1. Application form (CG-1258)	Section 67.21-1.
			2. Tonnage evidence	Section 67.11-3.
			3. Marking evidence	Section 67.15-7.
			4. Build evidence	Section 67.09-1, 7.
			5. Copy of last registration	Section 67.05-3.
			6. [Evidence of removal from foreign registry]	Section 67.05-7(b)(2).
			7. Title evidence from last registration	Section 67.05-7(b)(2); Subpart 67.07.
			8. [Citizenship declaration]	Section 67.29-11.
			9. [Recording fee]	Section 67.43-13.
Pleasure	New	N/A	1. Application form (CG-1258)	Section 67.21-1.
			2. Tonnage evidence	Section 67.11-3.
			3. Marking evidence	Section 67.15-7.
			4. Build evidence	Sections 67.09-7, 67.05-7(a) and 67.07-1.
			5. Fee	Section 67.43.11(a).
	Used	Simplified (§ 67.05-7(b)(3)).	1. Application form (CG-1258)	Section 67.21-1.
			2. Tonnage evidence	Section 67.11-3.
			3. Marking evidence	Section 67.15-7.
			4. Fee	Section 67.43-11(a).
			5. Copy of last registration	Section 67.05-7(b)(3).
			6. [Evidence of removal from foreign registry]	Section 67.05-3.
			7. Title evidence from last registration	Section 67.05-7(b)(3); Subpart 67.07.
			8. [Citizenship declaration]	Section 67.29-11.
			9. [Recording fee]	Section 67.43-13.
		Non-simplified (46 CFR 67.05-7(b)(3).	1. Application form (CG-1258)	Section 67.21-1.
			2. Tonnage evidence	Section 67.11-3.
			3. Marking evidence	Section 67.15-7.
			4. Build evidence	Sections 67.09-1, 7.
			5. Fee	Section 67.43-11(a).
			6. Evidence of complete chain of title	Section 67.05-7(b)(3); Subpart 67.07.
			7. Citizen evidence from each owning entity in chain	Section 67.05-7(b)(3).
			8. [Citizenship declaration]	Section 67.29-11.
			9. [Recording fee]	Section 67.43-13.

NOTE.— Brackets indicates requirement not necessarily applicable to all transactions. Applications for multiple licenses do not require duplicate submissions.

Appendix C To 46 CFR Part 67

REQUIREMENTS FOR SUBSEQUENT DOCUMENTATION TRANSACTIONS UNDER 46 CFR SUBPART 67.25.

Transaction and reason	Requirements	Refer to
Renewal (§ 67.23-1): License expired (§§ 67.23-1; 67.25-1)	1. Renewal application (CG-1280)	Section 67.25-1(a).
Surrender (§ 67.23-3):		
Name change (§§ 67.23-3(a)(5); 67.25-3)	1. Application form (CG-1258)	Section 67.25-3.
	2. Certificate of documentation	Sections 67.17-1 and 67.23-3.
	3. Marking evidence	Section 67.15-7.
	4. Fee	Section 67.43-3.
	5. [Mortgagee consent]	Section 67.25-9.
Home port change (§§ 67.23-3(a)(3); 67.25-5)	1. Application form (CG-1258)	Section 67.25-5.
	2. Certificate of documentation	Sections 67.17-1 and 67.23-3.
	3. Abstract of title	Sections 67.25-5 and 67.41-1.
	4. Marking evidence	Section 67.15-7.
	5. [Pleasure vessel fee]	Section 67.43-11(b).
	6. [Mortgagee consent]	Section 67.25-9.
Ownership change (§§ 67.23-3(a)(1); 67.25-7)	1. Application form	Section 67.25.7.
	2. Certificate of documentation	Sections 67.25-7 and 67.23-3.
	3. Title evidence	Subparts 67.05 and 67.07.
	4. [Pleasure vessel fee]	Section 67.43-11(b).
	5. [Recording fee]	Section 67.43-13.
	6. [Mortgagee consent]	Section 67.25-9
	7. [Citizenship declaration]	Section 67.29-11.
Change in general partners (§§ 67.23-3(a)(2); 67.25-7	1. Application form (CG-1258)	Section 67.25.7.
	2. Certificate of documentation	Sections 67.25-3(c) and 67.23-3.
	3. Title evidence	Sections 67.05-09 and 67.07-13.
	4. [Pleasure vessel fee]	Section 67.43-11(b).
	5. [Mortgagee consent]	Section 67.25.9.
Tonnage or dimension change (§§ 67.23-3(a)(4); 67.25-7)	1. Application form (CG-1258)	Section 67.25-7.
	2. Certificate of documentation	Sections 67.25-3(c) and 67.23-3.
	3. Tonnage evidence	Section 67.11-1, 5.
	4. [Pleasure vessel fee]	Section 67.43-11(b).
	5. [Mortgagee consent]	Section 67.25-9.
Change in vessel restrictions (§§ 67.23-3(a)(6); 67.25-7)	1. Application form (CG-1258)	Section 67.25.7.
	2. Certificate of documentation	Sections 67.25-3(c) and 67.23-3.
	3. [Pleasure vessel fee]	Section 67.43-11(b).
	4. [Mortgagee consent]	Section 67.25-9.

REQUIREMENTS FOR SUBSEQUENT DOCUMENTATION TRANSACTIONS UNDER 46 CFR SUBPART 67.25.—Continued

Transaction and reason	Requirements	Refer to
Change of legal name (§§ 67.23-3(a)(7); 67.25-7)	1. Application form	Section 67.25-7.
	2. Certificate of documentation	Sections 67.25-3(c) and 67.23-3.
	3. Title evidence	Section 67.07-15.
	4. [Mortgagee consent]	Section 67.25-9.
Death of tenant by the entirety (§§ 67.23-3(a)(8); 67.25-7)	1. Application form	Section 67.25-7.
	2. Certificate of documentation	Sections 67.25-3(c) and 67.23-3.
	3. Title evidence	Section 67.07-15.
	4. [Mortgagee consent]	Section 67.25-9.
Change in propulsion (§ 67.23-3(a)(9); 67.25-7)	1. Application form	Section 67.25-7.
	2. Certificate of documentation	Sections 67.25-3(c) and 67.23-3.
Change in trade endorsements (§§ 67.23-3(a)(10); 67.25-7)	1. Application form (CG-1258)	Section 67.25-7.
	2. Certificate of documentation	Sections 67.25-7 and 67.23-3.
	3. [Title evidence]	Section 67.05-5; Subpart 67-01.
	4. [Pleasure vessel fee]	Section 67.43-11(b).
	5. [Marking evidence]	Section 67.15-7(c).
Command by non-citizen (§§ 67.23-3(a)(12); 67.25-7)	1. Certificate of documentation	Sections 67.25-7 and 67.23-3.
Vessel returned to U.S. command (§§ 67.23-3(a)(12); 67.25-7)	1. Application form (CG-1258)	Section 67.25-7.
	2. Certificate of documentation	Sections 67.25-7 and 67.23-3.
	3. Statement that vessel has been returned to command of U.S. citizen.	Section 67.25-7
	4. [Pleasure vessel fee]	Section 67.43-11(b).
Clerical error by documentation officer (§§ 67.23-3(a)(11); 67.25-7)	1. Certificate of documentation	Sections 67.25-7 and 67.23-3.
Change of owner's address (§§ 67.23-3(b); 67.25-7)	1. (a) Letter advising new address or (b) Renewal application if license due for renewal.	(a) Section 67.25-7; (b) Section 67.25-1.
	2. Certificate of documentation	Sections 67.25-7 and 67.23-3.
Replacement (67.23-7):		
No further spaces for notation of changes (§§ 67.23-7(a)(1); 67.25-11).	1. Application form (CG-1258)	Sections 67.25-11.
	2. Certificate of documentation	Sections 67.25-11 and 67.23-7(b).
	3. [Pleasure vessel fee]	Section 67.43-11(b).
Certificate lost (§§ 67.23-7(a)(2); 67.25-11)	1. Application form (CG-1258)	Section 67.25-11.
	2. [Pleasure vessel fee]	Section 67.43-11(b).
Certificate mutilated (§§ 67.23-7(a)(2); 67.25-11)	1. Application form (CG-1258)	Section 67.25-11.
	2. Certificate of documentation	Sections 67.25-11 and 67.23-7(b).
	3. [Pleasure vessel fee]	Section 67.43-11(b).
Certificate wrongfully withheld (§§ 67.23-7(a)(2); 67.25-11)	1. Application form (CG-1258)	Section 67.25-11.
	2. Statement of facts of withholding	Section 67.25-11.
Deletion (§ 67.23-9):		
Vessel sold alien and/or placed under foreign flag (§§ 67.23-9(a)(1)(2); 67.25-13).	1. Certificate of documentation	Sections 67.25-13 and 67.23-9(d).
	2. Consent of Maritime Administration	Section 67.25-7(a).
	3. [Evidence of sale]	Section 67.25-13.
Owner ceases to be a citizen (§ 67.23-9(a)(3); 67.25-13)	1. Certificate of documentation	Sections 67.25-13 and 67.23-9(d).
Failure to renew or surrender (§§ 67.23-9(a)(4)(5); 67.25-13)	None—Deletion automatic upon discovery of failure	
Owner no longer elects documentation (§§ 67.23-9(a)(6); 67.25-13)	1. Certificate of documentation	Sections 67.25-7(b), 67.23-9(d), and 67.25-13.
Vessel ceases to measure 5 net tons (§§ 67.23-9(a)(7); 67.25-13)	1. Certificate of documentation	Sections 67.25-13 and 67.23-9(d).
Vessel ceases to be capable of transportation (§§ 67.23-9(a)(8); 67.25-13).	1. Certificate of documentation	Sections 67.25-13 and 67.23-9(d).
Cancellation (§ 67.23-11): Improper issuance (§§ 67.23-11; 67.25-15)	1. Certificate of documentation	Section 67.25-15.

NOTE.—Brackets indicate items not necessarily applicable to all transactions in category. Multiple changes do not require duplicate submissions.

Appendix D to 46 CFR Part 67

Ports of Documentation

The following is a list of Coast Guard Districts and Marine Inspection Zones indicating the ports of documentation within each District and Zone having such ports. The territorial limits of a port of documentation encompass all those localities to which that port is closest by normal means of travel.

District and marine inspection zone	Port of documentation
First:	
Boston	Boston, Gloucester, and Salem, Mass.
Portland, Me	Portland and Rockland, Maine.
Providence	New Bedford, Mass.; and Providence, R.I.
Second:	
St. Louis	St. Louis, Mo.
Cincinnati	Cincinnati, Ohio.
Minneapolis	Minneapolis, Minn.
Louisville	Louisville, Ky.
Memphis	Greenville, Miss.; and Memphis, Tenn.
Nashville	Nashville, Tenn.
Pittsburgh	Pittsburgh, Pa.
Third:	
New York	Albany, N.Y.; Bridgeport and New London, Conn.; and New York, N.Y.
Philadelphia	Philadelphia, Pa. and Wilmington, Del.
Fifth:	
Hampton Roads	Elizabeth City, N.C.; Norfolk, and Reedville, Va.
Baltimore	Baltimore, and Cambridge, Md.; and Washington, D.C.
Wilmington	Beaufort-Morehead City and Wilmington, N.C.
Seventh:	
Miami	Key West, Miami, and West Palm Beach, Fla.
Charleston	Charleston, S.C.
Jacksonville	Jacksonville, Fla.
San Juan	San Juna, P.R.
Savannah	Savannah, Ga.
Tampa	Tampa, Fla.
Eighth:	
New Orleans	Baton Rouge, Houma, Morgan City, La., and New Orleans, La.
Corpus Christi	Brownsville and Corpus Christi, Tex.
Galveston	Galveston, Tex.
Houston	Houston, Tex.
Mobile	Biloxi, Miss.; Mobile, Ala.; and Pensacola, Fla.
Port Arthur	Port Arthur, Tex.
Ninth:	
Cleveland	Cleveland, Ohio.
Buffalo	Buffalo, and Oswego, N.Y.
Chicago	Chicago, Ill. and Ludington, Mich.
Detroit	Detroit, Mich.
Duluth	Duluth, Minn.
Milwaukee	Milwaukee, Wis.
St. Ignace	Sault Ste. Marie, Mich.

District and marine inspection zone	Port of documentation
Eleventh:	
Los Angeles-Long Beach	Los Angeles-Long Beach, Calif.
San Diego	San Diego, Calif.
Twelfth: San Francisco	Eureka, and San Francisco, Calif.
Thirteenth: Seattle	Bellingham and Port Angeles, Wash.
Thirteenth:	
Seattle	Seattle and Tacoma, Wash.
Portland, Oreg.	Aberdeen, Wash.; Astoria, Coos Bay, and Portland, Oreg.
Fourteenth:	
Honolulu	Honolulu, HI.
Guam	Guam
Seventeenth:	
Southeast Alaska	Juneau and Ketchikan, Alaska.
Western Alaska	Anchorage, Alaska.

3. By adding Part 68 to read as follows:

PART 68—DOCUMENTATION OF VESSELS PURSUANT TO EXTRAORDINARY LEGISLATIVE GRANTS

Subpart 68.01—Regulations Implementing the Act of September 2, 1958 (46 U.S.C. 883–1)

Sec.

68.01–1 Definitions for the purposes of this subpart
68.01–3 Requirements for citizenship under 46 U.S.C. 883–1
68.01–5 Qualification as an 883–1 corporation
68.01–7 Qualification as a parent or subsidiary
68.01–9 Cessation of qualification
68.01–11 Privileges conferred—documentation of vessel
68.01–13 Privileges conferred—operation of vessel
68.01–15 Restrictions
68.01–17 Application by an 883–1 corporation to document a vessel

Subpart 68.03—Reserved for Regulation, as Necessary, of Vessels Under the Act of August 9, 1954

Appendices

A—Oath for qualification of corporation as a citizen of the United States under the Act of September 2, 1958 (46 U.S.C. 883–1)
B—Oath of parent or subsidiary corporation Act of September 2, 1958 (46 U.S.C. 883–1)

Authority: 72 Stat. 1736 (46 U.S.C. 883–1;); 68 Stat. 675 (50 U.S.C. 198)

OMB Control Number: Information collection requirements contained in this Part have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–111) and have been assigned OMB control number 2115–0110.

Subpart 68.01—Regulations Implementing the Act of September 2, 1958 (46 U.S.C. 883–1)

§ 68.01–1 Definitions for the purposes of this Subpart.

Act means the Act of September 2, 1958 (46 U.S.C. 883–1).

883–1 citizen or *883–1 corporation* means a corporation which qualifies for the special citizenship status created by the Act of September 2, 1958 (46 U.S.C. 883–1).

Parent corporation means one incorporated under the laws of the United States, or any state, territory, or district of the United States, which controls (directly or indirectly) at least 50 percent of the voting stock of another corporation.

Subsidiary corporation means one incorporated under the laws of the United States, or any state, territory, or district of the United States, which has not less than 50 percent of its voting stock controlled (directly or indirectly) by another corporation.

§ 68.01–3 Requirements for citizenship under 46 U.S.C. 883–1.

A corporation seeking to establish its citizenship under the Act of September 2, 1958 (46 U.S.C. 883–1) must meet the following criteria as specified in the Act:

(a) It must be incorporated under the laws of the United States, or any state, territory, district, or possession of the United States;

(b) A majority of the officers and directors of the corporation must be citizens of the United States;

(c) Not less than 90 percent of the employees of the corporation must be residents of the United States;

(d) Such corporation must be engaged primarily in a manufacturing or mineral industry in the United States or any territory, district, or possession of the United States;

(e) The aggregate book value of the vessels owned by the corporation must not exceed 10 percent of the aggregate book value of the assets of the corporation; and

(f) The corporation must purchase or produce in the United States, its territories or possession not less than 75 percent of the raw materials used or sold in its operations.

Note.—A corporation which qualifies as an 883–1 citizen by meeting the criteria in paragraph (a) of this section is not thereby precluded from qualifying as a citizen under any definition in Part 67 upon compliance with all applicable requirements.

§ 68.01–5 Qualification as an 883–1 corporation.

(a) To be formally qualified as an 883–1 corporation for all purposes under the Act, a corporation which meets the requirements of § 68.01–3 must file with the Commandant a certificate under oath as described in Appendix A.

(b) Upon the filing of the certificate required under paragraph (a) of this section, the Commandant will furnish the corporation a Certificate of Compliance which is valid for a period of 3 years from the date of its issuance, unless there is a change in corporate status requiring a report under § 68.01–9(a) of this subpart. On or before the date of expiration of the Certificate of Compliance, a new certificate under oath as described in Appendix A must be filed with the Commandant.

§ 68.01–7 Qualification as a parent or subsidiary.

(a) To be formally qualified as a parent corporation, as defined in § 68.01–1, a corporation must file with the Commandant a certificate under oath as described in Appendix B.

(b) To be formally qualified as subsidiary corporation as defined in § 68.01–1, a corporation must file with the Commandant a certificate under oath as described in Appendix B.

(c) Upon the filing of the certificate required under paragraph (a) or (b) of this section, the Commandant will furnish the corporation a certificate of parent or subsidiary status which is valid for a period of 3 years from the date of its issuance unless there is a change in corporate status requiring a report under § 68.01–9(a) of this subpart. On or before the date of expiration of the certificate of parent or subsidiary status, a new certificate under oath as described in Appendix B must be filed with the Commandant.

§ 68.01–9 Cessation of qualification

(a) If after filing the certificate required by § 68.01–5 of this subpart, a change occurs whereby an 883–1 corporation no longer meets the criteria in § 68.01–3(a), that corporation's qualification for the privileges enumerated in § 68.01–11 and 13 is terminated effective as of the date and time of the change. The corporation must report the change in writing to the Commandant.

