OK

10–18–82
Vol. 47 No. 201
Pages 46245–46482

federal register

Monday
October 18, 1982

Selected Subjects

Administrative Practice and Procedure
Federal Maritime Commission

Air Pollution Control
Environmental Protection Agency

Aviation Safety
Federal Aviation Administration

Business and Industry
Federal Communications Commission

Community Development Block Grants
Community Planning and Development, Office of Assistant Secretary

Credit Unions
National Credit Union Administration

Education
Veterans Administration

Electric Power
Federal Energy Regulatory Commission

Fisheries
National Oceanic and Atmospheric Administration

Life Insurance
Veterans Administration

Loan Programs—Agriculture
Farmers Home Administration

Marine Safety
Coast Guard

CONTINUED INSIDE

Selected Subjects

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

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

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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

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

Contents

Federal Register
Vol. 47, No. 201
Monday, October 18, 1982

CFR PARTS AFFECTED IN THIS ISSUE

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

Federal Register
Vol. 47, No. 201
Monday, October 18, 1982

Presidential Documents

Title 3—

The President

Executive Order 12388 of October 14, 1982

United States Information Agency

By the authority vested in me as President of the United States of America, and in order to effectuate the provisions of Section 303 of Public Law 97–241 (96 Stat. 273), which changed the name of the International Communication Agency back to its original name of the United States Information Agency, it is hereby ordered as follows:

Section 1. Sections 1, 2 and 3 of Executive Order No. 12047 are amended by deleting "International Communication Agency" and substituting therefor "United States Information Agency".

Sec. 2. Executive Order No. 12048 is amended by adding thereto the following new Section:

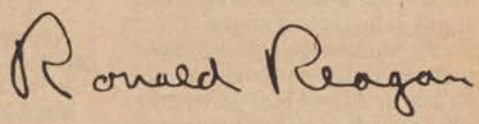
"Sec. 10. In accord with the name change provisions of Section 303 of Public Law 97–241 and effective on August 24, 1982, references in this Order to the International Communication Agency shall be deemed to be references to the United States Information Agency.".

Sec. 3. The Annex to Executive Order No. 12260, as amended, is further amended by deleting "United States International Communication Agency" from item number 50 and substituting therefor "United States Information Agency".

Sec. 4. Section 2 of Executive Order No. 12293 is amended by deleting "International Communication Agency" and substituting therefor "United States Information Agency".

Sec. 5. Subsections (b)(2) and (c) of Section 9 of Executive Order No. 12293, as amended, are further amended by deleting "International Communication Agency" and substituting therefor "United States Information Agency".

Sec. 6. This order shall be effective as of August 24, 1982.



THE WHITE HOUSE,
October 14, 1982.

[FR Doc. 82-28721
Filed 10-15-82; 10:27 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 47, No. 201
Monday, October 18, 1982

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1980 and 1990

Guaranteed Loan Programs

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations pertaining to transactions which will not be guaranteed under any of its guaranteed loan programs. The intended effect of this action is to prohibit FmHA from guaranteeing loans which involve tax-exempt bond funds, either directly or indirectly. This action is being taken in response to Agency recommendations to correct deficiencies in regulations as suggested by the Department's Office of Inspector General and concerns expressed by the General Accounting Office.

EFFECTIVE DATE: October 18, 1982; however, these amendments shall not apply to any loan(s) where a conditional commitment for guarantee was issued by FmHA and accepted by the lender before October 18, 1982.

FOR FURTHER INFORMATION CONTACT: Wilton L. Ward, Acting Deputy Director, Farm Real Estate and Production Loan Division, FmHA, USDA, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250, telephone: (202) 447–2288. A copy of the final Regulatory Impact Analysis describing the options considered and the impact of implementing each option, is available on request from the Chief, Directives Management Branch, FmHA, USDA, Room 6348, South Agriculture Building, Washington, DC 20250, telephone: (202) 382–9725.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 which implements Executive Order 12291 and has been determined to be major. This determination was made because (1) the volume of Federal credit activity is one of the major reasons that interest rates have increased to present levels. FmHA's guaranteeing of such loans would represent a significant intrusion into the capital market and would likely add to the overall problem of high interest rates; (2) the commitment of the Federal government to repay loans, should defaults occur, provides the bond issues a significantly more favorable position in the competition for investment capital.

Memorandum of Law

Subject: FmHA Instructions 1980–A, General; 1980–D, 1980–E, and 1990–A. Prohibiting FmHA from guaranteeing loans which involve tax-exempt bond funds, either directly or indirectly.

The changes to FmHA regulations proposed by this Federal Register document have been reviewed by the Office of General Counsel and determined to be within the scope of FmHA authority. Such changes are consistent with FmHA's authority to guarantee loans at 7 U.S.C. 1932; 42 U.S.C. 1487; Section 203 of the Emergency Agricultural Credit Adjustment Act and Section 214 of the Biomass Energy and Alcohol Fuels Act of 1980. The Secretary's general rulemaking and delegation authority for the changes is furnished by 7 U.S.C. 1989; Section 209(c) of the Emergency Agricultural Credit Adjustment Act; and 42 U.S.C. 1480(j), and Section 212(e) of the Biomass Energy and Alcohol Fuels Act of 1980.

A. James Barnes, General Counsel.

Summary of Final Regulatory Impact Analysis

This action establishes regulatory policy regarding FmHA guarantees when the proceeds of tax-exempt bond issues are directly or indirectly involved. These changes will impact State and local governments or special purpose public authorities issuing tax-exempt bonds, financial institutions, and borrowers of money generated by the sale of such issues.

The recent mushrooming growth of authorities to issue tax-exempt bonds or obligations presented a need for FmHA to resolve the issue regarding guaranteeing loans which involve tax-exempt bond issues. The need for this action became more apparent to FmHA through recommendations made by the Department's Office of Inspector General and concerns expressed by the General Accounting Office.

The overall problem of high interest rates, created in part by FmHA guaranteeing such loans and allowing such guarantees to have a more favorable position in the competition for investment capital (commitment of the Federal Government to repay) created the need for this action.

The purpose of this action is to establish policy regarding FmHA's authority to guarantee loans when such loans are made from the proceeds of tax-exempt bonds. Specifically, this action prohibits the FmHA from guaranteeing loans made directly or indirectly from the proceeds of tax-exempt bonds. It does, however, permit the FmHA to guarantee loans when funds are obtained from sources other than tax-exempt bonds and when such guarantees constitute a portion of the total project cost. In taking this action FmHA examined the following options:

- *Retain the existing regulatory language which is not specific and, therefore provides no direction.* This option was not considered feasible because a number of States had or were considering enacting legislation to provide authority to issue Agricultural Development Bonds, the proceeds of which would be loaned to farmers to begin farming operations. The bond issues were successfully promoted by suggesting that FmHA would guarantee the repayment of such loans. FmHA's present authority to guarantee such loans is not sufficient to accommodate the volume of loans anticipated. Hence, only a few farmers could benefit from such guarantees or there would be pressure to increase the authority. Because other groups have been denied the benefits of such subsidies in the past, FmHA is of the opinon that to change the policy for this group would be inequitable.
- *Prohibit direct, indirect, and supplemental use of the guarantee authority regarding projects financed with tax-exempt bond issues.* FmHA

considered prohibiting all uses of the guarantee authority for loans involving tax-exempt bond issues, including the use of guarantees of loans made from sources other than tax-exempt bond issues. It was felt that this provision was too restrictive and would preclude assistance to projects designed to meet specific National objectives.

• *Generally prohibit the direct and indirect use of guarantees but allow certain exemptions for projects meeting identifiable National objectives, such as increasing the availability of affordable housing stock for low-income families.* This option was considered infeasible because other activities that could benefit from the use of such guarantees could claim equal status with permitted uses and political pressure would begin to build to include those activities in such a program.

• *Prohibit the direct and indirect use of loan guarantees involving tax-exempt bond issues but permit the use of loan guarantees (involving funds obtained from other than tax-exempt obligations), when such loan guarantees constitute a portion of the cost of the project.*

This option was selected by FmHA since it prohibits the direct and indirect use but permits the use of FmHA guarantees as a supplemental source of financing for projects also financed in part with tax-exempt issues. This option was also selected because it would permit FmHA to participate in the financing of projects that are consistent with FmHA's mission and National objectives. The prohibition of direct and indirect uses will limit intrusion into the capital markets by the government or government-sponsored enterprises, thereby relieving some of the upward pressure on interest rates. Additionally, such prohibition will prevent certain tax-exempt bond issues from using Federal loan guarantees to leverage a more favorable position in the competition for capital.

This option is consistent with the recommendations of the Department's Office of Inspector General and the concerns of the General Accounting Office.

Clearinghouse Review

The FmHA programs which are affected by this regulation are subject to State and local clearinghouse review in the manner delineated in Subpart H of Part 1901 of this chapter.

FmHA Programs Affected

Catalog of Federal Domestic Assistance (CFDA) Reference List.

CFDA No.	Program title
10.404	Emergency loans.
10.406	Farm operating loans.
10.407	Farm ownership loans.
10.413	Recreation facility loans.
10.416	Soil and water loans.
10.422	Business and industrial loans.
10.428	Economic emergency loans.
10.429	Above-moderate income housing loans (guaranteed rural housing loans).
10.432	Biomass energy and alcohol fuels loans and loan guarantees.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements". It is the determination of FmHA that this 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.

Discussion of Final Rule

A proposed rule was published in the **Federal Register** (47 FR 7437) on February 19, 1982. That proposal provided for a 60 day comment period. The comment period ended April 20, 1982. In response to the notice of proposed rulemaking, written comments were received from five State Agricultural Development Authorities and five other public and private organizations. Eight of the comments were received within the comment period and two were received following the April 20, 1982 deadline. All comments were considered in the final rule.

The final rule contains no major revisions to the proposed rule. The following is a discussion of the comments received and FmHA's response.

The five State Agricultural Development Authorities and two private organizations recommended that the proposal be changed by exempting the prohibition when loans are made to farmers, especially qualified new and beginning farmers. The reasons cited included the current price/cost squeeze that farmers are experiencing. It was felt the tax-exempt bond benefits would have a positive effect on the economy of the local community and the nation.

The action taken by the FmHA does not preclude the various States from placing the full faith and credit of the State behind the loans made by the Agricultural Development Authorities. Such action should have the same market effect as the Federal Government guaranteeing such loans.

FmHA also believes that it would not be equitable for FmHA to provide such assistance only to farmers in those States that have established the mechanisms to issue tax-exempt bonds and make loans to beginning farmers. In addition, many other FmHA applicants could also be considered in a price/cost squeeze.

In addition to recommending that FmHA guarantee tax-exempt obligations for farmers and ranchers, one investment firm believed that FmHA should consider limiting the guaranteeing of tax-exempt financing to specific FmHA projects, such as hospitals, so the public could benefit from the low interest rates.

Since one of the major factors contributing to the present exhorbitant interest rates is the volume of borrowing by the Federal government, and the Federal government sponsoring or guaranteeing the borrowing of non-Federal organizations, FmHA cannot concur with such actions. FmHA cannot consider limiting the use of tax-exempt financing for specific projects. To do so would be an inequitable policy.

One Investment Counsel stated that guaranteed portions of FmHA's Business and Industry (B&I) program loans are rarely sold to individuals and corporations or to investors which pay a tax on their investment income as set forth by FmHA in the proposed rulemaking. They further stated that secondary market placements of the guaranteed portions of these loans were generally sold to corporate and government pension and retirement systems and plans which are exempt from Federal taxes on their investment income.

In 1979, the investments of private pension funds in credit market instruments were composed of $900 million in U.S. Treasury Securities, $2.2 billion in federally-sponsored Agency issues, $7.2 billion in corporate and foreign bonds and $200 million in mortgages. Government guaranteed loans (guaranteed positions of the B&I loans), if purchased by private pensions would constitute an insignificant portion of their investment strategy.