(b) If, after filing the certificate required by § 68.01–7 of this subpart, a change occurs whereby the corporation is no longer entitled to be deemed a parent or subsidiary corporation, that corporation's qualification for the privileges in § 68.01–11 and 13 is terminated effective as of the date and time of the change. The corporation must report such change in writing to the Commandant.

§ 68.01-11 Privileges conferred—documentation of vessel.

The special citizenship status created by the Act entitles the 883-1 corporation to document certain vessels for certain limited purposes: (a) An 883-1 corporation may document under the Act only vessels which are qualified for employment in the coastwise trade and which are either non-self propelled or, if self-propelled, are of less than 500 gross tons.

(b) A vessel owned by an 883-1 corporation and meeting the criteria in subparagraph (a) of this section may be documented only for use in the coastwise trade subject to the restrictions in § 68.01-15.

(c) § 68.01-17 contains details concerning the documentation of vessels by an 883-1 corporation.

§ 68.01-13 Privileges conferred—operation of vessels.

(a) The special citizenship status created by the Act entitles the 883-1 corporation to operate, subject to the restrictions in § 68.01-15, vessels which are qualified to engage in the coastwise trade and are exempt from documentation. (See § 67.01-7 for classes of exempt vessels.)

(b) Vessels, documented or exempt from documentation, employed subject to the Act may carry passengers and merchandise of the 883-1 corporation owning such vessels only between points in the United States, including territories, districts, and possessions thereof embraced in the coastwise laws.

(c) The special citizenship status created by the Act entitles an 883-1 corporation owning vessels as described in paragraphs (a) and (b) of this section to transport merchandise or passengers for hire in the coastwise trade as a service for a duly qualified parent or subsidiary corporation as defined in § 68.01-1.

(d) The special citizenship status created by the Act entitles an 883-1 corporation owning vessels as described in paragraphs (a) and (b) of this section to demise or bareboat charter such vessels to common or contract carriers subject to the restrictions in § 68.01-15(c).

§ 68.01-15 Restrictions.

(a) Vessels employed subject to the Act are entitled to operation only in the coastwise trade and only to the extent described in paragraphs (b) and/or (c) of this section.

(b) A vessel owned by an 883-1 corporation may engage in coastwise transportation for hire as a service to a parent or subsidiary corporation as defined in § 68.01-1. Such transportation for hire must be between points of the United States, including territories, districts, and possessions thereof embraced in the coastwise laws.

(c) A vessel owned by an 883-1 corporation may be operated under demise or bareboat charter to a common or a contract carrier subject to 49 U.S.C. Chapter 12 which is a citizen as defined in 46 U.S.C. 802.

(1) Such common or contract carrier may not be connected either directly or indirectly by ownership or control with the 883-1 corporation.

(2) The demise or bareboat charter must be at prevailing rates.

(3) The vessels under a demise or bareboat charter may not be used in non-contiguous trade.

§ 68.01-17 Application by an 883-1 corporation to document a vessel.

(a) Compliance with the following subparts and sections of Part 67 of this Chapter, as applicable, is required in conjunction with the documentation of a vessel by an 883-1 corporation: Subparts 67.01, 67.05, 67.07, 67.09, 67.11, 67.13, 67.15, 67.21, 67.23 and 67.25.

(b) An 883-1 corporation seeking to document a vessel meeting the criteria in § 68.01-11(a) must, in addition to complying with the applicable sections listed in paragraph (a) of this section, furnish to the documentation officer where application is made a copy of the Certificate of Compliance issued under § 68.01-5.

(c) The application for a Certificate of Documentation shall be filed with the documentation officer at the vessel's home port or the port of documentation nearest where the vessel is located.

Appendices

Note.—The substance of the certificates under oath prescribed in Subpart 68.01 is reproduced below. Typewritten copies or other reproductions may be used. (46 U.S.C. 883-1)

Appendix A

Department of Transportation, U.S. Coast Guard

Oath for Qualification of Corporation as a Citizen of the United States Under the Act of September 2, 1958 (46 U.S.C. 883-1)

Corporation:
Name ———
Address [1] ———
State where incorporated ———
Affiant:
Name ———
Address ———
Company ———
Title or capacity ———

I, the affiant named above, swear that I am legally authorized to make this oath on behalf of the corporation, that a majority of the officers and directors of the above-named corporation are citizens of the United States, as shown by the attached listing incorporated in and made a part of this oath which truly and correctly names all such officers and directors, giving the home address and citizenship of each; that not less than 90 percent of the employees of the corporation are residents of the United States; that the corporation is engaged primarily in a manufacturing or mineral industry in the United States or in a territory, district or possession thereof; that the aggregate book value of the vessels owned by the corporation does not exceed 10 percent of the aggregate book value of the assets of the corporation; and that the corporation purchases or produces in the United States, its territories or possessions not less than 75 percent of the raw materials used or sold in its operation.[2]

The above named corporation fails to qualify as a citizen within the meaning of § 67.03-9(b) by reason of: [3]
———Non-citizen President
———Non-citizen Chairman of Board
———Failure to meet quorum requirements
———Failure to meet stock ownership requirements
Signature ———

Subscribed and sworn to before me on the day and year shown

———

(Notary Public)
Date ———

[1] Show principal place of business of corporation.

[2] Attach the required list of the names of all officers and directors of the corporation, giving the home address and citizenship of each.

[3] Check appropriate line or lines.

Appendix B

Department of Transportation, U.S. Coast Guard

Oath of Parent or Subsidiary Corporation, Act of September 2, 1958 (46 U.S.C. 883-1)

Corporation:
Name ———
Address ———
State of incorporation———
Status (Parent) [1] ——— (Subsidiary) [2]

Name of associated corporation ———
Address ———
State where incorporated ———

[1] A "parent corporation" for the purposes of this oath is one incorporated under the laws of the United States, or any State, territory, or district of the United States, which controls (directly or indirectly) at least 50 percent of the voting stock of another corporation. Strike out the inapplicable term.

[2] A "subsidiary corporation" for the purposes of this oath is one incorporated under the laws of the United States, or any State, territory, or district of the United States, which has not less than 50 percent of its voting stock controlled (directly or indirectly) by another corporation. Strike out the inapplicable term.

Affiant:
Name ———————————
Address ———————————
Company ———————————
Title or capacity ———————————

I, the affiant named above, swear that the corporation first named herein is the (parent) [1] (subsidiary) [2] of the associated corporation named, that I am the duly authorized officer or agent of the corporation first named, and that the associated corporation has previously established that it is a citizen within the meaning of the Act of September 2, 1958 (46 U.S.C. 883–1).

Signature ———————————

Subscribed and sworn to before me on the day and year shown

———————————

(Notary Public)

Subpart 68.03—Reserved for Regulation, as Necessary, of Vessels Documented Under the Act of August 9, 1954

PART 69—MEASUREMENT OF VESSELS

§ 69.01–15 [Removed]

4. By removing § 69.01–15.

§ 69.05–1 [Removed]

5. By removing § 69.05–1.

Clyde T. Lusk, Jr.,

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

June 18, 1982.

[FR Doc. 82–17069 Filed 6–23–82; 8:45 am]

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Part V

Environmental Protection Agency

Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; Consolidated Permit Regulations; and the Hazardous Waste Management System

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122 and 264

[SWH-FRL-2089-3]

Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; Consolidated Permit Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of withdrawal of proposal to suspend effective date of interim final regulations.

SUMMARY: EPA is announcing withdrawal of its proposal to suspend the effective date of the permitting standards for hazardous waste incinerators, as applied to existing facilities, and is ending its policy, announced on October 20, 1981, of postponing requests for Part B permit applications for existing hazardous waste incinerators.

DATES: Today's action is effective June 24, 1982.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline, 800/424-9346 or 202/382-3000, or Stephen A. Lingle, Chief, Technology Branch, Hazardous and Industrial Waste Division, Office of Solid Waste, 202/755-9200.

SUPPLEMENTARY INFORMATION:

I. Authority

The regulations for incineration of hazardous waste (40 CFR Parts 264 and 265, Subpart O) are issued under the authority of Sections 1006, 2002(a), 3004, 3005, and 3007 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA) of 1976, as amended, 42 U.S.C. 6905, 6912(a), 6924, 6925, and 6927.

II. Background

The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA) of 1976, requires EPA to establish performance, design and operating standards, as necessary, for facilities that treat, store, and dispose of hazardous wastes. EPA first proposed regulations for these facilities in December of 1978 (43 FR 58946). On May 19, 1980, EPA promulgated an initial set of regulations as a first step in meeting the requirements of RCRA (45 FR 33066). On January 23, 1981, EPA promulgated regulations which established the statutorily required standards for incinerators, one class of hazadous waste treatment facilities. These standards imposed identical requirements on new and existing incinerators.

EPA invited public comment on the standards to ensure that we had not overlooked any major problems in addressing the comments received on the standards proposed earlier (December 18, 1978, 43 FR 59008). The Agency intended to remedy any serious problems which might be surfaced by public comments before the standards became effective on July 22, 1981. In response to its invitation for comments, EPA received a number of comments from the regulated community contending that, for various financial, technical, and practical reasons, the standards were inappropriate for application to existing incinerators. Additionally, nearly all of these commenters stated that EPA had failed to fulfill a statutory mandate to distinguish between new and existing hazardous waste management facilities in promulgating the standards.

More specifically, a trade association, which represents companies operating (by their estimate) approximately 300 on-site incinerators, alleged that the cost of complying with the regulations (that is, to meet the required 99.99% destruction and removal efficiency) would force half of these incinerators to cease operation even though they posed no threat to human health. The association estimated that the annual industrywide cost of compliance (including the cost of off-site disposal in cases where closures occur) would be 700 million dollars.

Because the Agency was not able to address these comments within a reasonable period of time, on October 20, 1981 (46 FR 51407), EPA proposed to suspend the effective date of the standards as applied to existing incinerators, pending a reexamination of the standards in light of the comments received. In the same publication, EPA also proposed to suspend the effective date of the standards applicable to existing storage surface impoundments. The Agency will deal with final disposition of that proposal in a separate document.

Concurrent with the proposal to suspend the effective date of the standards for existing incinerators, EPA announced an immediately effective policy of not calling in Part B permit applications for those facilities. The Agency stated that it would permit only new incinerators and existing incinerators for which Part B permit applications were voluntarily submitted, pending disposition of the proposed suspension.

After reviewing the comments submitted on the proposed suspension, EPA has concluded that there is no basis for suspending the standards for incineration at this time. Therefore, the Agency is no longer actively considering the suspension. Furthermore, since a suspension is not contemplated by EPA, there is no longer any reason to defer all permitting of existing incinerators. EPA is therefore discontinuing its policy, announced on October 20, 1981 (46 FR 51407), of refraining from requesting permit applications for existing incinerators. The permitting policy regarding existing hazardous waste incinerators has been made immediately effective in order to promptly clarify, to the public and to the states, the way in which EPA intends to address these facilities in the context of the permitting program and the state authorization process. The basis for these decisions is discussed below.

III. Synopsis of Public Comments on the Proposed Suspension

Many of the comments received in support of the proposed suspension were general statements of agreement. Those who elaborated made two points. First, these commenters contended that Section 3004 of RCRA, as amended in 1980 (42 U.S.C. 6924), requires EPA to distinguish between new and existing facilities when promulgating regulations for hazardous waste treatment, storage, and disposal. They maintained that the absence of such a distinction in the current incinerator standards is a fundamental legal defect and that the suspension is therefore necessary until such a distinction can be considered.

Second, some commenters supporting the suspension, principally the above cited trade association and some of its member companies, contended that implementation of the standards applicable to existing incinerators would force closure of many incinerators which currently pose no threat to human health. They argued that, in many cases, the cost of compliance will be so great as to result in closure rather than retrofitting or upgrading and that therefore, failure to suspend the regulations would impose unjustified and substantial economic penalties.

Commenters who opposed the suspension argued that a regulatory distinction between new and existing incinerators is unnecessary because the current standards have been shown to be achievable by existing incinerators. Furthermore, they argued that distinction between new and existing facilities is not mandated but, instead,

allowed by RCRA and that implementation of the suspension would give firms operating existing incinerators a substantial competitive edge over those who construct and operate new incinerators. They also argued that EPA's consideration of economic impact in promulgating regulations under RCRA is inappropriate because the Act identifies protection of human health and the environment as its sole objective.

Commenters who opposed the suspension generally focused their arguments on the claims raised by the trade association, since the information provided by this group was an important factor in EPA's decision to propose the suspension. In particular, two commenters provided a detailed critique of the trade association's document, contesting its underlying assumptions, the adequacy of the data supporting those assumptions and the final conclusions drawn. At the outset, these commenters stated that the association's economic analysis was primarily conjecture and therefore not appropriate as the sole basis for a decision concerning the suspension.

With regard to specific points made by the association, commenters who opposed the suspension identified three major issues. First, they maintained that the trade association did not substantiate its claim that many existing incinerators cannot meet the current standards. Second, they indicated that the association failed to provide sufficient evidence for the contention that those incinerators which do not meet the standards will close rather than upgrade. Commenters pointed out that the association's analysis failed to explore the numerous options currently available for retrofitting or upgrading existing incinerators and that this resulted in overstatement of the projected economic impact of the current standard.

Third, commenters who took exception to the trade association document criticized the assertion that existing incinerators operate safely without meeting the current standards. They stated that the trade association report made no reference to any existing information which would substantiate the alleged safety of existing incinerators currently operating below compliance levels. One commenter concluded, based on theoretical calculations, that incinerator performance levels below the required 99.99% destruction and removal efficiency (DRE) will result in substantially higher mass emissions of hazardous waste constituents. This commenter also contended that no conclusions can be drawn regarding the safety of emissions resulting from operation below 99.99% DRE since the magnitude of the hazard is closely tied to many site-specific factors.

Several commenters addressed the impact of a suspension on the process of granting State interim authorization under Section 3006 of RCRA. They expressed concern that a suspension, if instituted, would cause an unfair and illegal delay in the State authorization process. They also pointed out that the delay would mean that facilities permitted under State programs while the suspension is in effect would then need to undergo a second permitting process, once the Federal standards become effective, in order to receive a RCRA permit. This two-stage permitting process, according to commenters, would be costly, both to facility owners and the State programs.

IV. EPA's Response to Comments and Basis for Today's Action

A. Statutory Issues

Commenters raised two issues which are relevant to the criteria for decision-making set forth by RCRA. First, commenters opposing the suspension argued that suspension of the current standards only for the purpose of considering their economic impact would be improper because the statute specifies only one objective: protection of human health and the environment. These commenters concluded that suspension of the current effective date, pending re-examination of economic impacts, would therefore be contrary to RCRA.

While the Agency recognizes protection of human health and the environment as the primary objective of RCRA, we have consistently held that this goal does not preclude the consideration of cost factors as they relate to the selection of an appropriate regulatory strategy. We believe that economic factors have been appropriately considered in the development of the current hazardous waste management regulations. For example, on May 19, 1980, in our publication of the Phase I regulations, EPA stated that the cost-effectiveness of various regulatory alternatives was considered in order to assure that protection of human health and the environment is achieved through the most efficient means (45 FR 33089). The performance standard for incinerators requiring 99.99% destruction and removal of principal organic hazardous constituents reflects a consideration of cost to the extent that it requires performance at a level known to be attainable by technology currently in use.

Consideration of economic impact may also be necessary in order to develop a regulatory program which effectively balances EPA's environmental goals. For example, economics is an important consideration when the costs of complying with a particular regulation are so high as to result in decreased nationwide availability of preferable hazardous waste management technologies. Such a decrease in capacity may result in shunting hazardous wastes to less desirable management options, thereby indirectly affecting the degree of protection of human health and the environment. In such a case, the cost of compliance will, to some extent, determine the overall level of protection provided. Therefore, EPA disagress with commenters who claim that the Agency does not have authority to suspend the current standards in order to consider their economic impact.

The second issue relating to RCRA's criteria for decisionmaking was raised by commenters who supported the suspension. They argue that the absence of a distinction between new and existing facilities in the current incinerator standards is a fundamental legal defect because the 1980 amendments to RCRA mandate such a distinction.

In 1980, Section 3004 of RCRA (Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities) was amended by Congress to include the following language:

> In establishing such standards the Administrator shall, where appropriate, distinguish in such standards between requirements appropriate for new facilities and for facilities in existence on the date of promulgation of such regulation (42 U.S.C. 6924).

While this addition clearly allows for regulatory distinction between new and existing facilities, it is not mandated in all cases. Additionally, the legislative history addressing this amendment suggests that Congress was primarily concerned with problems which might arise if rigid design standards are imposed on existing surface impoundments (see H.R. Rep. No. 191, 96th Cong., 1st Sess.). Therefore, regulatory distinction between new and existing hazardous waste management facilities will be made when appropriate, as indicated by the factual record developed during the course of rulemaking.

B. Technical and Economic Issues

The trade association document which provided much of the information supporting the October 20 proposal made three key points concerning the potential impact of the standards on existing incinerators: (1) That approximately one-half of an estimated 300 incinerators owned by its members cannot meet the performance standard for 99.99% destruction and removal of principal organic hazardous constituents and therefore will close; (2) that compliance with the standards (including off-site disposal where closures occur) will cost the industry an estimated $700 million annually; and (3) that many of the incinerators which will close do not pose a danger to human health at their current performance levels. However, as pointed out by commenters who opposed the suspension, the association did not provide substantive data to support any of these points. In response to a specific request by EPA for further information, the association has stated that the above points were based on estimates made by industry experts in the absence of hard data.

This lack of data supporting the claim that existing incinerators are unable to meet the current performance standard is significant. The current standards are supported, in part, by data collected during 54 test burns conducted in 15 different incinerators. A destruction efficiency of at least 99.99% was achieved in all but nine of these tests. Furthermore, close examination of those tests in which the destruction efficiency was less than 99.99% showed that in all nine tests, the incinerators had experienced explainable and correctable problems. In some instances, for example, the incinerator operating conditions were purposely varied to extremes in order to determine whether the destruction efficiency would fall below 99.99%. It is also important to note that most of the 54 test burns were conducted during the mid-1970s and represent technology which was in use at that time.

The promulgated regulation does not limit compliance to achievement of 99.99% destruction efficiency. Instead, the required 99.99% destruction and removal efficiency allows the incinerator operator to achieve compliance through a combination of destruction by combustion and removal by air pollution control devices. Thus, the standard does not demand a level of performance beyond the capability of existing technology as demonstrated by the 54 incinerator test burns. EPA believes, therefore, that the existing data indicate that commercial hazardous waste incinerators can attain 99.99% destruction and removal of principal organic hazardous constituents. Absent the submission by commenters of any contradicting data regarding the performance of existing incinerators, EPA cannot accept the assertion, made by the association, that over half of the incinerators operated by their member companies cannot meet the current standards.

The Agency also agrees with commenters who found inadequate support for the economic impacts alleged by the association. Even if signifiant numbers of incinerators were unable to meet the current standards, EPA finds no support for the assumption that these facilities would close rather than modify or upgrade their operations. As commenters pointed out, numerous alternatives exist for upgrading incinerator performance, such as raising temperature through increased use of auxiliary fuel or modification of incinerator components.

Finally, EPA does not believe that the association has demonstrated that existing incinerators not currently achieving the performance standards would not present a risk to human health. This point was also contested sharply by commenters, who presented some evidence of potential hazard caused by existing incinerators.

In promulgating the 99.99% DRE performance standard, on January 23, 1981 (46 FR 7666), EPA indicated its intent to develop a variance provision for that standard based on a facility-specific assessment of human health risk. The preamble to the regulations indicated, however, that until EPA determined that such a variance was practicable, the Agency believed it reasonable to require that all incinerators achieve performance levels "known to be currently attainable by the existing technology of high quality commercial hazardous waste incineration" (46 FR 7669). The preamble also indicated that "for typical waste feed rates, most organic wastes will present no significant health hazards when treated to a 99.99% destruction and removal efficiency" (46 FR 7669).

In the preamble to the proposed variance provision which accompanied the January 23, 1981 rule (46 FR 7634), the Agency acknowledged that "the destruction and removal of efficiency performance standard may be either more or less stringent than necessary to provide assurance of protecting human health and the environment in all circumstances" (46 FR 7685). This occurs for two reasons. First, the DRE performance standard does not control the actual mass of hazardous waste constituents emitted. Second, the standard does not account for site-specific factors such as waste characteristics (e.g., inherent toxicity), incinerator design (e.g., waste feed rate), and location parameters (e.g., meteorology and population distribution), all of which affect the actual level of risk to human health and the environment at an individual facility. By incorporating facility-specific risk analysis in the permitting process, the amendment proposed on January 23, 1981 would have the effect of including a detailed consideration of the above factors in determining the necessary level of protection.

A risk analysis of this type requires extensive data describing emissions of hazardous air pollutants, exposure levels, exposed populations and the effects of pollutants on human health. Because such data are rarely available, they must be generated by direct measurement or estimated by means of computer simulation techniques. Once the data are collected and models are developed, their precision and accuracy must be evaluated before a meaningful risk analysis can be conducted.

One of the primary goals of EPA's ongoing Regulatory Impact Analysis is to characterize the risks to human health and the environment associated with incineration of hazardous wastes.

This activity will provide valuable information regarding the feasibility of conducting site-specific risk assessments. For this reason, action on the January 23, 1981 proposal prior to completion of the RIA would be premature. Today's action, therefore, does not include promulgation of the proposed variance provision.

The trade association's assertion that performance at 99.5 or 99.9% DRE is protective in all or most cases is reflective of the Agency's statement, of January 23, 1981 (46 FR 7685), that the DRE performance standard may be either more or less stringent than necessary to provide assurance of protecting human health and the environment in all circumstances. Neither the trade association nor other commenters, however, provided information adequate to support the assertion. Once the RIA is complete EPA will have the data to indicate whether and for which types of facilities the current performance standards are either over protective or under protective. In such cases, EPA will use the data from the RIA to establish, as appropriate, either a case-by-case variance, as proposed in January of

1981, or to tailor the standards to provide appropriate levels of performance for diffeent classes of facilities.

In its comment responding to the October 20, 1981 proposal, the trade association proposed that, as an alternative to implementing the suspension, EPA should issue permits to existing incinerators that demonstrate 99.9% DRE but cannot demonstrate 99.99% DRE. This approach to permitting existing facilities would require that EPA amend the performance standard to allow this lesser destruction and removal efficiency for permitting existing facilities. However, the Agency does not have the data necessary to support such an amendment at this time. As stated above, the Agency's existing trial burn data clearly support the achievability of a 99.99% DRE.

C. Impact on State RCRA Programs

The preamble to the October 20 proposal recognizes that suspension of the regulations applicable to existing facilities would affect the State authorization process under Section 3006 of RCRA. EPA has addressed the concerns of commenters regarding this issue to some extent in the notice of February 24, 1982 (47 FR 8010). This notice announced a change in Agency policy which eliminates the delay in State authorization decisions that had been imposed by the October 20 proposal. The new policy allows States to receive interim authorization for issuing RCRA permits for both new and existing incinerators (and storage surface impoundments). However, if the Agency suspended the effective dates for certain exisitng facilities, State authorization to issue RCRA permits to those facilities would automatically lapse under the new policy.

This policy did not address the concern expressed by commenters that facilities permitted under State programs, while the Federal standards are suspended, will have to be issued a second permit when the Federal standards are reinstated. EPA agrees that adding this complexity (and expense) to the State interim authorization process is undesirable and should be avoided if possible. Today's decision to withdraw the proposal to suspend the standards eliminates this concern.

V. Permitting Activities Prior to Completion of the Regulatory Impact Analysis (RIA)

Executive Order 12291 requires EPA to prepare a Regulatory Impact Analysis (RIA) of the incinerator standards published on January 23, 1981. In accordance with the Order, a major study is underway to evaluate the human health risks and economic impacts associated with both the current incinerator standards and several alternative standards. The Agency expects a draft RIA to be ready for public review and comment by April of 1983.

The goal of the Regulatory Impact Analysis (RIA) is to provide the Agency with a comprehensive review of the costs and benefits associated with the RCRA hazardous waste incinerator standards. This information will allow EPA to re-evaluate several aspects of the current standards for incinerators, including their appropriateness for application to existing facilities. The Agency will then consider the results of this analysis in finalizing the standards for incineration.

VI. Regulatory Analyses

A. Executive Order 12291

Section 3(B) of Executive Order 12291 (46 FR 12193, February 19, 1981) requires EPA to prepare a regulatory impact analysis on all "major" rules. A major rule is defined as a rule which is likely to result in:

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions regions; or
- 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.

EPA has determined that today's action will not result in any of the foregoing impacts prior to completion of a draft RIA on the current incinerator standards and consideration of any changes to those standards which might derive from the RIA (see previous discussion). In addition, EPA believes that today's action, withdrawal of the October 20, 1981 proposal and discontinuation of the policy of refraining from requesting permit applications from existing hazardous waste incinerators, does not constitute a rule. Accordingly, the Agency does not believe that an RIA specific to today's action is required and one has not been prepared.

EPA has submitted this notice to the Office of Management and Budget (OMB) for review under the Executive Order. OMB's comments, if any, are filed in the RCRA public docket, Room S269, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

B. Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), EPA is required to determine whether its regulations will have a significant impact on a substantial number of small entities. Section 603 of the Act requires that an initial Regulatory Flexibility Analysis be prepared when a rule is proposed and Section 604 requires a final analysis upon promulgation. Since today's action does not constitute the promulgation of a rule, EPA has determined that no Regualtory Flexibility Analysis is required.

List of Subjects

40 CFR PART 122

Administrative practice and procedure, Air pollution control, Hazardous materials, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, water supply, Confidential business information.

40 CFR PART 264

Hazardous materials, Packaging and containers, Reporting and recordkeeping requirement, Security measures, Surety bonds, Waste treatment and disposal.

Dated: June 21, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-17098 Filed 6-23-82; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122, 264 and 265

[SWH-FRL-2024-3]

The Hazardous Waste Management System

AGENCY: Environmental Protection Agency.

ACTION: Interim final amendments to interim final and final rules.

SUMMARY: The Resource Conservation and Recovery Act (RCRA) requires that EPA set regulatory standards for all facilities which treat, store, or dispose of hazardous waste. In partial implementation of its requirement, on January 23, 1981, EPA set regulatory standards for incinerators that burn hazardous waste. These regulations were issued as "interim final," which means that, although they were issued in final form, the Agency invited public comment on them with a view to future amendment.

Today, EPA is amending, on an interim final basis, certain of its regulations applicable to hazardous waste incineration facilities. Today's amendments include revisions to: the general standards for permitting hazardous waste incinerators (Part 264, Subpart O), published in the **Federal Register** on January 23, 1981; the interim status standards for hazardous waste incinerators (Part 265, Subpart O), revised on January 23, 1981; and the consolidated permit requirements for incinerators (Part 122), published on May 19, 1980 and January 23, 1981.

The amendments pertain specifically to: (1) The permit procedure for incinerators, (2) exemption of corrosive and some reactive wastes from selected Subpart O standards, (3) the performance standard for hydrogen chloride emissions, (4) the performance standard for particulate emissions, (5) designation of air feed rate as an operating and monitoring parameter, (6) inspection of the waste feed cutoff system, (7) visual inspection of the stack gas plume during interim status, and (8) requirements for data collection during the trial burn. Additional issues addressed by this preamble but not pertaining to regulatory amendments include: criteria for the selection of principal organic hazardous constituents (POHCs), applicability of the regulations to incinerators installed as air pollution control devices, and the need for regulation of particulate emissions.

DATES:

Effective Date: June 24, 1982.

Comments Date: EPA will accept public comments on these amendments until July 26, 1982.

ADDRESSES: Comments should be sent to: Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Public Docket: The Public Docket for this amendment is located in room S-269, Waterside Mall, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. and is available for viewing from 8:30 a.m. until 4:00 p.m., Monday through Friday, exclusive of holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA hazardous waste HOTLINE, Office of Solid Waste (WH-565), telephone: (800) 424-9346 or, in Washington, D.C.: 382-3000; or Jan Jablonski, Hazardous and Industrial Waste Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; telephone: (202) 755-9200.

SUPPLEMENTARY INFORMATION:

Preamble Outline:

I. Authority
II. Overview
  A. Background
  B. Structure of today's preamble
III. Amendments
  A. Incinerator permit procedures
  1. RCRA permits for new incinerators
  2. RCRA permits for existing incinerators
  B. Applicability of the incinerator standards
  C. Amendments to the performance standards
  1. The performance standard for HCl removal
  2. The performance standard for particulate emissions
  D. Requirements for operation, inspection and monitoring
  1. Designation of air feed rate as an operating and monitoring parameter
  2. Inspection of the waste feed cutoff mechanism
  3. Visual inspection of the stack gas plume during interim status
E. Trial burn requirements
  1. Requirement for monitoring hazardous combustion by-products
  2. Computation of a total mass balance of the trial POHCs
IV. Other Important Issues
  A. Selection of principal organic hazardous constituents
  B. Applicability of the incinerator regulations to fume incinerators
  C. Regulation of particulate emissions from hazardous waste incinerators
V. Supporting Documents
  A. Background documents
  B. Guidance documents
VI. Regulatory Impacts
VII. Interim Final Regulations: Effective Dates
VIII. List of Subjects in 40 CFR Parts 122, 264, and 265

I. Authority

This amendment is issued under the authority of Sections 1006, 2002(a), 3004, and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA) of 1976, as amended, 42 U.S.C. 6905, 6912(a), 6924, and 6925.

II. Overview

A. Background

The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, requires EPA to establish a national regulatory program to insure that hazardous wastes are managed in a manner which does not endanger human health or the environment from the time they are created until their eventual destruction or final disposition. To this end, the Act requires regulations governing generation and transport of hazardous waste and, most significantly for today's amendments, requires that all treatment, storage, and disposal of hazardous wastes be conducted in accordance with a valid RCRA permit.

The Act defines a hazardous waste as any solid waste which may cause mortality or serious illness, or may "pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed." (42 U.S.C. 6921) The statute further requires EPA to list specific hazardous wastes and to establish criteria by which wastes which are not specifically listed may be identified as hazardous. The statute also requires EPA to:

> Promulgate regulations establishing such performance standards, applicable to owners and operators of facilities for the treatment, storage or disposal of hazardous waste identified or listed under this subtitle, as may be necessary to protect human health or the environment. (42 U.S.C. 6924)

Each such facility must apply for and receive a permit which applies the standards to its own particular circumstances and states its particular compliance obligations.

RCRA allows existing facilities to operate during the period before a final permit decision is reached, provided that the owner or operator has made a timely submission of the required permit application. A facility is legally eligible for operation during this period, called the period of "interim status," only if it was in existence on November 19, 1980 and if the owner or operator submits a RCRA permit application.

On May 19, 1980, EPA published initial regulations as a first step in

meeting the requirements of RCRA. Appendix VIII of those regulations specified certain chemical substances which, when present in a waste, could serve as a basis for designating the waste as hazardous for purposes of regulation under RCRA. The regulations then explicitly listed a large number of hazardous wastes (see 40 CFR Part 261). In addition, these regulations list four "characteristics" by which additional wastes may be classified as hazardous. These are ignitability, corrosivity, reactivity and Extraction Procedure (EP) toxicity (which generally measures a tendency to release specific hazardous chemicals through leaching). The May 19, 1980 promulgation also included some general requirements for the operation of existing facilities during interim status, including limited interim status standards for hazardous waste incinerators.

On January 23, 1981, EPA promulgated regulations which established the statutorily required standards for issuing operating permits to one class of hazardous waste treatment facilities: incinerators (46 FR 7666). These standards set forth the requirements incinerators must meet to qualify for the operating permit which the statute contemplates every RCRA facility will eventually receive.

Because of the large number of RCRA permits that must be issued, the permit application needed to qualify for interim status may be due years before the facility's individual permit will be considered. Requiring all of the information needed for a decision concerning the facility permit at the time of qualification for interim status would result in a requirement that owners and operators provide a great deal of information to the Agency long before it is needed for regulatory purposes. Furthermore, because of the lengthy period which ensues following qualification for interim status, information provided so far in advance might well be outdated by the time EPA begins to evaluate the permit application.

To avoid this result, EPA has divided the permit application into two parts. Part A, which is relatively brief, is filed by owners and operators of existing facilities in order to qualify for interim status. Part B of the permit application contains the balance of the information necessary to fully evaluate the facility's performance and reach a decision concerning issuance of a permit. A facility may file a Part B application voluntarily at any time. Alternatively, the Agency may require its submission.

EPA's January 23, 1981 regulations specifically identified the information necessary to complete a Part B application for an incinerator. In many cases, the required information can only be collected by conducting a test burn using the hazardous waste which the facility will eventually be permitted to treat. The regulations therefore specified the information to be collected during such a test burn.

The regulations also specified three broad substantive requirements regarding incinerator performance. They are that the principal organic hazardous constituents (POHCs) designated in each waste must be destroyed and/or removed to an efficiency of 99.99%, that particulate emissions must not exceed 180 milligrams per dry standard cubic meter corrected to 12% carbon dioxide in the stack gas, and that, in most cases, the gaseous hydrogen chloride (HCl) resulting from combustion must be reduced by 99% prior to release to the atmosphere. The regulations also specified a number of requirements for incinerator operation, performance monitoring and inspections. Finally, they established the procedures by which permits to hazardous waste incinerators would be granted.

During the comment period which followed publication of the incinerator regulations, the Agency received numerous comments which suggested that changes or clarifications were needed. In addition, the Agency held a public hearing and technical assistance conference in Cincinnati, Ohio on April 21 and 22, 1981, at which additional comments were received. After careful evaluation of these comments, EPA has determined that modification of certain Subpart O regulations would enhance their technical feasibility and reduce the cost of compliance, while maintaining adequate protection of human health and the environment.

Portions of today's preamble and amendments address issues that were also raised by the litigants in *AMSA v. EPA, Nos. 81–1440 et al. (D.C. Cir. 1981)*, a lawsuit seeking review of the January 23, 1981 incinerator regulations. Those litigants include an environmental advocacy group (the Environmental Defense Fund), hazardous waste generators (the Chemical Manufacturers' Association and the Association of Metropolitan Sewerage Agencies) and waste incinerator specialists (the National Solid Wastes Management Association and SCA Services, Inc.). They have, in the context of settlement negotiations, seen an earlier draft of today's amendments. Their written comments are included in the record of this rule-making. The Background Document for today's amendments cites those comments whenever the Agency has relied on information included in them.

B. Introduction to Today's Preamble

Today, EPA is amending the incinerator regulations in a number of respects, none of which changes them fundamentally. Each of these changes is discussed, in detail, below. The changes fall into five major areas: (1) Changes to the procedures for issuing incinerator permits, (2) changes to the scope of applicability of the incinerator regulations, (3) modifications to the performance standards, (4) changes in the requirements for incinerator operation, performance monitoring and inspection, and (5) minor alterations in the trial burn data collection requirements.

The amendments published today include changes to all of the Part 264, Subpart O sections, except § 264.342 (Principal Organic Hazardous Constituents). Certain changes are being made simply to clarify the intent of the regulations or to correct for procedural difficulties. For example, § 264.341 (Waste analysis) is being revised to acknowledge problems encountered by applicants seeking permits for new incinerators prior to construction. This change simply formalizes the Agency's intent to require waste analysis information to the extent that it is available to owners and operators of new facilities. Other changes alter the regulatory requirements. For example, § 264.340 (Applicability) is being revised to expand the number of wastes which may be exempted from the performance standards of Subpart O.