State and local government retirement accounts invest in virtually the same credit market instruments as private pensions. In 1979 over 50 percent of the investments were in corporate and foreign bonds and approximately 40 percent were in Treasury Securities and federally-sponsored agency issues. A 1979 survey of the placement of guaranteed B&I loans showed that only 32 of 276 loans guaranteed by the B&I program were held by pension funds.

List of Subjects

7 CFR Part 1980

Loan programs—agriculture, Loan programs—business and industry—rural development assistance, Loan programs—housing and community development, Mortgages, Rural areas.

7 CFR Part 1990

Alcohol fuels, Biomass energy, Feedstocks, Loan programs—energy.

Accordingly, FmHA amends Subparts A, D and E of Part 1980 and Subpart A of Part 1990, Chapter XVIII, Title 7, Code of Federal Regulations, as follows:

PART 1980—GENERAL

Subpart A—General

1. Section 1980.6(a)(9) is revised to read as follows:

§1980.6 Definitions and abbreviations.

(a) *General definitions.* * * *

* * * * *

(9) *Holder.* The person or organization other than the lender who holds all or a part of the guaranteed portion of the loan with no servicing responsibilities. Holders are prohibited from obtaining any part(s) of the guaranteed portion of the loan with proceeds from any obligation the interest on which is excludable from income under section 103 of the Internal Revenue Code of 1954, as amended (IRC). When the lender assigns a part(s) of the guaranteed loan to an assignee, the assignee becomes a holder when Form FmHA 449–36, "Assignment Guarantee Agreement", is used.

* * * * *

2. Section 1980.23 is added and reads as follows:

§1980.23 Prohibition of the guaranteeing of tax-exempt transactions.

(a) FmHA will not guarantee any loan made with the proceeds of any obligation the interest on which is excludable from income under section 103 of the Internal Revenue Code of 1954, as amended (IRC).
Funds generated through the issuance of tax-exempt obligations as defined above may not be used to purchase the guaranteed portion of any FmHA guaranteed loan nor may an FmHA guaranteed loan serve as collateral for a tax-exempt issue as defined above.

(b) The only time FmHA may guarantee a loan for a project which involves tax-exempt financing is when the guaranteed loan funds are (1) used to finance a part of the project which is separate and distinct from the part of the project which is financed by the tax-exempt issue, and (2) the guaranteed loan has at least a parity security position with the tax-exempt obligation.

3. Appendix A is amended by revising the second paragraph of paragraph B.2., "Definition of Holder," to read as follows:

Appendix A—Form FmHA 449–34, "Loan Note Guarantee."

* * * * *

B. * * *
2. * * *

Definition of Holder. The Holder is the person or organization other than the Lender who holds all or part of the guaranteed portion of the loan with no servicing responsibilities. Holders are prohibited from obtaining any part(s) of the guaranteed portion of the loan with proceeds from any obligation the interest on which is excludable from income under section 103 of the Internal Revenue Code of 1954, as amended (IRC). When the Lender assigns a part(s) of the guaranteed loan to an assignee, the assignee becomes a Holder when Form FmHA 449–36, "Assignment Guarantee Agreement," is used.

* * * * *

Subpart D—Rural Housing Program Loans

4. Section 1980.308 is amended by adding paragraph (c) to read as follows:

§ 1980.308 Transactions which will not be guaranteed.

* * * * *

(c) *Prohibition of loans which involve tax-exempt obligations.* Regulations pertaining to loans which involve tax-exempt obligations are set forth in § 1980.23 of Subpart A of this Part.

Subpart E—Business and Industrial Loan Programs

5. Section 1980.413 is amended by adding paragraph (c) to read as follows:

§ 1980.413 Transactions which will not be guaranteed. * * *

* * * * *

(c) The prohibition of the guaranteeing of loans involved in tax-exempt obligations is set forth in § 1980.23 of Subpart A of this Part.

PART 1990—BIOMASS ENERGY AND ALCOHOL FUELS LOANS AND GUARANTEES

Subpart A—General Provisions

6. Section 1990.10(d) is revised to read as follows:

§ 1990.10 Ineligible projects.

* * * * *

(d) *Prohibition of the guaranteeing of tax-exempt transactions.* (1) FmHA will not guarantee any loan made with the proceeds of any obligation the interest on which is excludable from income under section 103 of the Internal Revenue Code of 1954, as amended (IRC). Funds generated through the issuance of tax-exempt obligations as defined above may not be used to purchase the guaranteed portion of any FmHA guaranteed loan nor may an FmHA guaranteed loan serve as collateral for a tax-exempt issue as defined above.

(2) The only time FmHA may guarantee a loan for a project which involves tax-exempt financing is when the guaranteed loan funds are (i) used to finance a part of the project which is separate and distinct from the part of the project which is financed by the tax-exempt issue, and (ii) the guaranteed loan has at least a parity security position with the tax-exempt obligation.

(7 U.S.C. 1989; 42 U.S.C. 1480; section 209(c) of the Emergency Agricultural Credit Adjustment Act of 1978 (Pub. L. 95–334, title II); 7 CFR 2.23; 7 CFR 2.70; 42 U.S.C. 8812(c))

Dated: August 30, 1982.

F. W. Naylor, Jr.,

Under Secretary for Small Community and Rural Development.

[FR Doc. 82–28569 Filed 10–15–82; 8:45 am]

BILLING CODE 3410–07–M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Deregulation of "Organizing a Federal Credit Union," "Standard Form of Bylaws", "Amendment of Bylaws and Charters"

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: On June 1, 1982 (47 FR 23750), the NCUA Board issued a proposed rule soliciting public comment on a proposal to deregulate the majority of § 701.1 and to delete §§ 701.3 and 701.4 of NCUA Rules and Regulations. The majority of the public comments supported this deregulation. In view of the public comments, the Board has issued a final rule that eliminates repetitious statements, procedures, and other provisions already contained in the Federal Credit Union Act, the Federal Credit Union Bylaws or which represent guidelines covered in other publications and forms. This simplified rule further emphasizes the NCUA Board's commitment to encourage groups to obtain new Federal credit union charters and to encourage boards of directors to submit charter changes to serve as many qualifying people as possible within the

authority of the Federal Credit Union Act.

EFFECTIVE DATE: September 23, 1982.

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION: Jon W. Lander, Department of Chartering and Education, at the above address. Telephone: (202) 357–1080.

SUPPLEMENTARY INFORMATION: In accordance with NCUA's continuing effort to conduct a review of its rules and regulations, a review was completed of the chartering and charter amendment policies and procedures included in §§ 701.1, 701.3, and 701.4 of NCUA Rules and Regulations. It was the view of the NCUA Board that changing social, commercial, and economic conditions necessitate the need for even more flexibility in the decision-making process. On June 1, 1982, the NCUA Board issued a proposed rule as indicated in the above summary. The proposal would enable new groups to obtain a Federal charter with a minimum of duplication and effort. The proposal would also enable the board of directors of existing Federal credit unions to adopt charter changes that are permitted by statute and will be most beneficial for their credit union. Along these lines, the NCUA Board had already delegated additional authority to the regional directors to approve/disapprove new charters, charter amendments, mergers, and conversions.

Summary of Comments

Of the 15 comment letters received, ten were from Federal credit unions, three were from State credit union leagues, and two were from national trade associations. Thirteen of the 15 commenters supported the proposed regulation. Specifically, the commenters were in agreement with the proposed simplification of the regulation through the deletion of repetitious or unnecessary statements. The commenters also were in agreement with NCUA's deregulation of charter and bylaw provisions and condensation of chartering procedures. While in agreement with the proposed deregulation, two commenters suggested that the guidelines in the chartering manual should be referenced in the regulation to indicate that the chartering procedures contained therein represent an acceptable format for preparing a charter application. Therefore, the NCUA Board has determined to adopt the regulation with the following addition to § 701.1(a):

The chartering procedure guidelines in Chapter 6 of the Chartering and Organizing Manual for Federal Credit Unions represent an acceptable format to be followed when organizing a Federal credit union.

Also, the two national trade associations suggested that the specific criteria for disapproval of a charter application or charter amendment should be retained in the regulation. Since this criteria does not present any additional burden on credit unions but rather lists objective criteria that may prevent disapproval actions from being construed as arbitrary or capricious, the NCUA Board has determined to adopt the regulation with the following change to § 701.1(b):

(b) If a charter application or charter amendment is disapproved, the officials will be advised in writing what:

(1) Common bond requirement(s) were not met;

(2) Economic factor(s) were not met;

(3) Corrective measure(s) are necessary in order to meet requirements; and

(4) Alternative(s) the group may wish to consider.

The two opposing commenters indicated concern with the elimination of common bond statements from the regulation and reliance upon the requirements in Section 109 of the Federal Credit Union Act. Prior to March 1980, NCUA and its predecessor agencies relied upon Section 109 of the Federal Credit Union Act for the delineation of common bond and membership requirements. No additional statements concerning common bond were included in the regulation. Therefore, the final regulation continues to adhere to the requirements of common bond and membership as stated in the Federal Credit Union Act. Also, one of the opposing commenters disagreed with NCUA's Interpretative Rules and Policy Statement (NCUA IRPS 82–3). The NCUA Board has determined that compliance with the guidelines in NCUA IRPS 82–3 will result in fields of membership that meet the requirements of Section 109 of the Federal Credit Union Act. NCUA IRPS 82–3 is consistent with the final regulation in that § 701.1 refers to the authority in Section 109 of the Federal Credit Union Act for common bond and membership requirements.

The only other significant issue addressed by the proposed regulation was the deletion of the published public notice of intent to charter a community Federal credit union. Only three commenters made reference to this item in their comments and they were in agreement with the elimination of the public notice requirements. Accordingly, the NCUA Board has deleted the public notice requirement from the regulation as proposed and has adopted a final rule as set forth below.

List of Subjects in 12 CFR Part 701

Credit unions, Reporting requirements

Effective date: September 23, 1982. This rule will be effective in less than 30 days because it relieves regulatory restrictions, 5 U.S.C. 553(d)(1).

Procedure for Regulatory Development

The NCUA Board certifies that these changes will not have a significant economic impact on a substantial number of small Federal credit unions (Federal credit unions with less than $1,000,000 in assets). Since the regulation applies primarily to new groups organizing credit unions, the changes will reduce the burden on members of the general public. No additional burdens are imposed. Instead, duplicate procedures are eliminated to make it easier for new Federal credit unions to be chartered. Therefore, a regulatory analysis was not required. 5 U.S.C. 605(b).

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789))

Dated: September 23, 1982.

Rosemary Brady,

Secretary of the NCUA Board.

PART 701—[AMENDED]

1. Section 701.1 is revised to read as follows:

§ 701.1 Organizing a Federal Credit Union.

(a) Persons desiring to form a Federal credit union shall submit a charter application to NCUA in accordance with the requirements of Sections 103, 104, and 109 of the Federal Credit Union Act and Article XI of the Federal Credit Union Bylaws. The chartering procedure guidelines in Chapter 6 of the Chartering and Organizing Manual for Federal Credit Unions represent an acceptable format to be followed when organizing a Federal credit union.

(b) If a charter application or charter amendment is disapproved, the officials will be advised in writing what:

(1) Common bond requirement(s) were not met;

(2) Economic factor(s) were not met;

(3) Corrective measure(s) are necessary in order to meet requirements; and

(4) Alternative(s) the group may wish to consider.