As a result of the changes to Part 264, minor conforming changes are necessary in the permit application requirements of §§ 122.25 and 122.27. Other, more significant, changes to § 122.27 follow from recognition of the need to operate new facilities for periods before and after the trial burn. Today's amendments also include changes to the data reporting requirements of §§ 122.25 and 122.27. The Agency is removing the requirements for identification of hazardous combustion by-products from these sections since the amendment pertaining to those substances (proposed January 23, 1981, 46 FR 7684) is still under consideration. The provisions regarding waste analysis in § 122.27(b) have been rewritten in order to more clearly describe the three-step process by which wastes should be screened for hazardous constituents. Additionally, EPA has modified the requirement in § 122.27 for computation of a total mass balance of the trial

POHCs following completion of the trial burn.

Today's amendments include two changes to the interim status standards for incinerators (Part 265, Subpart O). Section 265.340 (Applicability) is being revised to reflect the amendment to § 264.340 concerning wastes which may be exempted from the Part 264, Subpart O performance standards. Secondly, the provision for hourly visual inspection of the stack gas plume (§ 265.347) is being deleted in order to compensate for various practical problems inherent in the original regulation. EPA believes that these and all of today's amendments will reduce the regulatory burden imposed on hazardous waste incinerators without compromising the integrity of its mandate under RCRA to protect human health and the environment.

The following table summarizes the significant changes made by today's amendments. It is presented here as an aid to the reader in recognizing the changes made in the regulatory requirements and is not intended to be used as a surrogate for the regulatory text. The statements appearing in the table are intended as brief summaries and do not include all aspects of the existing and amended regulations. The reader is referred to the regulatory paragraphs cited in the table for information concerning specific requirements.

Public comments received in response to the January 23, 1981 regulations raised several issues which related to interpretation of the regulations and the basis and purpose of specific requirements. Today's preamble also discusses these issues and provides a statement regarding the Agency's position on each.

The basis and purpose of today's amendments is presented, in greater detail, in the Background Document which is a companion to this notice. The document also provides the Agency's response to public comments which relate specifically to the amendments. Comments not germane to today's amendments continue to be under consideration by the Agency and will be addressed in the future.

SUMMARY OF SIGNIFICANT AMENDMENTS TO THE REGULATIONS FOR HAZARDOUS WASTE INCINERATORS

Section	Jan. 23, 1981 regulation	Amended regulation
264.340 [1]	Exempted wastes: (1) Listed ignitables and (2) those failing the test for ignitability, when shown to contain no Appendix VIII substances.	Exempted wastes: (1) Listed ignitables, corrosives and/or selected reactives and (2) those failing the tests for ignitability, corrosivity and/or selected reactivity characteristics, when shown to contain no or insignificant levels of Appendix VIII substances.
264.343(b)	Performance Standard for HCl Emissions: If: Waste input exceeds 0.5% chloride, Then: Remove 99% of stack gas HCl.	Performance Standard for HCl Emissions: If: Stack emissions exceed 1.8 kg HCl/hr, Then: Control emissions so that they do not exceed the larger of the following: (1) 1.8 kg HCl/hr, or (2) 1% of the HCl in the stack gas.
264.343(c)	Performance Standard for Particulate Emissions: Emissions may not exceed 180 mg/DSCM when corrected to 12% carbon dioxide.	Performance Standard for Particulate Emissions: Emissions may not exceed 180 mg/DSCM when corrected to 50% excess air or as otherwise specified in the permit.
264.344	No provisions for permits to new incinerators	Allows for four-phase permit for new incinerators: Phase 1: "Shake-down" phase. Phase 2: Trial burn. Phase 3: "Follow-up" phase. Phase 4: Permanent operation phase.
264.345	Air Feed Rate to be designated as an operating requirement.	Indicator of Combustion Gas Velocity to be designated as an operating requirement.
122.27	1. New facilities must have final RCRA permit prior to construction..	1. New facilities submit Part B of the permit application and required information for trial burn plan simultaneously. Permit is issued, after opportunity for public hearing.
	2. Requirement to monitor Hazardous Combustion By-Products during trial burn.	2. Deleted.
	3. Waste Analysis requirements for trial burn plan.....	3. Language Clarification.

[1] Equivalent changes have been made in the corresponding section of Part 265 (Interim Status Standards).

III. Amendments

A. Incinerator Permit Procedures

The January 23, 1981 regulations established application requirements and permitting procedures for granting RCRA permits to new and existing incinerators (46 FR 7681). Section 122.25(b)(5) established three methods by which applicants could satisfy the Part B permit application requirements. Briefly, owners and operators seeking to burn only wastes which might be eligible for exemption from the performance standards for incineration were required to provide a substantially abbreviated version of the permit application. Facilities that will burn other wastes were either required to conduct a trial burn or seek a waiver of the trial burn requirement by submitting sufficient alternative information.

1. *RCRA permits for new incinerators.* Prior to the issuance of the January 23, 1981 incinerator standards, EPA published the Consolidated Permit Regulations (45 FR 33290). Section 122.22(b)(1) of those regulations provided that new hazardous waste management facilities, i.e., those facilities not "in existence" on November 19, 1980, could not begin physical construction after November 19, 1980, until a final RCRA permit had been issued for the facility. This "construction ban" created a problem for new incineration facilities. Under the May 19, 1980 regulations, new incinerators could not begin construction until they had received a RCRA permit, and facilities choosing to use the trial burn method to apply could not receive a RCRA permit until they performed a trial burn and submitted the results. These new facilities were clearly placed in an untenable position, as they could not perform the trial burn until after construction, but could not construct until they had received a final RCRA permit, often requiring performance of a trial burn.

Today's amendments revise and simplify the January 23, 1981 permitting procedures for new facilities. For those facilities applying under the trial burn method, submission of a trial burn plan with the Part B application is required under revised § 122.27(b). The permitting authority (the "Director") will then process the permit completely through the Part 124 procedures, including preparation of a draft permit, and an opportunity for public comment and hearing. After completion of this process, the Director will issue a permit which establishes all of the conditions needed to comply with the standards of Part 264, Subparts B through H and Subpart O.

This permit will be the "finally effective RCRA permit" required, by § 122.22, for commencement of physical construction. It will be issued prior to the trial burn and will therefore allow advanced approval of new facilities applying by the trial burn method, an action which the previous regulation did not allow. This meets the concern expressed by commenters that they may be required to invest large amounts of capital before the Director has completed review of the facility design and operation, and approved a trial burn.

The permit will be structured to provide for four phases of operation. The initial phase begins immediately following completion of construction. During this phase, the facility may be operated for "shake-down" purposes, in

order to identify possible mechanical difficulties, ensure that the facility has reached operational readiness and achieve steady-state operating conditions prior to conducting the trial burn. These purposes may be partially accomplished by operating the unit with auxiliary fuel or non-hazardous waste (e.g., for conditioning of refractories).

One litigant felt that burning of hazardous waste should not be allowed during shake-down. Engineering considerations, however, will necessitate operation of the incinerator, prior to conducting the trial burn, using the hazardous waste or wastes for which the permit will be written. Thus, the amended regulation allows the Director to specify, on a case-by-case basis, conditions under which a new facility may operate to treat hazardous waste during the shakedown period.

This phase of the permit is limited to 720 hours of operation to treat hazardous waste (approximately 30 days of continuous operation) in order to prevent prolonged operation in the absence of permit requirements of demonstrated adequacy. The Director may extend the allowable hazardous waste treatment period for one additional period of up to 720 hours if the applicant is able to demonstrate cause for the extension. Requests for extensions should be accompanied by a detailed statement regarding the incinerator's performance and the need for the extension.

The provision for a single extension answers one litigant's concern that public participation might be excluded from decisions to allow burning of hazardous wastes during shake-down. The initial public hearing will allow an opportunity to comment on the permit conditions to be imposed during shake-down and on the single extension. If operational constraints require further extension of the shake-down period, opportunity for additional public participation is appropriate. Thus, further extensions will require modification of the permit, according to the procedures of § 122.15 (Modification or revocation and reissuance of permits).

The operating requirements for the shake-down period must meet two criteria: (1) They must be sufficiently stringent, based on the Director's best engineering judgment, to meet the performance standards of § 264.343, and (2) they must not restrict operation to such a degree that the operator is unable to prepare the incinerator to perform properly during the trial burn. Design and operating information submitted with Part B of the permit application and the experience gained from other permit deliberations will aid the Director in determining whether the incinerator is likely to achieve the performance standards of § 264.343 when operated under certain conditions. Sufficiently conservative conditions can be implemented by limiting the waste feed rate or concentration of hazardous constituents input to the incinerator, or by requiring operation at temperatures in the upper reaches of the incinerator's operating range. The Director should be able to specify conditions which will protect human health and the environment while allowing sufficient inputs of hazardous wastes to prepare the incinerator to function properly during the trial burn.

There are numerous feasible approaches to establishing acceptable operating conditions during the shake-down period. For example, some applicants may wish to operate in the early stages of the shake-down period using auxiliary fuel or non-hazardous wastes, followed by an informal or small-scale trial burn. The results of this burn might then be used to establish a preliminary set of operating conditions to be effective during the remainder of the shake-down. Alternatively, the applicant might operate during shake-down under the operating requirements originally proposed by EPA in December of 1978 (43 FR 59008). The final decision will be made on a case-by-case basis. The permit application must be accompanied by a statement which identifies the conditions under which he proposes to operate during shake-down and gives some justification for selecting these conditions. The Director will evaluate the proposal and decide upon the conditions to be included in the permit.

After timely and satisfactory completion of all shake-down operations, the second phase of the permit begins. This phase consists solely of the period allotted for conducting the trial burn. The operating requirements applicable during this phase will be set in accordance with the trial burn plan and will be determined following a careful review of the plan and all other information submitted with Part B of the permit application.

Following completion of the trial burn, a period of several weeks to several months will be necessary for completion and submission of the trial burn results and subsequent specification of operating conditions to reflect the results. This period represents the third operational phase of the permit. Since shutdown of the incinerator during this period might result in substantial financial losses, and in diversion of hazardous wastes to less effective treatment alternatives, the Agency has determined that some provision must be made to allow operation. The amendment, therefore, will allow the Director to specify a set of operating requirements to take effect following completion of the trial burn and until modified operating requirements are specified in the facility permit.

EPA has considered numerous approaches for setting requirements to be applied during this phase. The amended regulation requires that the permit conditions be designed to meet the performance standards of § 264.343. Therefore, as in the case of the shake-down period, engineering judgment will be necessary to set these conditions. Again, conservative conditions should be applied; for example, the Director may choose to impose the most stringent operating conditions imposed during the trial burn or he may restrict waste composition or feed rate. The incinerator will have been operated to treat hazardous wastes during the trial burn and perhaps during a shake-down period prior to the follow-up phase. Therefore, there may be circumstances in which the Agency will consider whether any continuous monitoring data collected during the trial burn could be used to assist in selecting operating requirements for the follow-up period.

For example, during the trial burn, the stack emissions might be monitored for total unburned hydrocarbons (i.e., all unburned organic substances in the stack gas). By assuming that the total concentration of unburned hydrocarbons measured is emitted in the form of the POHC [1] which is most difficult to burn, a destruction and removal efficiency (DRE) might be calculated using the unburned hydrocarbon data. The operating requirements which result in attainment of this DRE during the trial burn could then be designated for application during the follow-up phase. The assumptions involved in this approach are necessarily conservative and act to offset uncertainty concerning possible

[1] A principal organic hazardous constituent (POHC) is an organic chemical which is a constituent of the waste to be burned and has been identified as hazardous by EPA in Appendix VIII of 40 CFR Part 261. In each case, the permitting authority will designate POHCs to be used in measuring destruction and removal efficiency of the incinerator. As discussed later in this preamble the incinerator will be operated during a trial burn to demonstrate 99.99 percent destruction and removal efficiency for each POHC designated by the permitting authority. The operating conditions shown to achieve 99.99 percent destruction and removal efficiency will then become conditions of the permit. Generally, those organic constituents which are most difficult to destroy and most abundant in the waste will be selected as POHCs.

damage to human health and the environment. For this reason and because EPA lacks information concerning the feasibility of such an approach, today's amendment does not require that total unburned hydrocarbon data be used to set the permit conditions for the follow-up phase. However, EPA specifically requests that interested parties submit comments regarding the technical, financial, and practical aspects of such an approach. After further consideration of the method and review of any comments received, EPA will determine whether the above approach can be used with a high degree of confidence.

As in the case of the shake-down phase, the applicant should include a statement, with the permit application, describing the conditions under which he proposes to operate during the follow-up phase. In the event that data collected during the shake-down or the trial burn phases show that different operating conditions will be necessary, the applicant may amend the permit application and the Director may modify the permit conditions, as required. This modification may proceed according to § 122.17 (Minor modifications of permits), which does not require implementation of the procedures specified in Part 124, including preparation of a draft permit and opportunity for public hearing and appeal.

Detailed review of the trial burn results will show either that the incinerator is capable of complying with the performance standards when operating within the trial burn conditions, or that compliance was not attained during the trial burn and a second test is necessary. If compliance was shown, the permit may be modified to set, as the final operating requirements those demonstrated during the trial burn according to § 122.17 (Minor modifications of permits). If compliance has not been shown and an additional trial burn is necessary, the permit may also be modified under § 122.17, to allow for an additional trial burn. In cases where 99.99 percent DRE is achieved for some but not all of the trial POHCs, the permit must be modified to allow incineration of only those POHCs for which compliance has been demonstrated. A further trial burn will be necessary if the applicant wishes to show compliance for the remaining trial POHCs. When all permit modifications are complete, the facility begins its fourth and final operating phase which continues throughout the duration of the permit.

2. *RCRA permits for existing incinerators.* Because RCRA provides for existing incinerators to operate under interim status while awaiting the Agency's decision concerning permit issuance, these facilities do not experience the operating restrictions which complicate the permitting process for new incinerators. The amendments to the procedure for permitting existing incinerators therefore do not change the actual process. Instead, the changes which have been made only serve to clarify the sequence of events involved in the application process.

The revisions at issue affect §§ 122.25(b)(5) and 122.27(b). They require that owners and operators of existing facilities who apply under the trial burn method submit their trial burn plans either before or with their Part B permit application. The Director will then evaluate the plan and approve it after making the determinations required in § 122.27(b)(2). If a trial burn plan is submitted and approved before the permit application has been submitted, the applicant should conduct the trial burn, and submit the resulting data with the permit application. If completion of this process conflicts with the date set by the Director for submission of the Part B application, the applicant should contact the Director to extend the date for submission of the Part B application or submit the Part B without the trial burn results and provide the data within 90 days following completion of the trial burn. If a trial burn plan is submitted with Part B of the permit application, the Director, when approving the plan, will specify a time period for conducting the trial burn and submitting the results. Following submission of the trial burn results and the Part B application, the Director may prepare a draft permit which will specify the proper operating requirements under § 264.345, based on the results of the trial burn, along with all other applicable permit conditions. This permit will then be processed through the standard procedures of Part 124.

The trial burn application procedure for existing facilities differs from new facilities because an existing facility in interim status is authorized to conduct treatment of hazardous wastes. Therefore, an existing facility needs no prior approval to continue operation or conduct a trial burn. However, without the Director's approval, the owner or operator cannot be certain that the trial burn data will be sufficient to meet the Director's needs. Thus, the applicant will find it advantageous to obtain the Director's approval of a trial burn plan prior to conducting the test. During review of the trial burn plan, the Director will designate principal organic hazardous constituents to be monitored and will specify other data requirements. However, the applicant may choose to collect data during the course of normal operation under interim status or may acquire data from similar facilities burning similar wastes to be submitted with Part B of the permit application in lieu of conducting a trial burn according to an approved trial burn plan.

The January 23, 1981 regulations required that trial burn results be submitted to the Director no later than 30 days following completion of the burn. Comments received following publication of those regulations suggested that the 30 day period is not sufficient to allow completion of chemical analysis, data computation, and reporting. EPA concurred with commenters on this point and has extended the time period to 90 days following completion of the trial burn. As discussed above, the applicant may avail himself of various options for submitting the trial burn results and Part B of the permit application, and should recognize that EPA, in accordance with § 122.22(a)(2), will allow the applicant at least six months from the date of request to submit Part B of the permit application. Therefore, the 90-day limitation takes effect only after this six month period has elapsed.

B. Applicability of the Incineration Standards

The January 23, 1981 regulations exempted ignitable hazardous wastes from compliance with most of the standards for incinerators. This exemption was allowed because the regulations focused primarily on controlling emissions of hazardous organic substances, toxic metals and hydrogen chloride. As discussed below, the regulations require that incineration of hazardous waste result in destruction and removal of 99.99% of the hazardous organic waste constituents. The restriction on particulate emissions works to control release of toxic metals and hydrogen chloride emissions are controlled through imposition of a performance standard for air pollution control devices. Wastes which have been designated as hazardous solely because of ignitability were exempted from coverage because they lack the properties which these standards are designed to control.

As noted earlier, a solid waste becomes a "hazardous waste" subject to regulation under Subtitle C of RCRA in

one of two ways. Either the waste is designated as hazardous because it contains hazardous constituents listed in Appendix VIII and has been specifically listed as hazardous by EPA, or it is hazardous because it fails one or more of EPA's characteristic tests for ignitability, corrosivity, reactivity or Extraction Procedure toxicity. The exemption from the technical standards for incineration applied to wastes which are designated as hazardous by either means solely because of their ignitable properties.

Many commenters felt that the exemption for ignitable wastes should be expanded to include corrosive and reactive wastes. The majority of these commenters further suggested that the Agency should designate allowable concentrations of Appendix VIII constituents for the exempted wastes. They also suggested that the exemption should be automatic, based on criteria published in the regulations rather than left to the discretion of the Regional Administrator.

EPA has decided to expand the exemption, as requested by commenters, to include corrosive wastes and wastes having any of the reactivity characteristics described by § 261.23(a) (1), (2), (3), (6), (7), and (8). Today's amendment to § 264.340 provides for automatic granting of the exemption for these wastes when they have been shown to contain none of the hazardous constituents listed in Appendix VIII of Part 261. In contrast, ignitable, corrosive and reactive wastes having low concentrations of some Appendix VIII constituents may be exempted if the Regional Administrator finds that the exemption will not result in a potential threat to human health and the environment.

Wastes eligible for the exemption include those which are hazardous solely due to any of the selected characteristics and those which are hazardous solely due to any combination of those characteristics. Wastes which are listed as hazardous in Part 261 due to the presence of toxic constituents and wastes having the Extraction Procedure toxicity characteristic will not be eligible for the exemption.

EPA has not yet listed any wastes solely because of corrosivity. However, the exemption for corrosives now applies to wastes which are hazardous due to failure of the corrosivity test. Should the Agency determine that further listings are necessary, this exclusion may be applied when a waste is listed due to corrosive properties.

With respect to reactive wastes, the Agency has two concerns: (1) Certain reactive wastes require careful treatment, storage, and disposal because they may release toxic gases, such as cyanide, upon reaction with other substances, and (2) reactive wastes which are explosive, when burned in the presence of other wastes, create the potential for release of hazardous pollutants to the environment in the event of an explosion. The exemption for reactive wastes has therefore been limited to accommodate these concerns. First, wastes having the reactivity characteristics described by § 261.23(a) (4) and (5) will not be exempted since they may emit toxic gases and vapors upon reaction. Second, wastes described by any of the remaining reactivity characteristics are explosive or capable of violent reactions that could disperse toxic substances into the environment. Therefore, the amendment specifies that such wastes, if exempted, cannot be burned in the presence of any other hazardous waste.

EPA's selection of wastes to be exempted under § 264.340 was based on a consideration of the purpose underlying each of the performance standards of § 264.343. Since the destruction and removal efficiency (DRE) requirement measures emissions of hazardous organic constituents and the performance standard for particulate emissions is intended primarily as a means of controlling toxic metals and hazardous organic substances adhering to particulate material, application of these standards is inappropriate when the waste is known to contain none or only insignificant concentrations of the Appendix VIII hazardous constituents.

EPA has further determined that application of the performance standard for HCl emissions to incineration of these wastes is unnecessary. Although Appendix VIII does not include an exhaustive list of chlorinated organic substances, it does include a large percentage of the chlorinated substances expected to be present in hazardous wastes. Therefore, we believe that there will be few, if any, exempted wastes which, when burned, will create emissions in excess of the allowable emission rate of 4 pounds per hour, set by today's amendment to § 264.343.

Applicants seeking exemption under § 264.340 must submit sufficient waste analysis data with Part B of the permit application to document levels of all hazardous constituents listed in Appendix VIII of Part 261 which would reasonably be expected to be found in the waste. The waste constituents excluded from analysis must be identified, and the reason for their exclusion stated. During interim status, owners and operators are required to document, in writing, that any exempted waste would not reasonably be expected to contain any Appendix VIII hazardous constituents. This documentation must be retained throughout the period of interim status.

When setting the conditions of the permit, the Regional Administrator will determine whether an exemption should be granted for incineration of an ignitable, corrosive, or reactive waste base on a review of the waste analysis data. This review will focus primarily on the identity and numbers of any Appendix VIII (Part 261) hazardous constituents in the waste, and on the concentrations in which those constituents are found in the waste. Today's amendment allows an ignitable, corrosive, or reactive waste in which none of the hazardous constituents listed in Appendix VIII of Part 261 have been detected to be exempted without further consideration of its content. The Regional Administrator's review of the waste analysis plan and data, both of which accompany Part B of the permit application, is necessary in this case in order to determine that the sampling and analysis methods used and the data generated show that no hazardous constituents are present at levels which can be detected by the analytical methods required by § 122.27 (i.e., those specified in SW–846, "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods"). Although the exact detection limits vary for specific constituents, those present in concentrations below 1 part per million (ppm) in the waste generally will not be detected.

Since small, but detectable, concentrations of Appendix VIII hazardous constituents may not always pose a hazard to human health when incinerated, the amended regulation also provides that the Regional Administrator may grant an exemption when low concentrations of hazardous constituents are detected in the waste. One litigant criticized this provision as too lenient. However, if EPA provided no allowance for trace contaminants, the exemption would be unworkable. In making a determination regarding exemption in this case, the Regional Administrator may begin by considering the concentration of each hazardous constituent found in the waste feed and estimating the concentration (e.g., by assuming 99.99% destruction and removal) which will result in the stack gas.

EPA estimates indicate that constitutents present in the waste feed in concentrations as low as 1000 ppm

will be routinely detected by stack gas analysis and that a waste concentration of 100 ppm probably represents a practical lower limit beyond which determination of 99.99% destruction and removal will be difficult to document. Stack gas concentrations resulting from 99.99% destruction and removal of constituents present in the waste feed in concentrations below 100 ppm can generally be measured only through the use of sampling and analysis techniques which exceed the capabilities of those recommended in EPA's guidance manual (Sampling and Analysis Methods for Hazardous Waste Incineration) and the Regional Administrator may presume they are allowable for purposes of the exemption.

The Regional Administrator may also consider available measures of the relative toxicity of each hazardous constituent in order to ascertain whether potential exists for threat to human health. In rare cases where the constitutents under consideration are known to be extremely toxic (e.g., 2,3,7,8-TCDD), the Regional Administrator may overcome the presumptive exemption, even when projected stack gas concentrations are so low that modified sampling and analysis methods will be necessary for measurement. This approach allows the Regional Administrator the option of denying an exemption when the toxic constituents present in a waste, in his judgment, pose a potential health hazard, even at low levels. In granting discretionary authority to the Regional Administrator in this limited area, EPA is particularly interested in determining the feasibility of future regulations specifying the toxicity criterion as a factor in POHC selection.

C. Amendments to the Incinerator Performance Standards

The regulations require that hazardous waste incinerators comply with three performance standards. The most important of these is the requirement that incinerators achieve a destruction and removal efficiency (DRE) of 99.99% for each principal organic hazardous constituent (POHC) designated in each waste feed. This standard is not affected by today's amendments. The second performance standard is a requirement that incinerators burning wastes containing more than 0.5% chlorine remove 99% of the gaseous hydrogen chloride (HCl) in the stack emissions. The final performance standard requires that incinerators emit no more than 180 milligrams of particulate material per dry standard cubic meter of stack gas (.08 grains per dry standard cubic foot), corrected to 12% carbon dioxide in the stack gas. Amendments to both the HCl and particulate control standards are discussed below.

1. *The performance standard for HCl removal.* The interim final, Subpart O, regulations require that incinerators burning a waste feed which is more than 0.5% chlorine remove 99% of the hydrogen chloride (HCl) in the stack gas. A substantial number of comments addressed the acceptability of this standard. The majority of these comments requested that the performance standard be modified to regulate organically bound chloride only. Many also stated that, since wet scrubbers used to remove chlorides operate with increasingly less efficiency as HCl concentrations decrease, specific provisions are necessary for burning small quantities of chlorinated organic wastes or waste streams having a low chlorinated organic concentration. Commenters pointed out that because the standard allows a large incinerator burning a waste relatively high in chloride to emit a much greater quantity of HCl than a small facility burning a waste which is relatively low in chloride, it does not regulate uniformly. Most contended that a maximum allowable HCl emission level would provide a more adequate means for regulating and suggested allowable ambient air concentrations ranging from 12 parts per billion to 10 parts per million.

The amended performance standard requires that incinerators emitting more than 4 pounds of HCl per hour achieve a removal efficiency of up to 99%. The required removal efficiency will vary for each facility since, for incinerators emitting more than 4 pounds of HCl per hour, removal need only be sufficient to reduce emissions to that rate. A minimum of 99% removal efficiency is required when removal at this efficiency will not reduce emissions to 4 pounds per hour. This requirement is based primarily on the Agency's determination that 99% removal represents currently achievable technology and is supported by data obtained from the test burns conducted by EPA's Office of Solid Waste during 1975 and 1976. Whenever HCl removal was measured, the 99% standard was achieved. Additional industry reports reinforce these data.

Establishment of the maximum allowable uncontrolled emission level at 4 pounds per hour results from consideration of a number of factors including information supplied by commenters. Specifically, the value was derived through application of the single source (CRSTER) model for short term air pollution exposures. The Threshold Limit Value for exposure to HCl in workplace air, developed by the American Conference of Governmental Industrial Hygienists, was modified to account for the hourly difference between occupational and environmental exposures. The resulting value was then altered by a safety factor of 100 in order to arrive at an appropriate ambient air concentration. This number was used to represent a safe exposure level and provided input to the single source model for calculation of the corresponding allowable emission rate. This approach is not only the most acceptable of methods currently available but is consistent with suggestions made by commenters. EPA believes that 4 pounds of HCl per hour is a safe and conservative allowable emission rate which insures adequate protection and resolves the problems raised by commenters regarding small facilities.

A case-by-case approach to setting mass emission limits, through the use of risk assessments in the permitting process, would further tailor this standard to reflect actual risks to human health. EPA has proposed the use of quantitative risk assessments as a basis for altering the performance standard in individual cases (46 FR 7684, January 23, 1981), and will evaulate its usefulness during the course of the regulatory impact analysis currently underway. If adopted as a final regulation, this approach will provide a mechanism for varying the HCl emission limit established by today's amendment.

2. *The performance standard for particulate emissions.* The interim final performance standard for control of particulate emissions requires that a hazardous waste incinerator emit no more than 180 milligrams of particulate material per dry standard cubic meter, when corrected to 12% carbon dioxide in the stack gas. This correction is designed as a protection against attempts to meet the particulate standard simply by diluting the stack gas, rather than by controlling the particulates. Selection of the correction factor was based on an assumption that the stack gas should contain 12% carbon dioxide when the incinerator is operated using 50% excess air. Further dilution with air, of course, would alter the percentage of carbon dioxide. However, comments suggested that the required correction of measured particulate emissions to 12% carbon dioxide is inappropriate since it originated from standards promulgated under the Clean Air Act which address burning of fuel relatively high in carbon content (i.e.,

bituminous coal). The correction factor, commenters contended, is not representative of typical hazardous waste carbon content, and does not consider the high quantities of excess air required for burning hazardous wastes.

The 12% carbon dioxide correction factor was indeed derived from data describing the combustion of coal. Without the use of excess air, burning of coal results in stack emissions which contain 18% carbon dioxide. Assuming that use of 50% excess air is representative of common practices, the appropriate carbon dioxide content drops to 12%.

As commenters indicated, there are two major problems involved in applying this factor to incineration of hazardous wastes: (1) The correction is based on conditions appropriate to burning materials of high carbon content and is inappropriate for hazardous waste incineration because carbon content varies considerably among wastes, and (2) since carbon dioxide is absorbed to a significant extent in wet scrubber systems, the correction procedure requires sampling the emissions in the hot zone of the stack, prior to clean-up by pollution control devices. In order to eliminate these difficulties and correct for the wide range of excess air use among hazardous waste incineration facilities the Agency has selected a replacement for the carbon dioxide correction procedure.

As amended, the performance standard for particulate emissions requires adjustment of the measured particulate concentration by the following correction factor (CF):

$$CF = \frac{14}{21-Y}$$

Where Y is the oxygen measured in the stack gas, expressed as a volumetric percentage.

This correction procedure parallels the carbon dioxide correction since it adjusts the measured particulate concentration to reflect the same standard conditions, specifically 50% excess air. The factor is derived from the formula:

$$CF = \frac{21-X}{21-Y}$$

Where X is the volumetric oxygen percentage of the stack gas resulting from burning with a given percentage of excess air, Y is the volumetric oxygen percentage measured in the stack and 21 is the oxygen content of ambient air expressed as a volumetric percent. At 50% excess air, the stack gas will contain 7% oxygen by volume and the formula becomes:

$$CF = \frac{21-7}{21-Y} = \frac{14}{21-Y}$$

This correction factor provides several advantages. Since pollution control devices do not significantly alter oxygen concentrations, it is no longer necessary to sample emissions in the hot zone of the stack. Sampling and analytical methods for oxygen measurement are sufficiently similar to those used for measurement of carbon dioxide so as to impose no additional cost. Furthermore, basing the correction on oxygen rather than carbon dioxide content relies on assumptions which are representative of conditions typically found during incineration of hazardous wastes. EPA views this change as one which will significantly decrease the burden imposed by the performance standard for particulate emissions, without increasing the potential threat to human health and the environment. For further discussion of the basis underlying this correction procedure, the reader is referred to the Background Document for today's amendments.

The utility of the new correction factor is restricted to incinerators which use only ambient air as an oxygen source. The factor will necessarily be altered for units which incinerate under oxygen enriched conditions. An appropriate correction factor will be selected on a case-by-case basis for these incinerators and will be established as a condition of the permit. A more appropriate correction factor may be calculated by replacing the volumetric percentage of oxygen in ambient air, used in the above formula (21%), with a value which represents the total oxygen input to the incinerator, also expressed as a volumetric percent. This combined value, K, is calculated from the formula:

$$K = \frac{21(V_a)+100(V_o)}{V_a+V_o}$$

Where V_a is the volume of air fed to the combustion zone and V_o is the volume of oxygen fed to the combustion zone, both corrected to standard conditions. The above correction factor then becomes:

$$CF = \frac{K-7}{K-Y}$$

And is substituted in the equation:

$$P_c = P_m \cdot \frac{K-7}{K-Y}$$

Where P_c is the corrected concentration of particulate matter and P_m is the measured concentration of particulate matter.

D. Requirements for Operation, Inspection and Monitoring

The regulations include several requirements for incinerator operation, inspection and monitoring. After a permit is issued, temperature, waste feed rate, air flow rate and stack gas carbon monoxide must be monitored continuously. In addition, the incinerator must be inspected for signs of spills, leakage and fugitive emissions and the emergency waste feed cutoff system must be tested daily. The regulations require that several operating requirements be specified in each permit. At a minimum, these include: limitations on waste feed composition, stack gas carbon monoxide, air feed rate, waste feed rate and allowable variations in design and operating procedures. Incinerators operating in interim status are required to monitor any existing instruments which relate to combustion and emission control at 15 minute intervals. Daily inspection for signs of spills, leakage and fugitive emissions and hourly observation of the stack gas plume must also occur during interim status. Several amendments to the operating, monitoring and inspection requirements are discussed below, including one amendment to the interim status requirements.

1. *Designation of air feed rate as a monitoring and operating parameter.* The interim final regulations listed several parameters which were to be designated as operating and monitoring requirements in each facility permit. These included carbon monoxide in the exhaust gas, waste feed rate, and combustion temperature. Several comments criticized the efficacy of air feed rate monitoring. Such monitoring, they contended, is not a reliable measurement of retention time [2] and is not feasible for all types of incinerators. Commenters suggested that measurement of other parameters, such as combustion gas flow rate, stack gas oxygen concentration, induced or forced draft fan flow rate, fan motor current, or pressure differential within the system,

[2] Generally, retention time correlates with the incinerator's destruction and removal efficiency. As retention time increases, destruction efficiency increases.

be allowed as substitutes for air feed rate as a retention time indicator.

EPA originally used the term "air feed rate" to indicate the rate at which air flows through the incinerator combustion zone. The comments indicate however, that this term has been interpreted more conservatively than the Agency originally intended. As commenters stated, incinerators such as rotary kilns do not employ a forced draft system which lends itself to measurement of air feed rate. Instead, air is drawn into the kiln at many points and actual feed rate is impossible to monitor. In such a situation, measurement of combustion gas flow rate is more appropriate.

Air feed rate was included as an operating parameter for two reasons: (1) To verify that sufficient excess air enters the combustion zone in order that combustion is completed to the extent feasible, and (2) to provide a ceiling for the gas flow rate through the combustion zone in order to assure sufficient retention time. Since specification of air feed rate as an operating parameter is not appropriate for all facilities, today's amendment adds language which allows the use of other appropriate indicators of combustion gas flow rate, in situations where measurement of air feed or flow rate is difficult. Suitable indicators, such as induction fan amperage or exhaust gas velocity, may be considered. Pressure differential within the system may also be monitored; however, it is important to recognize that pressure differential across exhaust gas wet scrubbers should not be relied on since many factors affect the scrubber pressure and will act to decrease the efficacy of its use as an indicator of combustion zone retention time.

The Agency intends that the owner or operator select a parameter which will allow calculation of the volumetric gas flow rate, to be measured during the trial burn, by considering accuracy, precision, ease of measurement and facility design. The Regional Administrator will then evaluate this selection, based on the relevant information included in Part B of the permit application and, taking the above considerations into account, the parameter to be measured will be designated in the facility permit. Owners and operators seeking to use such alternatives should supplement their Part B applications with information concerning possible sources of measurement error and the necessary compensatory measures, so that a meaningful evaluation can be made. Further guidance concerning selection of an appropriate indicator of combustion gas flow rate can be found in the Guidance Manual for Evaluating Permit Applications for the Operation of Hazardous Waste Incineration Units.

2. *Inspection of the waste feed cutoff mechanism.* The interim final regulations included a requirement for daily inspection of hazardous waste incinerators and associated equipment. Many commenters expressed concern that requiring daily inspection of the emergency waste feed cutoff mechanism would create an undue financial burden. They maintained that proper inspection requires the skill of a qualified instrument mechanic and is therefore too costly to be conducted on a daily basis. Furthermore, other commenters contended that the reliability of such emergency equipment is sufficient to support the assumption that an incinerator will operate safely even when failure of a component part occurs, and that in the event that the system should not respond, waste feed cutoff can be accomplished manually. In view of the reliability and limited use of such equipment, several comments concluded that weekly or monthly inspections would be more appropriate.