§ 701.3 [Removed]

2. Section 701.3 is removed.

§ 701.4 [Removed]

3. Section 701.4 is removed.

[FR Doc. 82-28429 Filed 10-15-82; 8:45 am]
BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-CE-28-AD; Amdt. 39-4475]

Airworthiness Directives; Jet Electronics and Technology, Inc., Emergency Power Supply, Model PS-835 Series

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) applicable to Jet Electronics and Technology, Inc. (J.E.T.) Model PS-835 Series Emergency Power Supply. It requires modification of these power supplies and installation of a temporary placard on airplanes incorporating a panel mounted emergency power supply test switch. This placard which may be removed when the modification is incorporated, prescribes ground test procedures which will assure correct indication of emergency power availability. This action is necessary to assure that possible failure of internal components of the power supply will not result in a false indication of emergency power supply availability when the test switch is activated. The unavailability of emergency power may result in the loss of instruments and systems critical to continued safe flight, if primary electrical power is lost.

DATES:

Effective Date: October 21, 1982.

Compliance: As required in the body of the AD.

ADDRESSES: Jet Service Bulletin SB501-1228-7, dated May 20, 1992, applicable to this AD may be obtained from Jet Electronics and Technology, Inc., 5353 52nd Street, Grand Rapids, Michigan 49508; Telphone (616) 949-6600. A copy of the Service Bulletin 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: Mr. Donald Michal, Chicago Aircraft Certification Office, ACE-115C. Aircraft Certification Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018; Telephone (312) 694-7127.

SUPPLEMENTARY INFORMATION: Use of the instrument panel located battery test switch, which may be installed with some J.E.T. model emergency power supplies may give a false indication of the availability of emergency electrical power. This battery power may be necessary to operate essential flight instruments and systems if primary electrial power is lost. The manufacturer has issued Service Bulletin SB501-1228-7 dated May 20, 1982, describing a modification to the emergency power supply which prevents the false indication and prescribes alternate ground test procedures to be used until the modification is incorporated. Since this condition exists in other emergency power supplies of the same design, an AD is being issued which requires the installation of a temporary placard, which outlines these alternate ground test procedures. The AD will also require modification of the power supply per the manufacturers Service Bulletin SB501-1228-7 and permit removal of the temporary placard if required to be installed, upon completion of this modification.

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

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 adding the following new AD:

Jet Electronics and Technology, Inc.: Applies to all Model PS-835 series Emergency Power Supply installations.

Note.—This power supply is usually used to supply electrical power for third (standby) attitude indicators, emergency lighting, radio communications and other equipment critical to the safety of the airplane.

Compliance: Required as indicated unless already accomplished.

To prevent a false indication, that emergency power is available, accomplish the following:

(a) Within the next 25 hours time-in-service after the effective date of this AD check to determine whether the emergency power supply installation incorporates a panel located battery test switch.

(1) If the installation incorporates a panel located battery test switch, prior to further flight install a temporary placard near the test switch which reads as follows:

TO TEST EMER PWR SUPPLY
1. DISREGARD EMER PWR SW TEST POSITION
2. A/C MASTER/BATT SW-OFF
3. EMER PWR SW-ON
4. CK OPERATION OF ACCESSORY/INSTR

(b) On or before October 1, 1983, examine the aircraft manufacturer's records and/or emergency power supply installation to determine whether the emergency power supply is a J.E.T. model PS-835A, -835B, -835C or -835D. If the power supply is a PS-835A not incorporating a Mod 6, a PS-835B not incorporating a Mod 7, a PS-835C not incorporating a Mod 1 or a PS-835D not incorporating a Mod 1, modify the J.E.T. power supply in accordance with J.E.T. Service Bulletin SB501-1228-7 dated May 20, 1982. Remove the temporary placard if required by paragraph (a) of this AD when the modification required by this paragraph is incorporated.

(c) Paragraph (a) of this AD may be accomplished by the owner/operator on any airplane owned or operated by the person. This person must make the prescribed aircraft record entry indicating compliance with paragraph (a) of this AD.

(d) The modification required by paragraph (b) of this AD must be accomplished by an appropriately rated, FAA certificated repair station on those power supplies used as a source of power for flight instruments.

(e) Aircraft may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(f) An equivalent method of compliance with this AD may be used if approved by the Chief, Chicago Aircraft Certification Office, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018; Telephone (312) 694-7127.

This amendment becomes effective on October 21, 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)); § 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this regulation involves an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impractical 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 Rules Docket at the location identified under the caption "ADDRESSES."

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 by only the Courts of Appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Kansas City, Missouri on October 4, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-28550 Filed 10-15-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 82-CE-27-AD; Amdt. 39-4474]

Airworthiness Directives; Piper Models PA-24, PA-24-250, PA-24-260 and PA-24-400 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), AD 82-19-01, applicable to Piper Models PA-24, PA-24-250, PA-24-260 and PA-24-400 airplanes and codifies the corresponding emergency AD letter dated September 3, 1982, into the **Federal Register.** This AD requires initial and repetitive visual inspection of the wing main spar lower caps and upper attachment plate and replacement or repair of any parts found defective. An accident has occurred because of failure of the wing spar lower cap attributed to fatigue crack weakening of this part. The inspections will detect fatigue cracks before they reduce the strength of the inspected components sufficiently to cause failure.

DATES:

Effective Date: October 21, 1982, to all persons except those to whom it has already been made effective by priority letter from the FAA dated September 3, 1982.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Information pertaining to this AD is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: J. Maher, Airframe Section, ANE-172, New York Aircraft Certification Office, 181 South Franklin Avenue, Valley Stream, New York 11581; Telephone (516) 791-6221.

SUPPLEMENTARY INFORMATION: An accident involving a Piper Model PA-24-250 airplane has resulted from an inflight wing separation caused by the failure of the wing spar lower cap. Investigation and examination of the failed component disclosed evidence of a fatigue crack which had progressed over nearly the entire cross section of this part. Examination of the corresponding part on the opposite wing and upper main spar attachment plate also disclosed fatigue cracks in these components. Accordingly, Piper Aircraft Corporation and the FAA developed an inspection procedure to detect fatigue cracks in the wing lower spar caps and upper wing spar attachment plates on Piper Models PA-24, PA-24-250, PA-24-260 and PA-24-400 airplanes before they weaken these components sufficiently to cause failure.

The FAA determined that this was an unsafe condition that may exist in other airplanes of the same type design, thereby necessitating the AD. It was also determined that an emergency condition existed, that immediate corrective action was required and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, the FAA notified all known registered owners of the airplanes affected by this AD by priority mail letter dated September 3, 1982. The AD became effective immediately as to these individuals upon receipt of that letter and is identified as AD 82-19-01. Since the unsafe condition described herein may still exist on other Piper Model PA-24, PA-24-250, PA-24-260 and PA-24-400 airplanes, the AD is being published in the **Federal Register** as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the letter notification. Because a situation still 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.

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 the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive.

Piper: Applies to Model PA-24 and PA-24-250 (S/Ns 24-1 through S/N 3687), PA-24-260 (S/Ns 3642, 24-400 through 24-5034), and PA-24-400 (S/Ns 26-2 through 26-148) airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent possible hazards in flight associated with fatigue damage occurring in wing main spar lower caps and upper main spar attachment plate, accomplish the following:

(a) For airplanes or wings with 1500 or more hours time-in-service on the effective date of this AD, accomplish paragraph (c) within the next 20 hours time-in-service after the effective date of this AD and thereafter at intervals not exceeding 100 hours time-in-service from the last inspection. If the wings have been replaced and the time-in-service on the wings is established and verified by an FAA Maintenance/Manufacturing inspector, such time may be used instead of the aircraft time-in-service. If the time-in-service of replacement wings is unknown or cannot be verified, it must be assumed to be 1500 hours or more.

(b) For airplanes or wings with less than 1500 hours time-in-service on the effective date of this AD, accomplish paragraph (c) before the accumulation of 1520 hours time-in-service and thereafter at intervals not exceeding 100 hours time-in-service from the last inspection.

(c) Visually inspect the left and right wing lower main spar caps and upper main spar attachment plate P/N 20313-00 in accordance with the following instructions:

1. For ease of access before inspecting the lower main spar caps, place aircraft on jacks per the manufacturer's Aircraft Service Manual.

2. Remove left and right inboard bottom wing root fairings to gain access to the bottom main spar cap in the area of the root rib.

3. Per Figure 1, outline wing skin area to be removed. Assure a minimum edge distance as shown between existing rivets and edge of cut out.

4. Insert a protective sheet of metal between the wing skin and spar cap to protect the spar cap from damage when making the skin cut out.

5. Cut out wing skin in area as shown on Figure 1 and dress all edges smooth.

6. Using a suitable stripper, remove the paint and thoroughly clean the bottom spar cap in area shown on Figure 1. Exercise caution to avoid scratching or damaging the spar surface. Using dye penetrant method, inspect bottom spar cap in the designated area for cracks. (Refer to Figure 1)

7. Using a light and mirror, visually inspect for cracks on the bottom spar cap aft flange per Figure 2.

8. If cracks are found, refer to paragraph (d) below.

9. If no cracks are found:

A. Prime spar cap in area cleaned for inspection in paragraph (c) 6 above.

B. Add a fabricated plate made of .040 (2024T3 Aluminum) to the wing fairing using standard AN rivets to cover wing skin cut out area per Figure 1; overlap adjoining wing skin approximately ½ inch. Ensure attachment rivets do not protrude in line with spar cap or wing skin.

C. Install inboard wing fairings.

D. Remove aircraft from jacks.

10. Gain access to upper main spar attachment Plate P/N 20313-00 by raising spar cover forward of No. 3 and 4 seats.

11. With a 10X magnifier, visually inspect the forward edge of the center area of the upper main spar attachment plate for signs of cracks.

12. If cracks are found, refer to paragraph d). If no cracks are found, reinstall spar cover and return aircraft to service.

(d) Before further flight, replace cracked parts with undamaged parts of the same part number, or accomplish a repair which is approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

(e) A special flight permit may be authorized in accordance with FAR 21.197 to a place where the inspections or repairs required by this AD may be accomplished with prior approval of the Manager, New York Aircraft Certification Office, FAA, New England Region.

(f) Report findings of cracks found during the above inspection within 10 days to the Manager, New York Aircraft Certification Office, FAA, 181 South Franklin Avenue, Valley Stream, New York 11581 (516–791–6680). (Reporting approved by Office of Management and Budget under OMB Control No. 2120–00056).

(g) An equivalent method of compliance with this AD may be used if approved by the Manager, New York Aircraft Certification Office, FAA, 181 South Franklin Avenue, Valley Stream, New York 11581.

(h) Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Manager, New York Aircraft Certification Office, FAA, New England Region, may adjust the compliance times specified in this AD.

This amendment becomes effective on October 21, 1982, to all persons except those to whom it has already been made effective by priority letter from the FAA dated September 3, 1982 and is identified as AD 82–19–01.

(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(a)); § 11.89 of the Federal Aviation Regulations (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 Rules Docket at the location identified under the caption **"ADDRESSES."**

Issued in Kansas City, Missouri, on October 4, 1982.

Murray E. Smith,

Director, Central Region.

BILLING CODE 4910–13–M

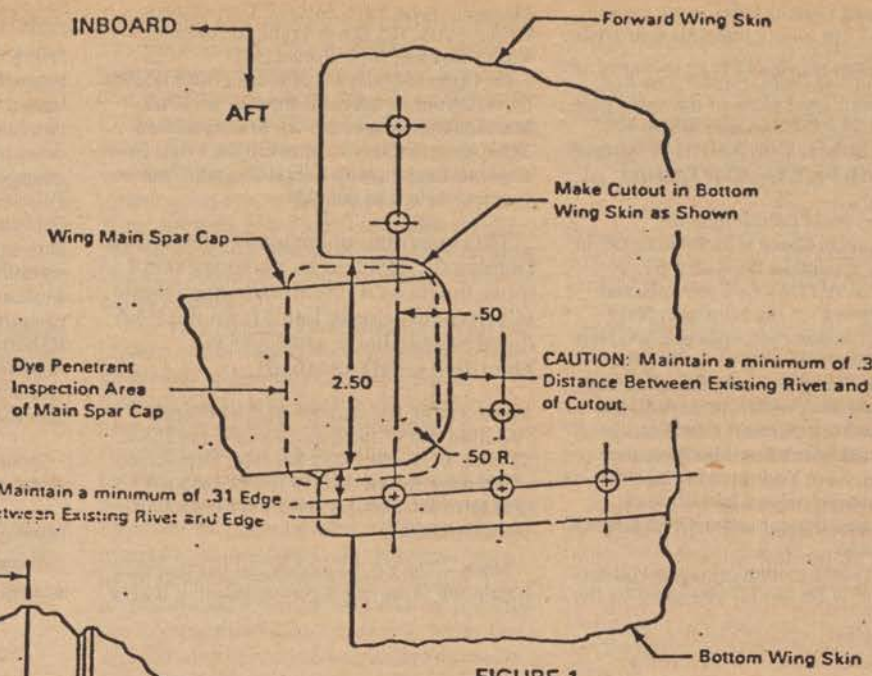


FIGURE 1

Bottom View of Left Wing Shown
Bottom View of Right Wing Opposite

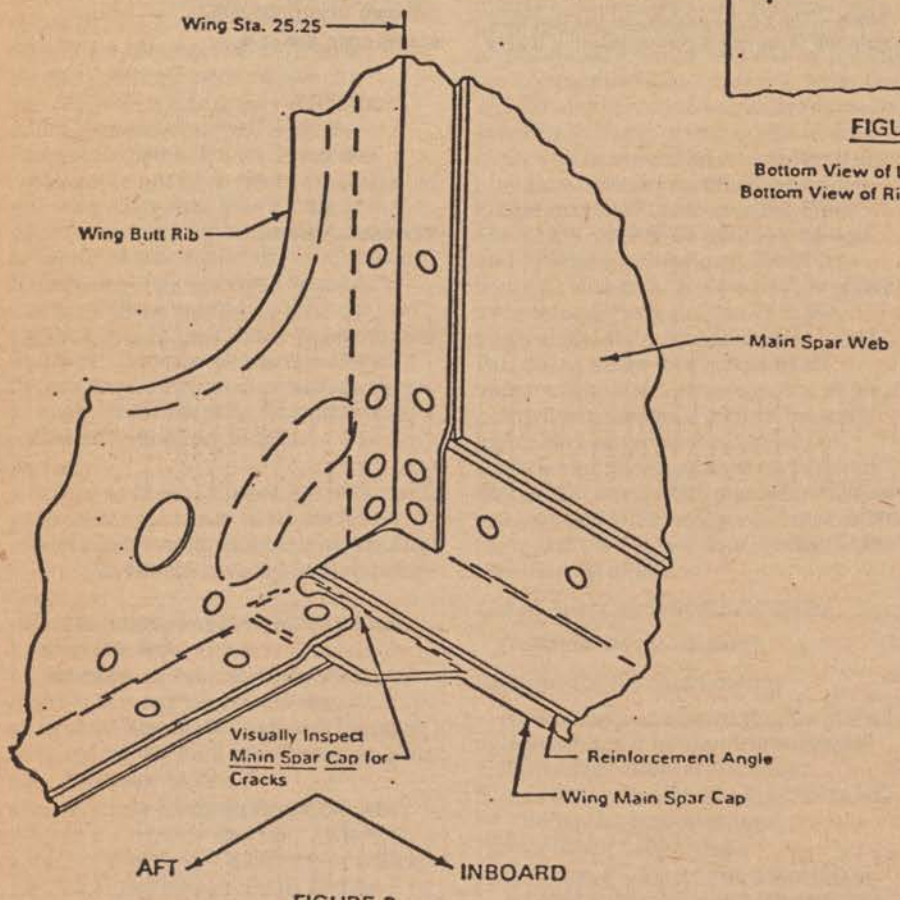


FIGURE 2

Left Wing Shown
Right Wing Opposite

[FR Doc. 82-28549 Filed 10-15-82; 8:45 am]
BILLING CODE 4910-13-C

14 CFR Part 71

[Airspace Docket Number 82-ACE-12]

Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points—Designation of Transition Area—Wentzville, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate a 700-foot transition area at Wentzville, Missouri, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Wentzville, Missouri, Airport, utilizing the Foristell VOR as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: An instrument approach procedure to the Wentzville, Missouri, Airport is being established utilizing the Foristell VOR as a navigational aid. The establishment of an instrument approach procedure based on this approach aid entails designation of a transition area at Wentzville, Missouri, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On page 23752 of the **Federal Register** dated June 1, 1982, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate the aforesaid transition area at Wentzville, Missouri. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Three comments were received, two offering objection to the proposal and one in support thereof. The Wentzway Corporation objected, stating that the airport needed no enhancement since Lambert-St. Louis International Airport is only a short distance away. Also, since the airport is located in the center of a growing conglomeration of people and industry, the corporation feels that the local economy would suffer because industry would be concerned about the safety of locating in an area where aircraft fly low to the ground. Additionally, Wentzway Corporation plans to erect additional structures immediately south of the main runway and feels any enhancement of the airport would have a negative impact.

The City of Wentzville, in its comment, expressed concern that the General Motors plant and other developments could be imperiled by aircraft trying to land during bad weather. It feels the airstrip is small, with minimum potential, and that this rule would open the way for night landings. The City also disputes the statement that there is no major or significant rule involved.

The Accident Investigation and Research Company responded in support of the proposal stating that the VOR approach would enhance safety.

The FAA has considered all the comments received and must reject the two negative comments. As stated in the NPRM, the VOR approach and transition area will enhance safety. Land use is not under jurisdiction of the Federal Aviation Administration but belongs to local governmental bodies, city zoning or other ordinances, as appropriate. The VOR approach will be flown using the Foristell, Missouri, VOR which is a navigational aid located southwest of Wentzville Airport. No additional navigational equipment will be located on the Wentzville Airport. None of the proposed actions will change the existing approach slopes around the airport. Aircraft executing an instrument approach will be restricted to a minimum descent altitude for further descent if possible only if the pilot can proceed visually to the airport and land. Countering one of the City's objections, it is not permissible to make night landings at the Wentzville Airport and actions prescribed in this docket would not alter that condition. As to another of the City's adverse comments, the FAA defines a major rule as one that results in an economic impact of $100,000,000. The transition area would exclude certain aircraft under less than VFR conditions; however, that impact is not significant. Finally, regional FAA representatives met with the Mayor of Wentzville and other city representatives on two occasions to explain the transition area, answer questions and hear statements supporting other objections previously submitted in writing. At those sessions, the FAA pointed out its position on the alleged economic and safety concerns of the City as heretofore discussed.

Accordingly, since the proposal will enhance the safe and efficient use of airspace by aircraft, with no foreseeable adverse economic or safety impact, it is hereby adopted as a final rule.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant ot the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t. December 23, 1982, by designating the following transition area:

Wentzville, Missouri

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Wentzville, Missouri Airport (Latitude 38°49'15"N, Longitude 90°50'05"W) and within 2 miles each side of the FTZ VORTAC 040° T extending from the 5-mile redius area to 5.5 miles southwest of the Wentzville Airport.

(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 Sec. 11.69 of the Federal Aviation Regulations (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 Kansas City, Missouri, on October 4, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-28548 Filed 10-15-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ASW-55]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area; Katy, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition area at Katy, TX. The intended effect of the amendment is to provice additional controlled airspace for aircraft executing a new instrument approach procedure to the Covey Trails Airport, Fulshear, TX. This amendment is necessary since there is a proposed standard instrument approach procedure (SIAP) to the Covey Trails Airport using the Eagle Lake VORTAC. Coincident with this action, the Covey Trails Airport is changed from visual flight rules (VFR) to instrument flight rules (IFR).

EFFECTIVE DATE: December 23, 1982.

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

SUPPLEMENTARY INFORMATION:

History

On August 19, 1982, a notice of proposed rulemaking was published in the **Federal Register** (47 FR 36219) stating that the Federal Aviation Administration proposed to alter the Katy, TX, transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3 dated January 29, 1982, is amended, effective 0901 GMT, December 23, 1982, by adding:

Katy, TX [Amended]

* * * and within a 5-mile radius of the Covey Trails Airport (latitude 29°41'24"N., longitude 95°50'24"W.).

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c)).

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 1103; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. It is certified that the rule will not have a significant economic impact on a substantial number of small entities as the anticipated impact is minimal.

Issued in Fort Worth, TX, on October 4, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-28547 Filed 10-15-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ASO-53]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Control Zone, Christiansted, St. Croix, Virgin Islands

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the Christiansted Control Zone by reducing its size approximately 40 percent. A review of instrument approach procedures serving Alexander Hamilton Airport revealed that a revision to one of the procedures could result in a reduction in the size of the control zone arrival extension which is established east of the airport. This action will raise the floor of controlled airspace, east of the airport, from the surface to 700 feet.

DATES: Effective Date: 0901 G.m.t., December 23, 1982. Comments must be received on or before November 23, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, Manager, Airspace and Procedures Branch, ASO-530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

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:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves a reduction in the size of the Christiansted control zone and, thus, was not preceded by notice and public procedure, 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 regulations. 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 suppporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

Coordination

As part of this action relates to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

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

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of

undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

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

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

The Rule

The purpose of this amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to redesignate the Christiansted control zone by reducing it in size to the minimum required for instrument flight rule operations in the vicinity of Alexander Hamilton Airport. A revision to an instrument approach procedure negates the need for a very large control zone arrival extension east of the airport. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3 dated January 29, 1982. Under the circumstances presented, the FAA concludes that there is a need for a regulation to reduce the size of the control zone and raise the floor of controlled airspace east of Alexander Hamilton Airport. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary as this action simply corrects the control zone airspace to all that is needed in light of the revised instrument approach procedures and that good cause exists for making this amendment effective in less than 60 days after its publication in the **Federal Register.**

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t., December 23, 1982, as follows:

Christiansted, St. Croix, VI—Revised

Within a 5-mile radius of Alexander Hamilton Airport (Lat. 17°42'14" N., Long. 64°47'56" W.); within 1.5 miles each side of St. Croix VOR/DME 248° radial, extending from the 5-mile radius area to the VOR/DME. This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and time will thereafter be continuously published in the Airport/Facility Directory.

(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 September 30, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-28331 Filed 10-15-82; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 82-ASW-42]

Alteration of Transition Area: Opelousas, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition area at Opelousas, LA. The intended effect of the amendment is to provide adequate controlled airspace for aircraft executing a new instrument approach procedure to the St. Landry Parish Airport. This amendment is necessary to provide protection for aircraft executing approaches based on an instrument landing system (ILS) and nondirectional radio beacon (NDB) at latitude 30°39'19" N., longitude 92°05'54" W.

EFFECTIVE DATE: December 23, 1982.

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

SUPPLEMENTARY INFORMATION:

History

On July 19, 1982, a notice of proposed rulemaking was published in the **Federal Register** (47 FR 31288) stating that the Federal Aviation Administration proposed to alter the Opelousas, LA, transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3 dated January 29, 1982, is amended, effective 0901 G.m.t., December 23, 1982, by adding:

Opelousas, LA Revised

* * * and within 1.5 miles each side of the ILS localizer course extending from the 5-mile radius area to 6.5 miles north of the airport.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

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 1103; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. It is certified that the rule will not have a significant economic impact on a substantial number of small entities as the anticipated impact is minimal.

Issued in Fort Worth, TX, on October 7, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-28499 Filed 10-15-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 23382; Amdt. No. 1227]

Standard Instrument Approach Procedures; Miscellaneous Amendments

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

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAP) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

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

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

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAP's, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAP). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FAR's). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4 and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

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

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

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

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR–VOR/DME SIAP's identified as follows:

** * * Effective December 23, 1982*

Houston, TX—May, VOR/DME–A, Original.