The amended regulation requires inspection at two levels of detail. Daily inspections may be limited to visual examination of the incinerator and associated equipment for signs of leakage, spills, corrosion or breakdown. A careful check of the emergency waste feed cutoff system and associated alarms must be conducted weekly. This inspection should be conducted by properly trained personnel (e.g., an instrument mechanic) and should include testing of the control panel circuits, triggering, through test circuits, of alarms and any other associated automatic functions (e.g., temperature maintenance systems). Operation of the waste feed cutoff valve should be included as part of the weekly inspection in cases where the valve is not "fail safe" (i.e., does not fail in the closed position). A fail safe valve, however, need not be operated weekly.

The degree to which inspection of the emergency waste feed cutoff system will disrupt normal operation of the incinerator will vary, depending upon facility design and other facility-specific factors. For example, liquid injection incinerators equipped with multiple feed nozzles may undergo weekly inspection with very little disruption simply by checking the cutoff to each nozzle individually while maintaining operation of the remaining nozzles. However, disruption may be significant in other instances. The amended regulation therefore gives the Regional Administrator the authority to allow inspection of the emergency waste feed cutoff system as infrequently as monthly. The Agency intends that this variance be granted only when the applicant has shown that weekly inspection will be highly disruptive (e.g., potential exists for refractory shock or other equipment damage) or will impose an inordinately large financial burden due to some facility-specific condition. In each case, granting of the variance should be conditional on a finding that proper operation will be maintained.

The inspection requirements have been disigned to provide adequate continuous assurance that the waste feed cutoff system will respond when needed. Although the mechanisms involved receive limited use and will not suffer greatly from wear, the potential for failure due to neglect is significant and the consequences of failure can be severe. Visual inspections will identify obvious needs for repair. However, since all components of the feed cutoff system are not visually accessible, periodic verification of the operability of the system in necessary both to assure protection of human health and the environment and to protect against the possibility of equipment damage in the event that the emergency waste feed cutoff system is triggered.

3. *Visual inspection of the stack gas plume during interim status.* The interim status standards for hazardous waste incinerators were published as interim final on May 19, 1980. On January 23, 1981, the regulations were amended and finalized. These standards included a requirement for hourly observation of the stack gas plume and subsequent correction of operating parameters, when necessary, as indicated by unusual color or opacity. Petitioners in *Association of Metropolitan Sewerage Agencies* v. *EPA 81–1440 (D.C. Cir.)* have identified two problems with implementation of this standard.

First, petitioners point out that visual inspection during nighttime hours is of little or no value. Secondly, since the regulation does not specifically identify "normal" appearance, petitioners contend that compliance with the requirement is difficult. Another litigent, however, argued that this provision should be retained as the only significant control applicable during interim status.

EPA concurs with the petitioners who contend that the visual inspection requirement is impractical. Initially, the inspection standard was intended to establish the operator's responsibility to recognize serious environmental and

human health hazards and take the actions necessary to prevent or alleviate the danger. During interim status however, the operator's ability to detect serious hazards is limited by the information obtained from reading any existing continous or periodic monitoring devices and observing the appearance of the stack gas plume. Since available equipment varies considerably from facility to facility, the regulation cannot rely on the use of any monitoring devices. Additionally, standards based on stack plume opacity or color are of limited usefulness since typical emissions vary in steam and particulate content. Absent a standard which would be reasonably applicable to all incinerators, the Agency has dropped the provision for monitoring the stack gas plume during interim status.

E. Trial Burn Requirements

The January 23, 1981 regulations set forth a detailed list of technical data and information which must be collected during the trail burn and submitted with Part B of the permit application. Today's amendments to the performance standards and the requirements for operating, monitoring and inspecting require that corresponding changes be made to the trial burn information requirements. For example, the phrase "combustion gas flow rate" has replaced "air feed rate". Two significant amendments are discussed below.

1. *Requirement for monitoring hazardous combustion by-products.* On January 23, 1981, in addition to promulgating the existing incinerator regulations, EPA proposed amendments to performance standards for incinerators. One requirement which the amendment would add is a performance standard for destruction and removal of hazardous combustion by-products which are formed during combustion. The amendment was intended to address those hazardous substances which may be formed when wastes are broken down in the combustion zone and the resulting chemical fragments recombine to form other hazardous substances.

In anticipation of finalizing the proposed amendment, EPA included a requirement in the promulgated regulations for monitoring hazardous combustion by-products during the trial burn. Some commenters and one litigant agreed that the requirement would provide the Agency with valuable data describing the formation of hazardous combustion by-products. EPA is currently evaluating the proposal and will address it after completion of the regulatory impact analysis of the incinerator regulations which is currently underway. Therefore, the requirement for identifying hazardous combustion by-products in incinerator stack gas during the trial burn has been deleted.

2. *Computation of a total mass balance of the trial POHCs.* Section 122.27(b) of the interim final regulations included requirements for quantitative analysis of the scrubber water, ash and other incineration residues and for computation of a total mass balance of the trial POHCs, both to be conducted following completion of the trial burn. Today's amendment to § 122.27 deletes the requirement for a "total mass balance of the trial POHCs." While analysis of the scrubber water, ash and other residues is still required, the amended regulation states that this analysis is intended to estimate the fate of the trial POHCs. Owners and operators will not be required to account for the destruction or removal of the total mass of each trial POHC. However, the required analysis must provide sufficient information to determine whether the PHOCs are primarily destroyed through thermal combustion or removed either by the air pollution control system, or in the bottom ash.

Comments received following publication of the Subpart O Regulation expressed a strong belief that the costs associated with conducting a trial burn would be much greater (i.e., $150,000 to $200,000) than EPA had estimated (i.e., $40,000 to $60,000). This discrepancy should be somewhat reduced by today's amendment to § 122.27(b) since it will eliminate any perceived need to shut down the incinerator and thoroughly empty and clean the scrubber system. Furthermore, since many applicants may petition the Agency under Part 260 to delist bottom ash or scrubber effluents, the required analysis of residues will often serve a dual purpose. The amended regulation therefore acts to decrease the costs incurred during the trial burn while preserving the intent of the orignial requirement.

IV. Other Important Issues

Several issues which concerned interpretation of the regulatory language or the basis and purpose of the regulations were raised by a majority of the commenters who responded to the January 23, 1981 promulgation. The issues include: selection of the POHCs in each waste feed, the applicability of the incinerator regulations to fume incinerators, and the need to regulate particulate emissions from hazardous waste incinerators. Although consideration of these issues did not lead to amendment of the regulations, further discussion may clarify these issues and is presented below.

A. Selection of Principal Organic Hazardous Constituents

In order to establish compliance with the performance standard for 99.99% destruction and removal of organic waste constituents, the regulations provide for selection, by the permitting official, of principal organic hazardous constituents (POHCs) for each waste feed to be burned. POHCs are hazardous organic substances present in the waste representative of those constituents which are most difficult to burn and most abundant in the waste. The incinerator standards set out the criteria to be used in selecting POHCs (i.e., ease of incinerability and concentration). EPA's Guidance Manual for Evaluating Permit Applications for the Operation of Hazardous Waste Incineration Units suggest one method for making the selection.

The destruction and removal efficiency is actually measured only for the POHCs and the incinerator's performance in treating these substances is used to indicate overall performance in treating organic wastes. When a contrived waste feed is used for the trial burn, these constituents will be added to the feed in concentration similar to those expected during normal operation. They are then to be quantified both in the waste and in the stack emissions during the trial burn. This provision acts to simplify the sampling and analysis efforts which are necessary to determine whether the performance standard has been achieved, thereby reducing the cost and complexity of the trial burn.

The regulation specified the following standard for use by the permitting official in designating POHCs:

> This specification will be based on the degree of difficulty of incineration of the organic constituents in the waste and on their concentration or mass in the waste feed, considering the results of waste analyses and trial burns or alternative data submitted with Part B of the facility's permit application. Organic constituents which represent the greatest degree of difficulty of incineration will be the most likely to be designated as POHCs. Constituents are more likely to be designated as POHCs if they are present in large quantities or concentrations in the waste. (40 CFR 264.342)

Many commenters requested that EPA provide more specific regulatory language concerning POHC selection and that a maximum allowable number of POHCs per waste be designated. In general, commenters expressed concern that, absent more specific guidance in

the regulations, POHC selection would be arbitrary and overly burdensome, resulting in costly sampling and analysis requirements.

The Subpart O standards provide a mechanism for selecting POHCs and designating operating requirements on a case-by-case basis through the permitting process. The Agency has avoided setting cumbersome design and operating standards for nationwide application, and has developed a system which allows the permit writer to select those operating conditions, for each facility, which are the most effective in achieving compliance with the performance standards. This selection is based on a demonstration made by the permit applicant during the trial burn. In order to maintain the flexibility of this system, EPA must avoid the use of overly confining regulatory language, and for this reason the specific limits on POHC selection are not enumerated in the regulation. Section 264.342 cites two general criteria for consideration is selecting POHCs: quantity or concentration, and ease of incinerability.

The Guidance Manual for Evaluating Permit Applications for the Operation of Hazardous Waste Incineration Units presents a forumla for incorporating these two criteria into a numeric index intended as a general guide in POHC selection. That Manual can also assist the permit writer in specifying allowable waste constituents, based on the feed constituents burned in the trial burn, including trial burns with contrived waste blends.

EPA's manual on chemical analysis of wastes, "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods" (SW–846), provides analytical techniques which will detect concentrations of hazardous constituents in wastes down to approximately 1 part per million. In selecting POHCs, the Regional Administrator generally will not select constituents which are present in a waste feed at concentrations less than 100 parts per million, since, for many substances, special stack sampling procedures would be required to measure stack gas concentrations resulting from 99.99% destruction and removal efficiency of waste constituents present in concentrations below this level. EPA estimates indicate that waste constituents present in concentrations as low as 1000 ppm will be routinely detected by stack gas analysis following destruction and removal at 99.99% efficiency and that a waste concentration of 100 ppm probably represents a practical lower limit beyond which determination of 99.99% destruction and removal will be difficult to verify.

The Regional Administrator however, will not always be able to definitively establish that an organic hazardous constituent present in relatively low concentrations (i.e., concentrations between 100 and 1000 ppm) will not be detected in the stack gas following 99.99% destruction and removal. Therefore, a POHC may be selected which subsequently will not be detected in the stack gas, despite careful fulfillment of the sampling, analysis and quality control requirements set forth in the trial burn plan. In such an instance, EPA intends that attainment of 100% destruction and removal will be assumed for that POHC. In cases where the waste under consideration contains none of the organic constituents listed in Appendix VIII, no POHCs can or will be designated and the trial burn will be used only to establish the incinerator's ability to comply with the performance standards for hydrogen chloride and particulate emissions.

With respect to ease of incinerability, EPA has developed a ranking of the Appendix VIII hazardous constituents based on Heat of Combustion values. This hierarchy will allow the applicant to demonstrate the required level of performance for a large number of constituents by successfully burning one or several of those which are most difficult to destroy. The Agency does not intend however, that the incinerability ranking be used as a substitute for the permit writer's engineering judgment. The list will provide the permit writer and applicant with a useful means for identifying the constituents of a waste which are likely to most difficult to destroy and may be used in conjunction with other information relating to the incinerability of an organic constituent (e.g., Auto Ignition Temperature), when available.

Heat of Combustion values are measured under controlled laboratory conditions or derived from theoretical calculations. Therefore, they provide only an indication of the temperature at which a hazardous constituent will be destroyed. In situations where the Heat of Combustion values for the waste constituents under consideration do not differ considerably and no other information regarding incinerability is available, the ranking must be used cautiously and selection of a number of trial POHCs may be necessary.

By developing the incinerability hierarchy, the Agency has attempted to provide a mechanism which will aid in minimizing the number of POHCs selected for each trial burn. In theory, the permit writer need select as a POHC only the single hazardous constituent which is most difficult to destroy, as indicated by the hierarchy. However, because of the imperfections inherent to the hierarchy more than one POHC must be selected in many cases. Overall, the Agency believes that the incinerability ranking will allow permit writers to confine POHC selection to fewer than six constituents in most cases, reducing the need for costly sampling and analysis.

B. Applicability of the Incinerator Regulations to Fume Incinerators

Several commenters asked that EPA clarify the applicability of the incinerator regulations to fume incinerators. Such incinerators are installed as air pollution control devices pursuant to regulations under the Clean Air Act, and commenters contended that these facilities do not fall into regulatory jurisdiction under RCRA.

EPA agrees with commenters that fume incinerators are subject only to regulation under the Clean Air Act and does not intend that the Parts 264 and 265 regulations apply to these facilities. Fume incinerators which are used to destroy gaseous emissions from various industrial processes, for example, are not subject to regulation under RCRA. In general, the RCRA standards do not apply to fume incinerators since the input is not identifiable as a solid waste, according to the definition set forth in § 261.2.

C. Regulation of Particulate Emissions from Hazardous Waste Incinerators

The performance standard for control of particulate emissions is equivalent to the particulate standard established by EPA's New Source Performance Standard for municipal incinerators, promulgated under authority of the Clean Air Act (46 FR 7674). Several commenters contended that this use of a Clean Air Act standard to satisfy the requirements of RCRA was inappropriate.

In borrowing the Clean Air Act standard for use by the RCRA hazardous waste regulations, the Agency has simply adopted a standard which is known to be achievable (see the Background Document on Incineration, December, 1980) and which the Agency views as the minimum necessary level of control for hazardous waste incinerators. The reason for using this standard in the RCRA regulations is not the same as the reason for using it under the Clean Air Act. The standard for control of particulate emissions

results from concern for the release of toxic pollutants, particularly heavy metals, as well as organic hazardous constituents, which adhere to particulate material. Currently, no other controls for metal emissions are included in the RCRA regulations. Existing data shows that particulate emissions carrying toxic substances may pose risk to human health. EPA has chosen to use the current particulate regulation to establish basic control over this risk.

V. Supporting Documents

A. Background Documents

The record supporting these amendments includes background documents providing response to public comments and the rationale underlying the incernator regulations. These documents and the references listed in them, are part of the record indicating the basis and purpose of the promulgated regulations. The background documents address comments received on the interim final regulations published January 23, 1981 (46 FR 7666) which pertained to the issues discussed in this preamble, the interim final and interim status regulations published May 19, 1980 (45 FR 33066), and the proposed regulations published December 18, 1978 (43 FR 58946). Copies of these documents are available for review in the EPA Regional Office Libraries and at the EPA Headquarters Library, Room 2404, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

B. Guidance Documents

EPA is preparing guidance manuals to assist facility owners and operators as well as regulatory officials. These documents do not have the force of regulations, but will provide assistance in applying the regulations and will include technical information concerning the operation of incinerators. These manuals include an Engineering Handbook on Hazardous Waste Incineration and the Guidance Manual for Evaluating Permit Applications for the Operation of Hazardous Waste Incineration Units. For a more complete list of manuals supporting the hazardous waste regulatory program, see the preamble to the interim final rules, published January 12, 1981 (46 FR 2802).

VI. Regulatory Impacts

EPA has determined, pursuant to Executive Order No. 12291, that today's amendments do not constitute a major rule and that no regulatory impact analysis is required. The amendments to the Parts 122, 264, and 265 regulations presented here will not impose any additional costs on the regulated community. EPA has submitted the necessary Standard Form 83 (Request for OMB Review) in accordance with the Paperwork Reduction Act and Executive Order No. 12291. Any comments received from OMB are included in the docket for this rulemaking.

The Regulatory Flexibility Act requires all Federal agencies to consider the impacts of their regulations on small business entities. For the reasons discussed in this preamble, EPA believes that the net effect of today's amendments will be to reduce the regulatory and economic burden imposed on all hazardous waste incinerators, including those belonging to small businesses. Pursuant to section 605 of the Regulatory Flexibility Act, it has been determined that today's amendments will not have a significant impact on a substantial number of small entities. A copy of this certification has been submitted to the Chief Counsel for Advocacy of the Small Business Administration.

VII. Interim Final Regulations: Effective Dates

On July 24, 1981, EPA published a Notice of Effective Dates of Interim Final Rules (46 FR 38318). This notice confirmed the effective dates of the incinerator regulations (July 22, 1981) and the standards applicable to hazardous waste storage facilities (July 13, 1981). The notice also announced EPA's intention to initiate rulemaking to suspend the effective dates of the interim final (Part 264) regulations for existing incinerators and storage surface impoundments, pending further evaluation of the appropriateness of the standards for those facilities.

Today's amendments address some of the issues related to the January 23, 1981 regulations. These regulations were noticed on an interim final basis, with a specific request for comments. Many comments were received in response to the request and today's amendments are being promulgated as interim final on the basis of that notice and comment period. Since the regulations are currently at the interim final stage, interested parties will have ample opportunity to comment on these amendments before the regulations are issued in final form.

Section 3010(b) of RCRA requires that revisions to regulations pertaining to requirements for permitting "* * * shall take effect on the date six months after the date of * * * revision." The Agency does not believe that a literal application of this requirement would be appropriate in this case. The purpose of section 3010(b) is to allow persons handling hazardous wastes sufficient lead time to prepare for compliance with new regulatory requirements. Because today's amendments generally ease the task of the permit applicant, delaying their effective date is not necessary to preserve the objective of section 3010(b). Futhermore, EPA believes that an effective date of six months after promulgation would be counterproductive, since much of the regulatory burden which these amendments seek to avert would already have been imposed on new facilities and because the existing permitting procedures create difficulties for owners and operators seeking permits for new incinerators. Today's amendments, therefore, become effective immediately.

List of Subjects

40 CFR Part 122

Administrative practice and procedure, Air pollution control, Hazardous materials, Reporting requirements, Waste treatment and disposal, Water pollution control, Water supply, Confidential business information.

40 CFR Part 264

Hazardous materials, Packaging and containers, Reporting requirements, Security measures, Surety bonds, Waste treatment and disposal.