** * * Effective November 25, 1982*

Ukiah, CA—Ukiah Muni, VOR–A, Amdt. 1.
Douglas, GA—Douglas Muni, VOR–A, Amdt. 3.
Crystal Lake, IL—Crystal Lake, VOR Rwy 26, Amdt. 6, cancelled.
Lake in the Hills, IL—Lake in the Hills, VOR Rwy 26, Original.
Quincy, IL—Quincy Muni Baldwin Field, VOR Rwy 4, Amdt. 9.
Quincy, IL—Quincy Muni Baldwin Field, VOR/DME Rwy 22, Amdt. 5.
Marshalltown, IA—Marshalltown Muni, VOR Rwy 12, Amdt. 4.
Russell, KS—Russell Muni, VOR/DME–A, Amdt. 2.
Mayfield, KY—Mayfield Graves County, VOR/DME–A, Amdt. 3.
College Park, MD—College Park, VOR/DME–A, Original.
Petersburg, MI—Lada, VOR–A, Amdt. 3.
Troy, MI–Troy-Oakland, VOR–A, Amdt. 1.
Kalispell, MT—Glacier Park Intl, VOR Rwy 29, Amdt. 7.
Fayetteville, NC—Fayetteville Muni (Grannis Field), VOR Rwy 4, Amdt. 13.
Fayetteville, NC—Fayetteville Muni (Grannis Field), VOR Rwy 28, Amdt. 5.
Lancaster, SC—Lancaster County, VOR/DME–A, Amdt. 4.

** * * Effective November 11, 1982*

Farmerville, LA—Farmerville, VOR/DME–A, Amdt. 1.

** * * Effective October 5, 1982*

Midland, TX—Midland Airpark, VOR/DME Rwy 25, Amdt. 2.

** * * Effective September 23, 1982*

West Milford, NJ—Greenwood Lake, VOR–A, Amdt. 2.

2. By amending § 97.25 SDF–LOC–LDA SIAP's identified as follows:

* * * *Effective November 25, 1982*

Quincy, IL—Quincy Muni Baldwin Field, LOC/DME BC Rwy 22, Amdt. 4.
Brainerd, MN–Brainerd-Crow Wing Co/ Walter F. Wieland Fld, LOC Rwy 23, Amdt. 1.
Elmira, NY—Chemung County, LOC BC Rwy 6, Original.
Fayetteville, NC—Fayetteville Muni (Grannis Field), LOC BC Rwy 22, Amdt. 4.

* * * *Effective October 28, 1982*

Detroit, MI—Willow Run, LOC BC Rwy 23L, Amdt. 8, cancelled.

* * * *Effective October 1, 1982*

Laconia, NH—Laconia Muni, LOC Rwy 8, Amdt. 6.

* * * *Effective September 23, 1982*

Olean, NY—Olean Muni, LOC Rwy 22, Amdt. 1.

3. By amending § 97.27 NDB/ADF SIAP's identified as follows:

* * * *Effective December 23, 1982*

Kirbyville, TX—Kirbyville, NDB Rwy 13, Original.

* * * *Effective November 25, 1982*

West Memphis, AR—West Memphis Muni, NDB Rwy 35, Amdt. 6, cancelled.
West Memphis, AR—West Memphis Muni, NDB–B, Original.
Sacramento, CA—Sacramento Metropolitan, NDB Rwy 16, Amdt. 7.
Quincy, IL—Quincy Muni Baldwin Field, NDB Rwy 4, Amdt. 14.
Marshalltown, IA—Marshalltown Muni, NDB Rwy 12, Amdt. 3.
Murray, KY—Murray-Calloway County, N.D.B. Rwy 23, Amdt. 3.
Brainerd, MN—Brainerd-Crow Wing Co/ Walter F. Wieland Fld, N.D.B. Rwy 23, Original.
Fayetteville, NC—Fayetteville Muni (Grannis Field), N.D.B. Rwy 4, Amdt. 12.
Lancaster, SC—Lancaster County, N.D.B. Rwy 24, Amdt. 1.

* * * *Effective September 23, 1982*

Olean, NY—Olean Muni, N.D.B. Rwy 22, Amdt. 9

Note.—The FAA published an amendment in Docket No. 23318, Amdt. No. 1225 to Part 97 of the Federal Aviation Regulations (Vol. 47 FR No. 182, page 41354; dated September 20, 1982) under Sec. 97.27 effective Oct. 28, 1982, which is hereby amended as follows: Trenton, NJ, Mercer County, N.D.B. Rwy 6, Amdt 6, change to Trenton, NJ, Mercer County, N.D.B. Rwy 6, Amdt 5.

4. By amending § 97.29 ILS–MLS SIAP's identified as follows:

* * * *Effective November 25, 1982*

Sacramento, CA—Sacramento Metropolitan, ILS Rwy 16, Amdt. 9.
Quincy, IL—Quincy Muni Baldwin Field, ILS Rwy 4, Amdt. 13.
Kalispell, MT—Glacier Park Intl, ILS Rwy 1, Amdt. 3.

* * * *Effective October 28, 1982*

Detroit, MI—Willow Run, ILS Rwy 23L, Original.

* * * *Effective September 24, 1982*

Livermore, CA—Livermore Muni, ILS Rwy 25, Amdt. 2.

5. By amending § 97.31 RADAR SIAP's identified as follows:

* * * *Effective November 25, 1982.*

Fayetteville, NC—Fayetteville Muni (Grannis Field), RADAR–1, Amdt. 3.
Renton, WA—Renton Muni, RADAR–1, Amdt. 3, cancelled.

6. By amending § 97.33 RNAV SIAP's identified as follows:

* * * *Effective November 25, 1982*

Sacramento, CA—Sacramento Metropolitan, RNAV Rwy 16, Original, cancelled.
Ukiah, CA—Ukiah Muni, RNAV–B, Amdt. 2.
Quincy, IL—Quincy Muni Baldwin Field, RNAV Rwy 13, Amdt. 2.
Quincy, IL—Quincy Muni Baldwin Field, RNAV Rwy 31, Amdt. 2.
Ames, IA—Ames Muni, RNAV Rwy 13, Amdt. 3, cancelled.
Dallas, TX—Addison, RNAV Rwy 33, Original.

* * * *Effective September 23, 1982*

Olean, NY—Olean Muni, RNAV Rwy 22, Amdt. 2.

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

Note.—The FAA has determined that this 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 October 8, 1982.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980 and reapproved as of January 1, 1982.

John M. Howard,

Manager, Aircraft Programs Division.

[FR Doc. 82-28439 Filed 10-15-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 171

[Docket No. 20669; Amdt. 171-11]

Non-Federal Navigation Facilities; Microwave Landing System Requirements for Non-Federal Navigational Facilities; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; Correction.

SUMMARY: On December 17, 1981, the FAA published Amendment 171–11 to the Federal Aviation Regulations (46 FR 61560) in which it established minimum standards and procedures for the approval, installation, operation and maintenance of a Microwave Landing System (MLS) facility that is not operated and maintained by the FAA. MLS is a system designed to take the place of the Instrument Landing System (ILS) used throughout the world and is projected to meet both civil and military requirements. MLS has been selected for a standardization and chosen to satisfy this need for a new system to fulfill future requirements. Since these facilities may be operated and maintained by persons other than the FAA, the requisite standards and procedures to operate these facilities in the National Airspace System (NAS) must be provided in the form of a regulation to govern those activities. Within several sections, tables, and figures in Subpart J of FAR Part 171, the final rule contained errors of various types in the minimum standards and procedures for the approval, installation, operation, and maintenance of an MLS.

This corrective amendment is necessary to properly specify the minimum standards and procedures for the approval, installation, operation, and maintenance of an MLS.

FOR FURTHER INFORMATION CONTACT: Mr. Sotires P. Mantis, Airway Facilities Service, (AAF–720), Airway Systems Division, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3008.

SUPPLEMENTARY INFORMATION: The amendment corrects various sections, tables, and figures of Subpart J to Part 171 of the Federal Aviation Regulations (14 CFR Part 171) as amended by Amendment 171–11 effective for MLS approvals on and after December 17, 1981 (46 FR 61560). It corrects the sections, tables, and figures as noted below. Since this action is necessary to prescribe the originally intended regulatory requirements under Amendment 171–11 and since this action

is corrective in nature, I find that notice and public procedure regarding this action are impractical and unnecessary. Further, since it would not be in the public interest or consistent with sound regulatory practice to delay making necessary corrections to the amendment, good cause exists for making it effective in less than 30 days after publication. While this corrective amendment is effective upon its publication, the correction it makes relates back to provisions which previously became effective and which are essential to the minimum standards and procedures for the approval, installation, operation, and manufacture of an MLS and in showing compliance with the requirements of FAR Part 171, Subpart J. Therefore, it would not be proper to require compliance with the uncorrected provisions of Amendment 171–11. Thus, these corrections apply to affected requirements for MLS on or after December 17, 1981, when Amendment 171–11 became effective.

List of Subjects in 14 CFR Part 171

Navigation facilities.

The following corrections are made in FR Doc. 81–35514 appearing on 61560 in the issue of December 17, 1981:

§ 171.311 [Corrected]

1. On page 61563. In the last paragraph of § 171.311, Signal format requirements, change the wording in the second sentence so that it reads, "This change makes the DPSK compatible with the receiver decoding tests chosen by the Radio Technical Committee on Aeronautics, Special Committee 139 (RTCA SC–139) for MLS receiver standards and as provided for by ICAO at the meeting in Montreal in April 1981.

§ 171.309 [Corrected]

2. On page 61568, § 171.309(b)(5) Second sentence should be changed from "Remote controls for paragraphs (b) (l) (2) and (3) * * *" to "Remote controls for paragraphs (b) (l) (3) and (4) * * *"

§ 171.311 [Corrected]

3. On page 61568, § 171.311(a), Table 1 was incorrectly published by the **Federal Register.** The table shown below should be substituted in its place.

Table 1. FREQUENCY CHANNEL PLAN

Channel No.	Frequency (MHz)
500	5031.0
501	5031.3
502	5031.6
503	5031.9
504	5032.2
505	5032.5
506	5032.8
507	5033.1
508	5033.4
509	5033.7
510	5034.0
511	5034.3
598	5060.4
599	5060.7
600	5061.0
601	5061.3
698	5090.4
699	5090.7

4. On page 61569, § 171.311(f), Transmission Rates. In the column headed "Average data rate" change "(Hertz per second)" to read "(Hertz)".

Function	Average data rate (Hertz)
Approach Azimuth	13±0.5
High Rate Approach Azimuth	[1]39±1.5
Approach Elevation	39±1.5

[1]The higher rate is recommended for azimuth scanning antennas with beamwidths greater than two degrees. It should be noted that the time available in the signal format for additional functions is limited when the higher rate is used.

Function	Average data rate (Hertz)
Back Azimuth	6.5±0.25
Basic Data	[2]

[2]Refer to Basic Data Function Timing, Table 7.

5. On page 61571, § 171.311, Figure 6. Figure 6 as published in the **Federal Register** is in error. The correct Figure 6 is noted below.

Clock pulse No.	Carrier aquisition	Synchronization code (I_1–I_9)	Function identification code (I_{10}–I_{12})
0	13	18	25

Figure 6. Preamble Organization

6. On page 61572, § 171.311(i)(2)(ii), Sector Signals. In the third sentence the phrase, "* * * where no valid guidance exists," should be changed to read "* * * where no valid guidance should exist * * *"

7. On page 61572, § 171.311(i)(2)(iii)A, Table 6, Angle Scan Timing Constants. The value of 0.02 for V at the Back Azimuth should have a minus sign and therefore be −0.02 as shown below:

TABLE 6. ANGLE SCAN TIMING CONSTANTS

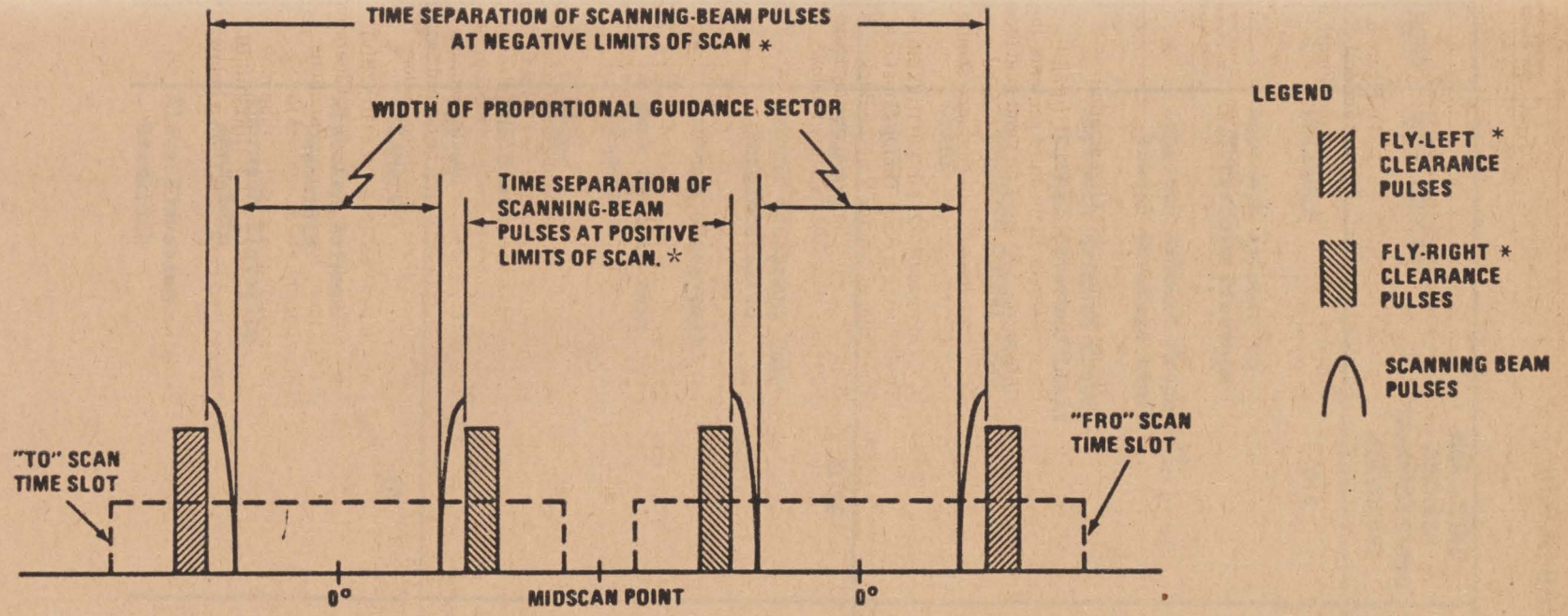
Function	Max value of t_i (usec)	T_o (usec)	V (deg/usec)	T_m (usec)	Pause time (usec)	T_t (usec)
Approach Azimuth	13,000	6,800	0.02	7,972	600	13,128
High Rate Approach Azimuth	9,000	4,800	0.02	5,972	600	9,128
Approach Elevation	3,500	3,350	0.02	2,518	400	N/A
Back Azimuth	9,000	4,800	−0.02	5,972	600	9,128

8. On page 61574, § 171.311(i)(2)(B), Azimuth Angle Encoding. The first and third sentences have been rewritten. This was done to more clearly explain that the TO and FRO scans are clockwise and counterclockwise, respectively, and to properly define the directions of increasing angle values for approach and back azimuth functions. This section now reads:

(B) Azimuth Angle Encoding. Each guidance angle transmitted must consist of a clockwise TO scan followed by a counterclockwise FRO scan as viewed from above the antenna. For Approach Azimuth functions, increasing angle values must be in the direction of the TO scan; for the Back Azimuth function, increasing angle values must be in the direction of the FRO scan. The antenna has a narrow beam in the plane of the scan direction and a broad beam in the orthogonal plane which fills the vertical coverage. Zero angle must be defined along the midpoint of the proportional sector.

9. On page 61575, § 171.311(i)(2)(iv), Clearance Guidance. Figure 8, Clearance Pulse Timing for Azimuth Functions. This figure has been revised to correspond more closely to the new wording used in § 171.311(i)(2)(iii)(B). The revised Figure 8 is shown below.

BILLING CODE 4910–13–M



*Angle signs and clearance conventions are reversed for Back Azimuth.

FIGURE 8. CLEARANCE PULSE TIMING FOR AZIMUTH FUNCTIONS

BILLING CODE 4910-13-C

10. On page 61577, § 171.311(j)(19), Table 8, Basic Data. In Basic Data Word 1, the range of values for the Approach Azimuth Coverage limits was extended to 0° in order to define all of the bit-states that are available. Also, Clearance Signal Type was added and information for the spare bits was changed accordingly. In Basic Data Word 4, DME Distance and Offset information were revised and the spare bits deleted. Under notes, Note 7 has been revised and Note 9 has been added. A revised Table 8 is shown below.

BILLING CODE 4910-13-M

TABLE 8. BASIC DATA

WORD	DATA CONTENT	MAX. TIME BETWEEN TRANSMISSIONS (SECONDS)	BITS USED	RANGE OF VALUES	LEAST SIGNIFICANT BIT	BIT NUMBER
1	PREAMBLE	0.4	12			$I_1 - I_{12}$
	Approach Azimuth to Threshold Distance		6	0M to 6300M	100M	$I_{13} - I_{18}$
	Approach Azimuth Proportional Coverage Limit		5	0° to -60°	2°	$I_{19} - I_{23}$
	Approach Azimuth Proportional Coverage Limit		5	0° to $+60^\circ$	2°	$I_{24} - I_{28}$
	Clearance Signal Type		1	See Note 9		I_{29}
	SPARE		1			I_{30}
	PARITY		2	SEE NOTE 1		$I_{31} - I_{32}$
2	PREAMBLE	0.16	12			$I_1 - I_{12}$
	Ground Equipment Performance Level		2	SEE NOTE 2		$I_{13} - I_{14}$
	Minimum Glide-path		6	2° to 8.2°	0.1°	$I_{15} - I_{20}$
	Back Azimuth Next Function		1	SEE NOTE 3		I_{21}
	SPARE		7	SEE NOTE 6		$I_{22} - I_{28}$
	DME Status		2	SEE NOTE 2		$I_{29} - I_{30}$
	PARITY		2	SEE NOTE 1		$I_{31} - I_{32}$
3	PREAMBLE	10	12			$I_1 - I_{12}$
	Approach Azimuth Beamwidth		3	0.5° to 4°	0.5°	$I_{13} - I_{15}$
	Approach Elevation Beamwidth		3	0.5° to 2.5°	0.5°	$I_{16} - I_{18}$
	Flare Elevation Beamwidth		2	0.5° to 1°	0.25°	$I_{19} - I_{20}$

TABLE 8. BASIC DATA (Continued)

WORD	DATA CONTENT	MAX. TIME BETWEEN TRANSMISSIONS (SECONDS)	BITS USED	RANGE OF VALUES	LEAST SIGNIFICANT BIT	BIT NUMBER
	Approach Azimuth Sector guidance Alert					
	-60° to -20°		3	1° to 8°	1°	$I_{21} - I_{23}$
	-20° to -5°		2	1° to 4°	1°	$I_{24} - I_{25}$
	$+20^{\circ}$ to $+5^{\circ}$		2	1° to 4°	1°	$I_{26} - I_{27}$
	$+60^{\circ}$ to $+20^{\circ}$		3	1° to 8°	1°	$I_{28} - I_{30}$
	PARITY		2	SEE NOTE 1		$I_{31} - I_{32}$
4	PREAMBLE	10	12			$I_1 - I_{12}$
	DME Distance		12	-8000M to +8000M See Note 7	4M	$I_{13} - I_{24}$
	DME Offset		6	-155M to +155M SEE NOTE 7	5M	$I_{25} - I_{30}$
	PARITY		2	SEE NOTE 1		$I_{31} - I_{32}$
5	PREAMBLE	10	12			$I_1 - I_{12}$
	Approach Azimuth Antenna Offset		7	-126M to +126M SEE NOTE 7	2M	$I_{13} - I_{19}$
	DME or DME/P		1	DME = 0 DME/P = 1		I_{20}
	DME Channel		9	SEE NOTE 8		$I_{21} - I_{29}$
	SPARE		1			I_{30}
	PARITY		2	SEE NOTE 1		$I_{31} - I_{32}$

TABLE 8. BASIC DATA (Continued)

WORD	DATA CONTENT	MAX. TIME BETWEEN TRANSMISSIONS (SECONDS)	BITS USED	RANGE OF VALUES	LEAST SIGNIFICANT BIT	BIT NUMBER
6	PREAMBLE	10	12			$I_1 - I_{12}$
	MLS Ground Subsystem Identification (SEE NOTE 4)			LETTERS A to Z		
	Character 2		6			$I_{13} - I_{18}$
	Character 3		6			$I_{19} - I_{24}$
	Character 4		6			$I_{25} - I_{30}$
	PARITY		2	SEE NOTE 1		$I_{31} - I_{32}$
7	PREAMBLE	1	12	SEE NOTE 5		$I_1 - I_{12}$
	Ground Equipment Performance Level		2	SEE NOTE 2		$I_{13} - I_{14}$
	Back Azimuth Antenna Distance		5	0M to 3100M	100M	$I_{15} - I_{19}$
	Back Azimuth Proportional Coverage Limit		4	-10° to -40°	2°	$I_{20} - I_{23}$
	Back Azimuth Proportional Coverage Limit		4	$+10^\circ$ to $+40^\circ$	2°	$I_{24} - I_{27}$
	Back Azimuth Beamwidth		2	1° to 4°	1°	$I_{28} - I_{29}$
	SPARE		1			I_{30}
	PARITY		2	SEE NOTE 1		$I_{31} - I_{32}$
8	PREAMBLE	10	12			$I_1 - I_{12}$
	Elevation Antenna Height		6	-1M +5.2M SEE NOTE 7	0.2M	$I_{13} - I_{18}$
	Elevation Antenna Offset		5	-150M to +150M SEE NOTE 7	10M	$I_{19} - I_{23}$
	MLS Datum Point to threshold distance		7	0M to 630M	5M	$I_{24} - I_{30}$
	PARITY		2	SEE NOTE 1		$I_{31} - I_{32}$

TABLE 8. BASIC DATA (Continued)

NOTES

NOTE 1 Parity checks that there is an even number of ones in Bits I_{13} to I_{30} and obeys the equations:

$$I_{13} + I_{14} \ \ldots \ + I_{29} + I_{30} + I_{31} = \text{EVEN}$$

$$I_{14} + I_{16} + I_{18} \ \ldots \ + I_{28} + I_{30} + I_{32} = \text{EVEN}$$

NOTE 2 Coding not yet defined. Transmit all zeros.

NOTE 3 Code for I_{21} is:

0 = No Back Azimuth Transmission
1 = Back Azimuth Transmission to follow

NOTE 4 Data word 6 is transmitted for both approach azimuth and back azimuth coverages alternately and at the 10-second maximum time between transmissions for each coverage sector, if back azimuth guidance is provided.

NOTE 5 Data word 7 is transmitted from the back azimuth equipment.

NOTE 6 These bits are reserved for future applications requiring high transmission rates. Transmit all zeros.