40 CFR Part 265

Air pollution control, Hazardous materials, Packaging and containers, Reporting requirements, Security measures, Surety bonds, Waste treatment and disposal, Water supply.

Dated: June 21, 1982.

Anne M. Gorsuch,

Administrator.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations is amended as follows:

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

Subpart O—Incinerators

1. The authority citation for Part 264 reads as follows:

Authority: Sections 1006, 2002(a), and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6905, 6912(a) and 6924).

2. Section 264.340 is amended by revising paragraph (b), redesignating and revising paragraph (c) as paragraph (d), and adding new paragraph (c) to read as follows:

§ 264.340 Applicability.

* * * * *

(b) After consideration of the waste analysis included with Part B of the permit application, the Regional Administrator, in establishing the permit conditions, must exempt the applicant from all requirements of this Subpart except § 264.341 (Waste analysis) and § 264.351 (Closure),

(1) If the Regional Administrator finds that the waste to be burned is:

(i) Listed as a hazardous waste in Part 261, Subpart D, of this Chapter solely because it is ignitable (Hazard Code I), corrosive (Hazard Code C), or both; or

(ii) Listed as a hazardous waste in Part 261, Subpart D, of this Chapter solely because it is reactive (Hazard Code R) for characteristics other than those listed in § 261.23)(a) (4) and (5), and will not be burned when other hazardous wastes are present in the combustion zone; or

(iii) A hazardous waste solely because it possesses the characteristic of ignitability, corrosivity, or both, as determined by the test for characteristics of hazardous wastes under Part 261, Subpart C, of this Chapter; or

(iv) A hazardous waste solely because it possesses any of the reactivity characteristics described by § 261.23(a) (1), (2), (3), (6), (7), and (8) of this Chapter, and will not be burned when other hazardous wastes are present in the combustion zone; and

(2) If the waste analysis shows that the waste contains none of the hazardous constituents listed in Part 261, Appendix VIII, of this Chapter, which would reasonably be expected to be in the waste.

(c) If the waste to be burned is one which is described by paragraphs (b)(1)(i), (b)(1)(ii), (b)(1)(iii), or (b)(1)(iv) of this Section and contains insignificant concentrations of the hazardous constituents listed in Part 261, Appendix VIII, of this Chapter, then the Regional Administrator may, in establishing permit conditions, exempt the applicant from all requirements of this Subpart, except § 264.341 (Waste analysis) and § 264.351 (Closure), after consideration of the waste analysis included with Part B of the permit application, unless the Regional Administrator finds that the waste will pose a threat to human health and the environment when burned in an incinerator.

(d) The owner or operator of an incinerator may conduct trial burns subject only to the requirements of § 122.27(b) of this Chapter (Short term and incinerator permits).

3. Section 264.341 is amended by revising paragraph (a) as follows:

§ 264.341 Waste analysis.

(a) As a portion of the trial burn plan required by § 122.27(b) of this Chapter, or with Part B of the permit application, the owner or operator must have included an analysis of the waste feed sufficient to provide all information required by § 122.27(b)(2) or 122.25(b)(5) of this Chapter. Owners or operators of new hazardous waste incinerators must provide the information required by § 122.27(b)(3) or 122.25(b)(5) of this Chapter to the greatest extent possible.

4. Section 264.343 is amended by revising paragraphs (b) and (c) to read as follows:

§ 264.343 Performance standards.

* * * * *

(b) An incinerator burning hazardous waste and producing stack emissions of more than 1.8 kilograms per hour (4 pounds per hour) of hydrogen chloride (HCl) must control HCl emissions such that the rate of emission is no greater than the larger of either 1.8 kilograms per hour or 1% of the HCl in the stack gas prior to entering any pollution control equipment.

(c) An incinerator burning hazardous waste must not emit particulate matter in excess of 180 milligrams per dry standard cubic meter (0.08 grains per dry standard cubic foot) when corrected for the amount of oxygen in the stack gas according to the formula:

$$P_c = P_m \cdot \frac{14}{21-Y}$$

Where P_c is the corrected concentration of particulate matter, P_m is the measured concentration of particulate matter, and Y is the measured concentration of oxygen in the stack gas, using the Orsat method for oxygen analysis of dry flue gas, presented in Part 60, Appendix A (Method 3), of this Chapter. This correction procedure is to be used by all hazardous waste incinerators except those operating under conditions of oxygen enrichment. For these facilities, the Regional Administrator will select an appropriate correction procedure, to be specified in the facility permit.

* * * * *

5. Section 264.344 is amended by revising the title and adding new paragraph (c) as follows:

§ 264.344 Hazardous waste incinerator permits.

* * * * *

(c) The permit for a new hazardous waste incinerator must establish appropriate conditions for each of the applicable requirements of this Subpart, including but not limited to allowable waste feeds and operating conditions necessary to meet the requirements of § 264.345, sufficient to comply with the following standards:

(1) For the period beginning with initial introduction of hazardous waste to the incinerator and ending with initiation of the trial burn, and only for the minimum time required to establish operating conditions required in paragraph (c)(2) of this Section, not to exceed a duration of 720 hours operating time for treatment of hazardous waste, the operating requirements must be those most likely to ensure compliance with the performance standards of § 264.343, based on the Regional Administrator's engineering judgment. The Regional Administrator may extend the duration of this period once for up to 720 additional hours when good cause for the extension is demonstrated by the applicant.

(2) For the duration of the trial burn, the operating requirements must be sufficient to demonstrate compliance with the performance standards of § 264.343 and must be in accordance with the approved trial burn plan;

(3) For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow sample analysis, data computation, and submission of the trial burn results by the applicant, and review of the trial burn results and modification of the facility permit by the Regional Administrator, the operating requirements must be those most likely to ensure compliance with the performance standards of § 264.343, based on the Regional Administrator's engineering judgement.

(4) For the remaining duration of the permit, the operating requirements must be those demonstrated, in a trial burn or by alternative data specified in § 122.25(b)(5)(iii) of this Chapter, as sufficient to ensure compliance with the performance standards of § 264.343.

6. Section 264.345 is amended by revising paragraph (b)(4) and (c) to read as follows:

§ 264.345 Operating requirements.

* * * * *

(b) * * *

(4) An appropriate indicator of combustion gas velocity;

* * * * *

(c) During start-up and shut-down of an incinerator, hazardous waste (except wastes exempted in accordance with § 264.340) must not be fed into the incinerator unless the incinerator is operating within the conditions of operation (temperature, air feed rate, etc.) specified in the permit.

* * * * *

7. Section 264.347 is amended by revising paragraphs (a)(1) and (b), redesignating paragraph (c) as paragraph (d), and adding new paragraph (c) as follows:

§ 264.347 Monitoring and inspections.

(a) * * *

(1) Combustion temperature, waste feed rate, and the indicator of combustion gas velocity specified in the facility permit must be monitored on a continuous basis.

* * * * *

(b) The incinerator and associated equipment (pumps, valves, conveyors, pipes, etc.) must be subjected to thorough visual inspection, at least daily, for leaks, spills, fugitive emissions, and signs of tampering.

(c) The emergency waste feed cutoff system and associated alarms must be tested at least weekly to verify operability, unless the applicant demonstrates to the Regional Administrator that weekly inspections will unduly restrict or upset operations and that less frequent inspection will be adequate. At a minimum, operational testing must be conducted at least monthly.

(d) This monitoring and inspection data must be recorded and the records must be placed in the operating log required by § 264.73.

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

Subpart O—Incinerators

8. The authority citation for Part 265 reads as follows:

Authority: Sections 1006, 2002(a), and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), and 6924).

9. Section 265.340 is amended by revising paragraph (b) to read as follows:

§ 265.340 Applicability.

* * * * *

(b) Owners and operators of incinerators burning hazardous waste are exempt from all of the requirements of this Subpart, except § 265.351 (Closure), provided that the owner or operator has documented, in writing, that the waste would not reasonably be expected to contain any of the hazardous constituents listed in Part 261, Appendix VIII, of this Chapter, and such documentation is retained at the facility, if the waste to be burned is:

(1) Listed as a hazardous waste in Part 261, Subpart D, of this Chapter solely because it is ignitable (Hazard Code I), corrosive (Hazard Code C), or both; or

(2) Listed as a hazardous waste in Part 261, Subpart D, of this Chapter solely because it is reactive (Hazard Code R) for characteristics other than those listed in § 261.23(a) (4) and (5), and will not be burned when other hazardous wastes are present in the combustion zone; or

(3) A hazardous waste solely because it possesses the characteristic of ignitability, corrosivity, or both, as determined by the tests for characteristics of hazardous wastes under Part 261, Subpart C, of this Chapter; or

(4) A hazardous waste solely because it possesses the reactivity characteristics described by § 261.23(a) (1), (2), (3), (6), (7), or (8) of this Chapter, and will not be burned when other hazardous wastes are present in the combustion zone.

§ 265.347 [Amended]

10. Section 265.347 is amended by removing paragraph (b) and redesignating old paragraph (c) as new paragraph (b).

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

11. The authority citation for Part 122 reads as follows:

Authority: Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*, Safe Drinking Water Act, 42 U.S.C. 3007 *et seq.*, and Clean Water Act, 33 U.S.C. 1251 *et seq.*

12. Section 122.17 is amended by adding new paragraphs (e)(3), (e)(4) and (e)(5) as follows:

§ 122.17 Minor modifications of permits.

* * * * *

(e) * * *

(3) Change the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided that the change is minor.

(4) Change the operating requirements set in the permit for conducting a trial burn, provided that the change is minor.

(5) Grant one extension of the time period for determining operational readiness following completion of construction, for up to 720 hours operating time for treatment of hazardous waste.

* * * * *

13. Section 122.25 is amended by revising paragraph (b)(5) (i), (ii), (iii)(E)(*2*), (iii)(E)(*3*), and (iii)(F)(*4*) to read as follows:

§ 122.25 Contents of Part B.

* * * * *

(b) * * *

(5) * * *

(i) When seeking exemption under § 264.340 (b) or (c) of this Chapter (ignitable, corrosive or reactive wastes only):

(A) Documentation that the waste is listed as a hazardous waste in Part 261, Subpart D, of this Chapter solely because it is ignitable (Hazard Code I), corrosive (Hazard Code C), or both; or

(B) Documentation that the waste is listed as a hazardous waste in Part 261, Subpart D, of this Chapter solely because it is reactive (Hazard Code R) for characteristics other than those listed in § 261.23(a) (4) and (5) of this Chapter, and will not be burned when other hazardous wastes are present in the combustion zone; or

(C) Documentation that the waste is a hazardous waste solely because it possesses the characteristic of ignitability, corrosivity, or both, as determined by the tests for characteristics of hazardous wastes under Part 261, Subpart C, of this Chapter; or

(D) Documentation that the waste is a hazardous waste solely because it possesses the reactivity characteristics listed in § 261.23(a) (1), (2), (3), (6), (7), or (8) of this Chapter, and that it will not be burned when other hazardous wastes are present in the combustion zone; or

(ii) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with § 122.27(b); or

(iii) * * *

(E) * * *

(*2*) Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement),

(*3*) The certification and results required by § 122.27(b)(5)(ii).

* * * * *

(F) * * *

(4) Indication of combustion gas velocity.

* * * * *

14. Section 122.27 is amended by changing the title and revising paragraph (b) to read as follows:

§ 122.27 Short term and incinerator permits.

* * * * *

(b) *Hazardous Waste Incinerator Permits.* (1) For the purposes of determining operational readiness following completion of physical construction, the Director must establish permit conditions, including but not limited to allowable waste feeds and operating conditions, in the permit to a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to bring the incinerator to a point of operational readiness sufficient to conduct a trial burn, not to exceed 720 hours operating time for treatment of hazardous waste. The Director may extend the duration of this operational period once, for up to 720 additional hours, at the request of the applicant when good cause is shown. The permit may be modified to reflect the extension according to § 122.17 (Minor modifications of permits) of this Chapter.

(i) Applicants must submit a statement, with Part B of the permit application, which suggests the conditions necessary to operate in compliance with the performance standards of § 264.343 of this Chapter during this period. This statement should include, at a minimum, restrictions on waste constituents, waste feed rates and the operating parameters identified in § 264.345 of this Chapter.

(ii) The Director will review this statement and any other relevant information submitted with Part B of the permit application and specify requirements for this period sufficient to meet the performance standards of § 264.343 of this Chapter based on his engineering judgement.

(2) For the purposes of determining feasibility of compliance with the performance standards of § 264.343 of this Chapter and of determining adequate operating conditions under § 264.345 of this Chapter, the Director must establish conditions in the permit to a new hazardous waste incinerator to be effective during the trial burn.

(i) Applicants must propose a trial burn plan, prepared under paragraph (b)(2)(ii) of this Section with Part B of the permit application.

(ii) The trial burn plan must include the following information:

(A) An analysis of each waste or mixture of wastes to be burned which includes:

(1) Heat value of the waste in the form and composition in which it will be burned.

(2) Viscosity (if applicable), or description of physical form of the waste.

(3) An identification of any hazardous organic constituents listed in Part 261, Appendix VIII, of this Chapter, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in Part 261, Appendix VIII, of this Chapter which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified, and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods" (incorporated by reference, see § 122.20), or their equivalent.

(4) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods," (incorporated by reference, see § 122.20) or their equivalent.

(B) A detailed engineering description of the incinerator for which the permit is sought including:

(1) Manufacturer's name and model number of incinerator (if available).

(2) Type of incinerator.

(3) Linear dimensions of the incinerator unit including the cross sectional area of combustion chamber.

(4) Description of the auxiliary fuel system (type/feed).

(5) Capacity of prime mover.

(6) Description of sutomatic waste feed cut-off system(s).

(7) Stack gas monitoring and pollution control equipment.

(8) Nozzle and burner design.

(9) Construction materials.

(10) Location and description of temperature, pressure, and flow indicating and control devices.

(C) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis.

(D) A detailed test schedule for each waste for which the trial burn is planned including date(s), duration, quantity of waste to be burned, and other factors relevant to the Director's decision under paragraph (b)(2)(v) of this Section.

(E) A detailed test protocol, including, for each waste identified, the ranges of temperature, waste feed rate, combustion gas velocity, use of auxiliary fuel, and any other relevant parameters that will be varied to affect the destruction and removal efficiency of the incinerator.

(F) A description of, and planned operating conditions for, any emission control equipment which will be used.

(G) Procedures for rapidly stopping waste feed, shutting down the incinerator, and controlling emissions in the event of an equipment malfunction.

(H) Such other information as the Director reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this paragraph and the criteria in paragraph (b)(2)(v) of this section.

(iii) The Director, in reviewing the trial burn plan, shall evaluate the sufficiency of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this paragraph.

(iv) Based on the waste analysis data in the trial burn plan, the Director will specify as trial Principal Organic Hazardous Constituents (POHCs), those constituents for which destruction and removal efficiencies must be calculated during the trial burn. These trial POHCs will be specified by the Director based on his estimate of the difficulty of incineration of the constituents identified in the waste analysis, their concentration or mass in the waste feed, and, for wastes listed in Part 261, Subpart D, of this Chapter, the hazardous waste organic constituent of constituents identified in Appendix VII of that Part as the basis for listing.

(v) The Director shall approve a trial burn plan if he finds that:

(A) The trial burn is likely to determine whether the incinerator performance standard required by § 264.343 of this Chapter can be met;

(B) The trial burn itself will not present an imminent hazard to human health or the environment;

(C) The trial burn will help the Director to determine operating requirements to be specified under §264.345 of this Chapter; and

(D) The information sought in paragraphs (b)(2)(v) (A) and (C) of this Section cannot reasonably be developed through other means.

(vi) During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:

(A) A quantitative analysis of the trial POHCs in the waste feed to the incinerator.

(B) A quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial POHCs, oxygen (O_2) and hydrogen chloride (HCl).

(C) A quantitative analysis of the scrubber water (if any), ash residues, and other residues, for the purpose of estimating the fate of the trial POHCs.

(D) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in § 264.343(a) of this Chapter.

(E) If the HCl emission rate exceeds 1.8 kilograms of HCl per hour (4 pounds per hour), a computation of HCl removal efficiency in accordance with § 264.343(b) of this Chapter.

(F) A computation of particulate emissions, in accordance with § 264.343(c) of this Chapter.

(G) An identification of sources of fugitive emissions and their means of control.

(H) A measurement of average, maximum, and minimum temperatures and combustion gas velocity.

(I) A continuous measurement of carbon monoxide (CO) in the exhaust gas.

(J) Such other information as the Director may specify as necessary to ensure that the trial burn will determine compliance with the performance standards in § 264.343 of this Chapter and to establish the operating conditions required by § 264.345 of this Chapter as necessary to meet that performance standard.

(vii) The applicant must submit to the Director a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all the determinations required in paragraph (b)(2)(vi). This submission shall be made within 90 days of completion of the trial burn, or later if approved by the Director.

(viii) All data collected during any trial burn must be submitted to the Director following the completion of the trial burn.

(ix) All submissions required by this paragraph must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report under § 122.6.

(x) Based on the results of the trial burn, the Director shall set the operating requirements in the final permit according to § 264.345 of this Chapter. The permit modification shall proceed as a minor modification according to § 122.17.

(3) For the purposes of allowing operation of a new hazardous waste incinerator following completion of the trial burn and prior to final modification of the permit conditions to reflect the trial burn results, the Director may establish permit conditions, including but not limited to allowable waste feeds and operating conditions sufficient to meet the requirements of § 264.345 of this Chapter, in the permit to a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to complete sample analysis, data computation and submission of the trial burn results by the applicant, and modification of the facility permit by the Director.

(i) Applicants must submit a statement, with Part B of the permit application, which identifies the conditions necessary to operate in compliance with the performance standards of § 264.343 of this Chapter, during this period. This statement should include, at a mimimum, restrictions on waste constituents, waste feed rates and the operating parameters identified in § 264.345 of this Chapter.