NOTE 7 The convention for the coding of negative numbers is as follows:

-MSB is the sign bit: 0 = +
1 = -

-Other bits represent the absolute value.

The convention for the antenna location is as follows: as viewed from the MLS approach reference datum looking toward the MLS datum point, a positive number shall represent a location to the right of the runway centre line (lateral offset) or above the runway (vertical offset) or toward the stop end of the runway (Longitudinal distance).

NOTE 8 Coding not yet defined. 9 bits provide the capability to encode frequency and mode separately. Transmit all zeros.

NOTE 9 Code for I_{29} is:

0 = Pulse Clearance Signal
1 = Scanning Clearance Signal

BILLING CODE 4910-13-C

§ 171.313 [Corrected]

11. On page 61581, § 171.313(a)(4)(ii), Table 9, Azimuth Power Density Requirements (dBw/m²). In Table 9, the back azimuth power density at clearance should be −79.5 and not −88 as originally published.

TABLE 9. AZIMUTH POWER DENSITY REQUIREMENTS (dBW/m^2)

Function	DPSK	Clearance	ANTENNA BEAMWIDTH (3dB)		
			1°	2°	3°
Approach Azimuth	-89.5	-88	-88	-85.5	-82
High Rate Approach Azimuth	-89.5	-88	-88	-88	-86.8
Back Azimuth	-81	-79.5	-79.5	-77	-73.5

12. On page 61585, §171.313(1), Scanning Conventions, Figure 12. The note in Figure 12 has been changed to include reference to the back azimuth angle also since both the approach azimuth and the back azimuth are shown in the figure. The note should read, "The azimuth and back azimuth angles are negative for the position of the aircraft shown here."

BILLING CODE 4910-13-M

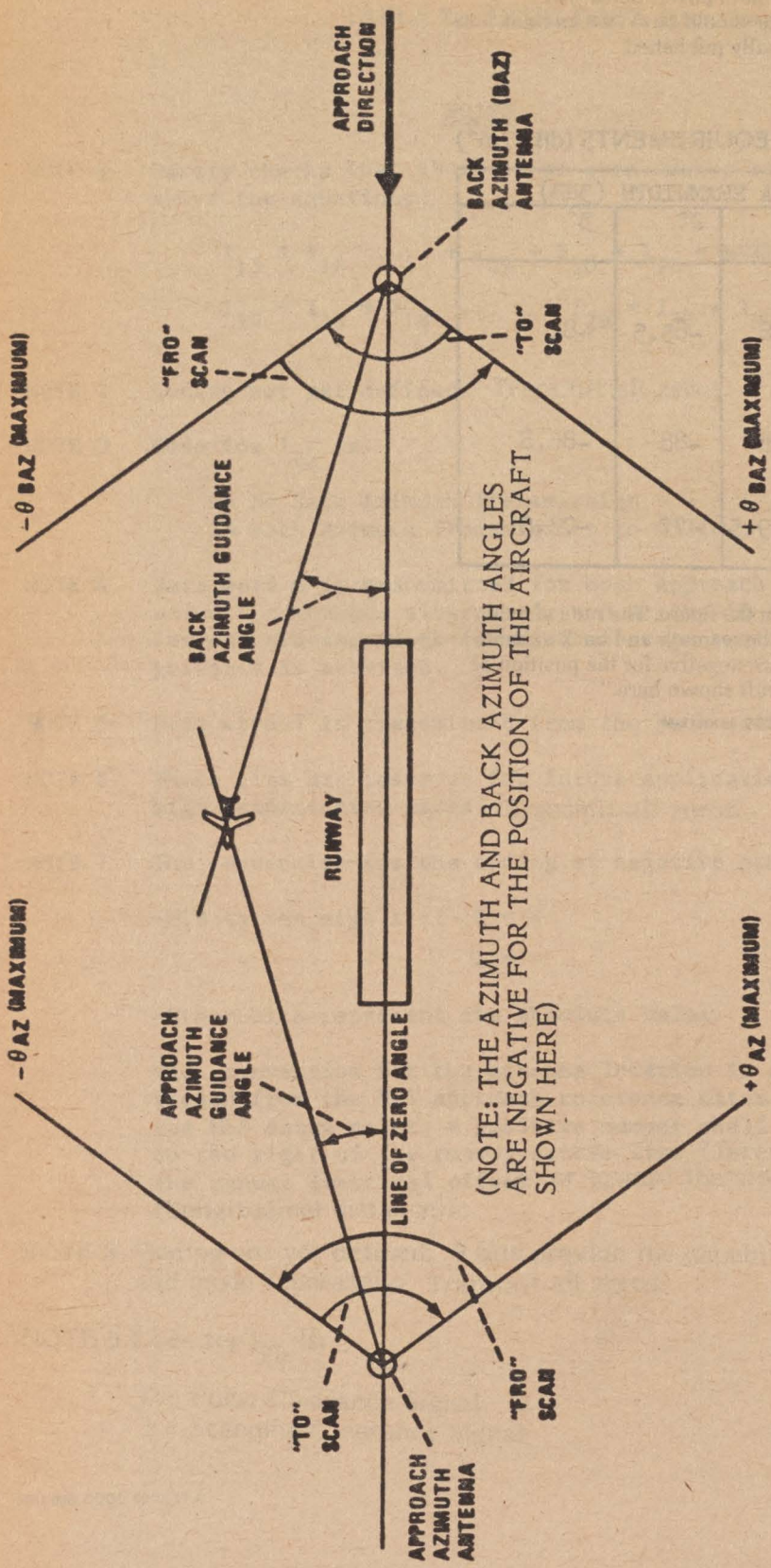


FIGURE 12. AZIMUTH GUIDANCE FUNCTIONS SCANNING CONVENTIONS

BILLING CODE 4910-13-C

§ 171.317 [Corrected]

13 On page 61588, § 171.317(d), Elevation Accuracy, Table 13. The figure for CMN error for the system has been corrected to read ± .75 ft. (0.23m)[1] instead of ± .75 ft (0.3m)[1], since 0.23m and not 0.3m equals .75 ft.

(Sec. 305, 307, 313(a), 601, 606, Federal Aviation Act of 1958, as amended (49 U.S.C., 1343, 1348, 1354(a), 1421, 1426); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a regulation which:

(1) Is not considered to be major under the procedures and criteria prescribed by Executive Order 12291;

(2) Is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and

(3) 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 September 17, 1982.

J. Lynn Helms,

Administrator.

[FR Doc. 82-28367 Filed 10-15-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 4

[Docket No. RM81-7-000; Order No. 202-B]

Exemption From the Licensing Requirements of Part I of the Federal Power Act of Categories of Small Hydroelectric Power Projects With an Installed Capacity of 5 Megawatts or Less

Issued: October 12, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Denying in Part and Granting in Part Application for Rehearing.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing an order that denies in part and grants in part an application filed jointly by the National Wildlife Federation, Trout Unlimited, Inc., and the New England Rivers Center for rehearing of Order No. 202. Order No. 202 is the final rule that establishes procedures and standards for exempting two categories of small hydroelectric power projects with proposed installed capacity of 5 MW or less from licensing and other requirements of Part 1 of the Federal Power Act.

For reasons detailed in the rehearing order, the Commission largely denies the applicants' rehearing request for rescission or modification of the final rule. The Commission grants rehearing to the extent of modifying the certification requirements in the final rule to include proposed listings or designations of threatened or endangered species and critical habitats.

EFFECTIVE DATE: This order will be effective November 7, 1982.

FOR FURTHER INFORMATION CONTACT: Fredric D. Chanania, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-8033.

SUPPLEMENTARY INFORMATION:

I. Introduction

On February 18, 1982, the National Wildlife Federation, Trout Unlimited, Inc., and the New England Rivers Center ("Petitioners") filed with the Commission an Application for Rehearing on Order No. 202.[1] Order No. 202 is the final rule that establishes procedures and standards for exempting two categories of small hydroelectric power projects with proposed installed capacity of 5 MW or less from licensing and other requirements of Part 1 of the Federal Power Act.[2] In their Application, Petitioners request that the final rule be rescinded or, alternatively, be modified to make the rule consistent with certain statutory requirements.[3]

II. Discussion of Issues Raised by Petitioners

A. *General Observations.* Petitioners assert, on four principal grounds discussed below, that the final rule does not comply with section 30(c) of the Federal Power Act (FPA)[4] and a number of environmental statues.[5] During the course of this rulemaking, the Commission has considered virtually all of the arguments now raised by Petitioners. The preamble of the final rule reflects this consideration. The Commission also believes the final rule is in compliance with the FPA as well as the other statutes cited by Petitioners.

The Petitioners' arguments reflect continuing disagreement with the Commission's interpretation and implementation of the express Congressional mandate to encourage small hydropower development.[6] Specifically, Congress has authorized the Commission, by rule or order, to exempt from licensing small hydroelectric power projects 5 MW or less "on a case-by-case basis *or on the basis of classes or categories of projects* * * *".[7] After first establishing case-by-case procedures for exempting small hydroelectric power projects 5 MW or less,[8] the Commission has turned to the exemption of "categories of projects." This final rule represents its effort in that direction.

As pointed out in the preamble of the final rule, a "categorical" exemption, by its nature, is an exemption that is conferred by operation of a generic rule.[9] This categorical exemption rule has three distinct elements: (1) Establishment of the parameters of the two exemption categories; (2) imposition of specific terms and conditions governing the construction and operation of every project; and (3) requirements for certification by

---

[1] Docket No. RM81-7-000, issued Jan. 19, 1982, 47 FR 4232 (Jan. 29, 1982) (to be codified primarily at 18 CFR 4.109-4.113).

[2] 16 U.S.C. 792-823a. The two categories are small hydroelectric power projects with proposed installed capacity of more than 100 KW up to 5 MW and those with proposed installed capacity of 100 KW or less. The latter category covers the so-called "micro-hydroelectric" power projects.

[3] On March 22, 1982, the Commission tolled the period for action on rehearing by granting the Petitioners' Application solely for purposes of further consideration. 47 FR 13517 (March 31, 1982).

[4] Section 408 of the Energy Security Act of 1980 (ESA) amended section 405(d) of the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 2705(d), to provide that any case-by-case, class, or category of exempted projects are to be subject to the "same limitations (to ensure protection of fish and wildlife as well as other environmental concerns) as those which are set forth in subsections (c) and (d) of section 30 of the Federal Power Act * * *."

Section 30(c) requires "consultation" between the Commission and the United States Fish and Wildlife Service and the appropriate state fish and wildlife agency "in the manner provided by the Fish and Wildlife Coordination Act (16 U.S.C. 661, *et seq.*)." Section 30(c) also requires any exemption to include "such terms and conditions as the Fish and Wildlife Service and the State agency each determine are appropriate to prevent loss of, or damage to, such resources and to otherwise carry out the purposes" of the FWCA.

[5] The other alleged statutory violations involve section 408(b) of the Energy Security Act of 1980 (ESA), Pub. L. 96-294, 94 Stat. 611, *amending* sections 405 and 408 of PURPA, 16 U.S.C. 2705, 2708; the Fish and Wildlife Coordination Act (FWCA), 16 U.S.C. 662(a); the Endangered Species Act of 1973, 16 U.S.C. 1536(a); section 102(2)(C) of the National Environmental Policy Act (NEPA), 42 U.S.C. 4332(2)(C); and the Administrative Procedure Act, 5 U.S.C. 553, 557.

[6] *See* section 402 of the ESA, 42 U.S.C. 7371.

[7] *See* section 405(d) of PURPA, 16 U.S.C. 2705(d) (emphasis added).

[8] *See* Final Rule, "Exemption from All or Part of Part 1 of the Federal Power Act of Small Hydroelectric Power Projects With an Installed Capacity of 5 Megawatts or Less," Docket No. RM 80-65 (Order No. 106), issued Nov. 7, 1980, 45 FR 76115 (Nov. 18, 1980). This rule is codified at 18 CFR 4.101-4.108.