(ii) The Director will review this statement and any other relevant information submitted with Part B of the permit application and specify those requirements for this period most likely to meet the performance standards of § 264.343 of this Chapter based on his engineering judgement.

(4) For the purposes of determining feasibility of compliance with the performance standards of § 264.343 of this chapter and of determining adequate operating conditions under § 264.345 of this chapter, the applicant for a permit to an existing hazardous waste incinerator may prepare and submit a trial burn plan and perform a trial burn in accordance with paragraphs (b)(2)(ii) through (b)(2)(ix) of this section. Applicants who submit trial burn plans and receive approval before submission of a permit application must complete the trial burn and submit the results, specified in paragraph (b)(2)(vi), with Part B of the permit application. If completion of this process conflicts with the date set for submission of the Part B application, the applicant must contact the Director to establish a later date for submission of the Part B application or the trial burn results. If the applicant submits a trial burn plan with Part B of the permit application, the trial burn must be conducted and the results submitted within a time period to be specified by the Director.

[FR Doc. 82-17099 Filed 6-23-82; 8:45 am]

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Reader Aids

Federal Register

Vol. 47, No. 122

Thursday, June 24, 1982

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
Privacy Act	523-5237
Public Inspection Desk	523-5215
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

United States Government Manual 523-5230

SERVICES

Agency services	523-4534
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
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, JUNE

23681-23912.....1
23913-24096.....2
24097-24250.....3
24251-24538.....4
24539-24688.....7
24689-25000.....8
25001-25112.....9
25113-25318.....10
25319-25502.....11
25503-25728.....14
25729-25932.....15
25933-26116.....16
26117-26368.....17
26369-26610.....18
26611-26804.....21
26805-27056.....22
27057-27242.....23
27243-27536.....24

CFR PARTS AFFECTED DURING JUNE

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

Executive Orders:

January 29, 1859
(Revoked by PLO 6260).....26131
January 29, 1867
(Revoked in part by PLO 6287).....27292
July 2, 1875
(Revoked by PLO 6270).....27285
July 27, 1875
(Revoked by PLO 6271).....27285
May 8, 1889
(Revoked by PLO 6257).....26130
May 28, 1889
(Revoked in part by PLO 6255).....26129
April 1, 1895
(See PLO 6260).....26131
April 30, 1896
(See PLO 6260).....26131
August 16, 1911
(Revoked in part by PLO 6280).....27287
February 5, 1912
(Revoked in part by PLO 6283).....27290
July 3, 1913
(Revoked in part by PLO 6280).....27287
December 11, 1914
(Revoked in part by PLO 6280).....27287
November 10, 1917
(Revoked in part by PLO 6259).....26130
February 25, 1919
(Revoked in part by PLO 6282).....27289
November 26, 1921
(Revoked in part by PLO 6274).....27286
November 21, 1923
(Revoked in part by PLO 6266).....26133
June 8, 1926
(Revoked in part by PLO 6252).....26133
April 17, 1926
(Revoked in part by PLO 6284).....27290
699 (See PLO 6287).....27292
4082 (Revoked by PLO 6287).....27292
4364 (Revoked by PLO 6287).....27292
4774 (Revoked by PLO 6287).....27292
5339 (Revoked in part by PLO 6281).....27288
5702 (Revoked by PLO 6287).....27292
6205 (Revoked in part by PLO 6286).....27291
7035 (See PLO 6287).....27292
December 22, 1927
(Revoked by PLO 6263).....26132
April 23, 1929
(Revoked by PLO 6263).....26132
12367.....26119

Proclamations:

1245 (Revoked by PLO 6266).....26133
4944.....24097
4945.....24099
4946.....25503
4947.....26117
4948.....26805

5 CFR

1260.....26369
1261.....26369

Proposed Rules:

340.....24726
720.....24336

7 CFR

1.....26611
2.....23681, 24101
15.....25458
15b.....25458
29.....25933, 27057
102.....23910
277.....25496
301.....23682, 23683, 26121
371.....25001, 27234
411.....27058
439.....27059
760.....24689
905.....25935
908.....24137, 25113, 26122, 27234
910.....24251, 25319, 26370
916.....23913
917.....23913
923.....23684
979.....24109
981.....25001
1032.....25113
1040.....26370
1106.....25505
1701.....24251
1900.....24539
2900.....25319

Proposed Rules:

28.....26637

52 25366
54 23725
235 25368
272 ..... 24968, 26639, 26840, 27038
273 ..... 24968, 26639, 26840, 27038
276 ..... 26639, 27038
932 26394
1001 27080
1006 27342
1011 26656
1012 27342
1013 27342
1033 27342
1036 27342
1040 27342
1046 26656
1065 26840
1071 26665
1073 26665
1098 26656
1104 26665
1106 26665
1124 27342
1125 27342
1126 26665
1132 26665
1133 27342
1134 ..... 27299, 27342
1135 27342
1136 ..... 27299, 27342
1137 ..... 27299, 27342
1139 27342
1200 ..... 23733, 24338
1701 ..... 25371, 26841
1807 27366
1872 27366
1901 27366
1910 27366
1940 27366
1941 27366
1943 27366
1944 27366
1945 27366
1962 27366
1990 27366

8 CFR

100 25002

Proposed Rules:

214 24596
248 24596

9 CFR

92 24540
317 26371
318 26371
319 26371

Proposed Rules:

166 26841
318 23941
381 23941

10 CFR

30 27060
40 27060
70 27060
508 ..... 25729, 26615

Proposed Rules:

50 27371
430 26143
456 26148
485 25535
501 25153

12 CFR

217 ..... 24252, 27244
303 25733
546 26807
563 26807
563b 24252
611 27060
614 27060
701 ..... 23685, 26808
707 26808
708 26808
745 26808

Proposed Rules:

Ch. VII 23747, 26842
29 ..... 23944, 26157
202 ..... 23738, 23741, 25019
350 23743
614 25535
701 23750
721 23751

13 CFR

122 24110

14 CFR

39 ..... 25114, 25115, 27244–27248
71 ..... 25506, 25507, 26615, 27249, 27252
73 26123
75 ..... 26615, 27252, 27253
91 ..... 25116, 25508
95 27253
97 25510
298 25935
323 26809
382 25936

Proposed Rules:

21 24596
39 ..... 23691–23698, 24138, 24541
71 ..... 23699–23702, 23752, 24112, 24139–24141, 25155, 25156, 25539, 26157, 26665, 27373, 27374
75 24597
91 ..... 26112, 26158
97 23703
183 27472
202 25019
203 25019
204 25019
208 25019
211 25019
212 25019
213 25019
215 25019
231 23949
250 24689
294 25019
298 ..... 23949, 25019
323 27081
399 24598

15 CFR

376 ..... 25118, 27250
379 ..... 25118, 27250
385 ..... 25118, 27250
806 23705
930 27062
970 24948

16 CFR

13 ..... 24113, 25118

Proposed Rules:

Ch. II 24034
13 25157
436 25372
455 24542
1025 25512
1632 25159

17 CFR

140 ..... 24113, 26810
200 ..... 26818, 26820
201 26818
202 26820
203 26820
210 25120
211 ..... 23915, 23916
229 25126
230 26818
231 25120
239 ..... 25126, 26818
240 ..... 23919, 26161
249 ..... 25120, 26818
259 26818
260 26818
269 26818
274 26818
279 26818

Proposed Rules:

21 23951
201 25372
230 25372
240 ..... 24338, 25372, 26161
250 25372
260 25372
270 25372
275 25372

18 CFR

1 24691
3 24691
157 24254
271 ..... 25132, 25133
282 24117
284 24254
375 ..... 24524, 24691

Proposed Rules:

1 ..... 24691, 27375
3 27375
271 ..... 23752, 24141, 24342, 25374, 25540, 26163, 27082, 27083
274 24726
284 24726
375 ..... 24726, 27375
381 ..... 24726, 27375

19 CFR

10 27260
18 27260
114 27260
143 27260
148 24117
210 25134

Proposed Rules:

134 24344
177 25975

20 CFR

416 24274

Proposed Rules:

404 ..... 23954, 25376
651 23754
654 23754

21 CFR

5 ..... 23705, 25733, 26822
12 ..... 25733, 26375
13 26375
14 26375
15 26375
16 26375
20 24277
74 24278
80 24691
81 ..... 24278, 24285
82 24278
137 24692
146 24286
172 26823
177 24288
178 26824
193 ..... 25950, 25951, 27062
436 23707
440 23711
442 23707
444 ..... 23707, 25320
448 23707
449 23707
450 23707
510 ..... 26375, 26376
520 ..... 25320, 25734, 26376, 26377
524 26377
544 24290
548 24693
556 25320
558 ..... 23712, 24694, 24695, 26378, 26379, 26825
561 ..... 25952–25954, 27063, 27064
573 24292
610 24696
630 24696
801 26982
1308 26616

Proposed Rules:

101 ..... 25379, 26580
105 26580
155 26843
172 26843
201 24735

22 CFR

41 24293
514 24119

23 CFR

625 25268

Proposed Rules:

655 25541

24 CFR

Proposed Rules:

203 26124
207 ..... 26124, 26852
220 ..... 26124, 26852
221 26852
236 26852
868 24293
886 24700
888 25735
891 24120

25 CFR

Proposed Rules:

250 23755

26 CFR

1 25139

6a..... 24701
26a..... 24127
Proposed Rules:
1..... 24112, 24737, 25026, 26666, 26854

27 CFR

9..... 24293, 24295, 25517
18..... 23920, 25003
240..... 23920, 25003
Proposed Rules:
9..... 24344
240..... 26399

28 CFR

2..... 25735, 25736
549..... 27218
552..... 27219

29 CFR

5..... 24296, 24297
6..... 24702
40..... 24702
580..... 24702
697..... 26825
1601..... 24542, 24703
1910..... 25323, 26557
1952..... 25323, 25327
Proposed Rules:
1904..... 24346
1910..... 24751, 26560

30 CFR

250..... 24751, 25330
251..... 25330
730..... 26356
731..... 26356
732..... 26356
733..... 26356
736..... 26356
906..... 25332
913..... 23858, 23886
920..... 25955
943..... 24130
944..... 26827
Proposed Rules:
Ch. VII..... 26405
211..... 26856
221..... 26856
226..... 25252
231..... 24128, 26856
250..... 26856
270..... 24129, 26856
700..... 25092
701..... 24954, 25092, 25486, 26592, 26754
736..... 25278
740..... 25092
741..... 25092
742..... 25092
743..... 25092
744..... 25092
745..... 25092
746..... 25092
760..... 25278
761..... 25278
762..... 25278
764..... 25278
765..... 25278
769..... 25278
785..... 25486
816..... 24954, 26592, 26754, 26760
817..... 24954, 26592, 26754, 26760
822..... 25486
826..... 26760
906..... 25979
910..... 25981
913..... 25164
914..... 26406, 26857
916..... 23766, 26165
922..... 26779
925..... 23767, 26164
931..... 23898
934..... 26769
935..... 26406
936..... 27383
937..... 26786
938..... 25383
942..... 25165
947..... 26794
951..... 25029

31 CFR

209..... 24131
535..... 25003
Proposed Rules:
51..... 25029
53..... 25543
55..... 25543
81..... 25543
90..... 25543
92..... 25543
93..... 25543
120..... 25543
121..... 25543
122..... 25543
127..... 25543

32 CFR

242b..... 24297
505..... 27262
536..... 26616
706..... 24131, 24132
806b..... 26617
1665..... 24542
Proposed Rules:
293..... 26857
1656..... 24599
1660..... 24599

33 CFR

1..... 25519
3..... 27263
100..... 25139-25142, 27264
117..... 24543, 24544, 26125-26127, 27265
127..... 25519
137..... 27478
150..... 27478
157..... 24547
162..... 27265
175..... 24548
Proposed Rules:
110..... 26165
126..... 26166
154..... 26166
156..... 26166
161..... 26166
167..... 26167

34 CFR

642..... 24938
643..... 24938
644..... 24938
645..... 24938
646..... 24938

36 CFR

7..... 2429
50..... 24299, 24302
800..... 24306
811..... 25520
Proposed Rules:
1..... 24143
2..... 24143
3..... 24143
4..... 24143
5..... 24143
6..... 24143
7..... 24143
9..... 23768
12..... 24143
219..... 24348

37 CFR

201..... 25004

38 CFR

3..... 24549
Proposed Rules:
1..... 23954
21..... 24603

39 CFR

111..... 25957, 27266
233..... 26831
3001..... 23712
3002..... 25523

40 CFR

1..... 25006
52..... 23927, 24306, 24552, 25007-25013, 25143, 25144, 25334, 25335, 26379-26388, 26618-26623, 26832, 26833, 27065-27073, 27267
60..... 25524
61..... 24703
62..... 25335
81..... 25016, 27267
122..... 24918, 27520
123..... 27273
125..... 24918, 25963, 27075
162..... 23928
180..... 23931-23935, 25017, 25741, 25957-25963
256..... 26835
264..... 27520
265..... 27520
401..... 24534
420..... 24554
710..... 27075
712..... 26992
723..... 24308
762..... 23713, 23717
763..... 25145
Proposed Rules:
Ch. I..... 25743, 26859
4..... 24755
30..... 26564
50..... 26407
52..... 23773, 23778, 24755 25745
60..... 26750
62..... 26169
81..... 24755
122..... 24144, 25546, 27516
123..... 23955, 25546, 26170
124..... 24921, 25546
125..... 24921, 25981
141..... 24756
158..... 26171
162..... 25030
180..... 23955, 23957, 24604, 25031, 25032, 25746-25750, 25981
264..... 27516
425..... 23958
440..... 25682
704..... 27206
712..... 26992
761..... 24976, 25555
790..... 24348

41 CFR

Ch. I..... 25018
Ch. 9..... 26390
Ch. 18..... 27274, 27283
7-1..... 25964
7-6..... 25964
7-7..... 25964
7-30..... 25964
8-2..... 26127
8-4..... 25525
8-75..... 25525
Proposed Rules:
9..... 23780
101-8..... 25337
101-41..... 24357

42 CFR

435..... 27076
436..... 27076
Proposed Rules:
405..... 27084

43 CFR

2..... 26390
4..... 26390
2650..... 26390
3300..... 25967
Public Land Orders:
548 (Revoked in part by PLO 6252)..... 24133
619 (Revoked by PLO 6256)..... 26129
648 (Revoked in part by PLO 6272)..... 27285
651 (Revoked in part by PLO 6275)..... 27286
1409 (Revoked by PLO 6254)..... 23935
1461 (Revoked by PLO 6261)..... 26131
4395 (See PLO 6287)..... 27292
4913 (Revoked by PLO 6276)..... 27287
5345 (Amended PLO 6253)..... 24133
5791 (Corrected by PLO 6264)..... 26132
5976 (Corrected by PLO 6281)..... 27288
6200 (Corrected by PLO 6265)..... 26133
6252..... 24133
6253..... 24133
6254..... 23935
6255..... 26129
6256..... 26129
6257..... 26130
6258..... 26130
6259..... 26130

6260.....26131
6261.....26131
6262.....26132
6263.....26132
6264.....26132
6265.....26133
6266.....26133
6267.....27283
6268.....27283
6269.....27284
6270.....27285
6271.....27285
6272.....27285
6273.....27285
6274.....27286
6275.....27286
6276.....27078, 27287
6277.....27079
6279.....27079
6280.....27287
6281.....27288
6282.....27289
6283.....27290
6284.....27290
6285.....27290
6286.....27291
6287.....27292

Proposed Rules:

Subtitle A.....25384
Subtitle B.....25384
4.....27086
3140.....25720
3830.....24144

44 CFR

64.....25018, 25145, 25146, 26133
65.....23718, 23719
67.....23720, 24321

Proposed Rules:

67.....23780–23785, 24357

45 CFR

302.....24716
303.....24716
304.....24716
305.....24716
306.....24716
1611.....25148

Proposed Rules:

2.....26860
97.....26104

46 CFR

Ch. II.....25530
42.....25148
50.....24554
66.....27490
67.....27490
68.....27490
69.....27490
71.....24554
91.....24554
107.....24554
153.....27293
189.....24554
510.....24555, 25530
536.....25532

Proposed Rules:

Ch. I.....26667
7.....24604
25.....25166
26.....25166
35.....25166
58.....25166
78.....25166
97.....25166
111.....25166
112.....25166
162.....25166
196.....25166
502.....24377

47 CFR

1.....26393
2.....24557, 25342
13.....25972
22.....24557
64.....27293
67.....24720
73.....24572–24580, 25342–25346, 26624, 26836, 26838
74.....24580, 24723
81.....23722
87.....23722
90.....23722, 24581, 26631

Proposed Rules:

1.....27384
Ch. I.....24612, 25033, 26668, 27087
2.....25033, 25982
21.....25033
73.....24144, 24613, 26408, 26861–26868, 27385
74.....25033
90.....26677
94.....25033

48 CFR

Proposed Rules:

19.....25034
53.....26679

49 CFR

1.....24581
171.....24582
172.....24582
173.....24582, 26633
175.....24582
215.....27293
385.....26135
512.....24587
571.....25149, 26138
575.....24593, 25930, 26139
1033.....23723, 24332, 25347
1039.....26634
1090.....26634
1110.....24594
1125.....25973
1136.....26142
1201.....26634
1300.....26634

Proposed Rules:

172.....24157
173.....24157, 25167, 26172
178.....25167, 26172
192.....25555
396.....26172
571.....25169, 26174
1032.....26409
1102.....25035
1248.....26870

50 CFR

17.....27295
26.....25150
91.....26635
285.....25350, 26393
371.....24723
611.....23936, 25018
661.....24134, 24136
672.....23936
674.....24724

Proposed Rules:

17.....26878
20.....25922
602.....27228

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