[9] 47 FR 4233-34 (Jan. 29, 1982).

appropriate fish and wildlife agencies with respect to potential environmental concerns for which a case-specific review is statutorily mandated (for example, with respect to endangered species). The objective of this type of rule is to limit, according to physical and operational characteristics, the type of exemptible projects in the category so as to make environmental degradation very unlikely.

This approach gives meaning to the statutory language in PURPA by providing a means to exempt "categories of projects," while ensuring the integrity of migratory fish populations, endangered species, historic landmarks, and water quality. Specific environmental terms and conditions are included in the rule itself and apply to all exempted projects.[10] These terms and conditions serve both as conditions precedent to obtaining an exemption and as continuing requirements incorporated into each exemption. In addition, the certification process requires the project owner and the appropriate fish and wildlife agencies to discuss the project and to come to agreement on any environmental concerns before the project owner may file a Notice of Exemption. This combination of site-specific certification by fish and wildlife agencies and generic terms and conditions is the means by which the categorical exemption approach in the final protects sensitive environmental characteristics without resort to case-by-case evaluation of every exemptible project.

B. *Consultation under Section 30(c) and Terms and Conditions in the Rule.* Petitioners' first claim is that the final rule fails to comply with the "consultation" provisions of the Fish and Wildlife Coordination Act (FWCA), 16 U.S.C. 662(a), as incorporated by section 30(c) of the FPA.[11] Specifically, Petitioners assert that the FWCA requires case-by-case consultation in order to enable the Commission to include site-specific terms and conditions in each exemption granted. Petitioners argue that the generic terms and conditions contained in § 4.109 of the final rule do not satisfy the FWCA and section 30(c) of the FPA.

The Commission believes that the final rule is in compliance with all requirements in section 30(c) of the FPA and in the FWCA. A full opportunity has been afforded to the United States Fish and Wildlife Service (FWS), as well as other agencies, to consult with the Commission in order to develop generic terms and conditions that would be imposed on every exempted project.[12] This opportunity included the ability to file written comments and to participate in public meetings.[13] As noted in the final rule, no agency came forward at that time with specific terms and conditions.[14] Nonetheless, the Commission included in the final rule extensive revisions to the proposed terms and conditions in light of later comments of fish and wildlife agencies.[15] As a result, the Commission believes the consultation requirement under section 30(c) of the FPA has been satisfied.

With regard to Petitioners' argument for site-specific terms and conditions, the Commission believes that all necessaryu terms and conditions, required by section 30(c) to be imposed on any exempted project, are, in fact, imposed by operation of the rule itself. As noted above, the Commission's approach to the establishment of a truly categorical exemption process has been to focus, within the parameters of section 30(c), on the development of generic terms and conditions to be applied to every project. The two key elements of the final rule—generic terms and conditions and the required certifications—permit the granting of exemptions without individual, project-specific environmental reviews. If other fish and wildlife agencies cannot make the requisite environmental and other certifications for a proposed project, a categorical exemption may not be sought by the developer. In this manner, the requirements of section 30(c) have been met.

The Petitioners state, without support, that section 30(c) permits only individual, site-specific terms and conditions, a view which is fundamentally inconsistent with a categorical exemption approach. Petitioners also fail to demonstrate how the two main elements of the final rule (generic terms and conditions and certifications) fail to "prevent loss of, or damage to, fish and wildlife resources," as mandated under section 30(c). Accordingly, the Commission continues to believe that the final rule is consistent with section 30(c) of the FPA and those elements of the FWCA incorporated in section 30(c).

C. *Scope of Environmental Considerations in Final Rule.* Petitioners next assert that both the environmental terms and conditions [16] and the certification requirements [17] contained in the final rule impermissibly limit the authority of fish and wildlife agencies to make necessary determinations on the environmental impacts of proposed projects. Petitioners claim that these terms and conditions and certifications fail to encompass the definition of "wildlife" in the FWCA. That definition includes "birds, fishes, mammals, and all other classes of wild animals, and all types of aquatic and land vegetation upon which wildlife is dependent." [18]

The Commission does not find merit in Petitioners' second argument. Comments were solicited on all environmental considerations related to the proposed categorical exemptions. In addition, two Environmental Assessments were performed to identify potential impacts and concerns.[19] After full consideration of the comments and the Environmental Assessments, the Commission decided to retain the categorical approach.

The rule has, therefore, been developed after the broadest environmental consideration. The generic terms and conditions, taken together with the required certifications, address this broad range of potential, significant environment impacts in a way that ensures appropriate environmental protection while permitting a categorical exemption process to work.[20] For example, potential environmental effects on downstream wildlife and vegetation are virtually eliminated by requiring that an exempted project must utilize an

[10] The development of the rule involved considerable efforts to ascertain which terms and conditions were necessary for these classes of exempted projects in light of statutory requirements under the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the Historic Preservation Act, and other statutes.

[11] 16 U.S.C. 823a(c).

[12] *See* Notice of Proposed Rulemaking, Docket No. RM81-7, issued Dec. 22, 1980, 46 FR 1291, 1294 (Jan. 6, 1981).

[13] These public hearings were held in four locations around the country during Jan. 21-29, 1981.

[14] 47 FR at 4233.

[15] In part, some of these comments were amplified and clarified during interagency discussions with the FWS. These discussions were held in March, 1981, followed by the exchange of written correspondence.

[16] Section 4.109(a)(6), (a)(9), (b)(2), (b)(4).

[17] Section 4.112(b).

[18] 16 U.S.C. 666b.

[19] *Environmental Assessment, Rulemaking For Categorical Exemption From Licensing Under Part I of the Federal Power Act For Small Hydroelectric Power Projects With an Installed Capacity of 5 Megawatts or Less, Docket No. RM81-7* (FERC/EA-0002RM, Dec. 1980); *Supplement to the Environmental Assessment on the Proposed Rule to Categorically Exempt From Licensing Certain Small Hydroelectric Power Projects, 5 MW or Less, Docket No. RM81-7* (Micro-Hydroelectric Power Projects, October 1981).

[20] The Environmental Assessments specifically identify which terms and conditions in the rule address the environmental impacts that might be significant. *Environmental Assessment, supra* note 19, at 41-45; *Supplement to the Environmental Assessment, supra* note 19, at 4-5, 9-17.

existing dam,[21] must not increase the elevation of the impoundment,[22] must not alter the prevailing regime of storage and release of water from the impoundment,[23] and cannot divert water more than 300 feet downstream from the toe of the dam.[24] Similarly, an exempted project cannot cause violation of water quality standards,[25] adversely affect historic sites,[26] or adversely affect threatened or endangered species or critical habitats.[27]

Similarly, the required site-specific certifications demonstrate a broad concern for fish and wildlife resources.[28] An owner must obtain certification from the FWS that there is no adverse effect on endangered or threatened species or on critical habitats listed or designated by the FWS or by the National Marine Fisheries Service of the Department of Commerce.[29] In addition, the FWS must certify either that there is no significant migratory fish population at projects over 100 kW or, if there is a significant migratory fish population at projects 100 kW or less, that the projects dam does not constrict the passage of such fish.[30] Owners of projects over 100 kW must also obtain certification that water quality standards will not be violated, thereby ensuring current levels of protection for humans, wildlife, and vegetation which use that water.[31]

Thus, Petitioners' assertion that the final rule does not encompass consideration of the "broader" definition of wildlife in the FWCA (including birds, mammals, and vegetation) does not withstand scrutiny. The Commission finds that the Petitioners have not shown any areas of significant environmental concern which have been overlooked or ignored. The basic objections of the Petitioners appear to be addressed to the categorical exemption approach itself rather than with identifiable, specific deficiencies in the substance of the rule. The Commission, therefore, finds no reason to believe that the final rule fails to comply with section 30(c) of the FPA or the FWCA.

D. *Endangered Species Act.* Petitioners also object to the certification provisions whereby the FWS evaluates whether endangered or threatened species or critical habitats would be adversely affected by construction or operation of each project.[32] Petitioners claim these certification provisions do not comport with the Endangered Species Act in two ways—the Secretary of the Interior or the Secretary of Commerce is not required to make such certification determinations, and the determinations connot be made without the opportunity to impose site-specific terms and conditions.

The Commission disagrees. The rule provides that a project owner must obtain the specified certifications prior to filing a Notice of Exemption. If the owner cannot do so, a Notice of Exemption cannot be filed and a categorical exemption cannot be conferred. Nonetheless, the responsibilities of the Secretary of the Interior and the Secretary of Commerce, detailed in section 7 of the Endangered Species Act, are broad enough to allay any fears that exemption applicants will not be able to obtain necessary certification determinations.[33]

In addition, the certification process occurs prior to the filing of a Notice of Exemption and is an ample opportunity for ensuring the environmental protection mandated by the Endangered Species Act prior to any exemption becoming effective.[34] The certifying agencies have the opportunity to examine a project in as much detail as necessary before making any certification. In doing so, the agencies will be aware that the terms and conditions in the final rule serve as basic environmental protection measures for every exempted project.

A certifying agency is not restricted by the rule in terms of the time afforded for its examination, the kinds of features to which it may devote attention, and the restrictions it may impose pursuant to its own jurisdictional responsibilities independent of the Federal Power Act. The rule only restricts a certifying agency by limiting the certifications to certain environmental features that are specified in the rule. These features are those which have been determined to be extremely sensitive from an environmental viewpoint or which have been found to be the most varied from site to site. Other environmental considerations are, as discussed above, implicit in the generic terms and conditions applicable to every exempted project, and are not part of the required certifications.[35]

Petitioners also assert that any certification should include consideration of species that are proposed for listing as endangered or threatened.[36] Regarding these proposed species or habitats, the Commission has determined that the final rule should be modified to be in full agreement with the requirements of the Endangered Species Act, 16 U.S.C. 1356(a). Accordingly, the standard terms and conditions in § 4.109(a)(9) and (b)(4) and the certification requirements in § 4.112(b), (c) and § 4.113(b), (c) will be modified to include an appropriate reference to species or habitats that are proposed for listing. Because these modifications are minor and technical in nature and are made in order to bring the final rule more closely into compliance with the Endangered Species Act, 16 U.S.C. 1356(a), the Commission finds that, pursuant to 5 U.S.C. 553(b), prior notice and public comment is unnecessary and contrary to the public interest.

E. *NEPA Obligations.* Petitioners also claim, without explanation, that the Commission's finding of no significant environmental impact from promulgation of the rule is arbitrary and capricious and in violation of the National Environmental Policy Act of 1969 (NEPA).[37] Petitioners state only that the Commission's Environmental Assessments[38] are "inadequate" and that the rule "will significantly affect the environment." They have not supplied any detailed arguments or other evidence supporting this statement.

Two Environmental Assessments were prepared in connection with this rulemaking—one covering projects 5 MW or less and a supplement covering "micro-hydroelectric" projects 100 kW or less. These Assessments identified in detail the reasonably foreseeable environmental impacts of these types of

[21] 18 CFR 4.109(a)(1).
[22] *Id.* § 4.109(a)(2).
[23] *Id.* § 4.109(a)(3).
[24] *Id.* § 4.109(a)(4).
[25] *Id.* § 4.109(a)(7).
[26] *Id.* § 4.109(a)(8).
[27] *Id.* § 4.109(a)(9).
[28] The certifications extend beyond purely environmental considerations and serve to ensure protection of historic sites. 18 CFR 4.112(b)(3).
[29] 18 CFR 4.112(b)(4), 4.113(b)(1).
[30] 18 CFR 4.112(b)(2), 4.113(b)(2).
[31] 18 CFR 4.112(b)(1).
[32] 18 CFR 4.112(b)–(c), 4.113(b)(c).
[33] 16 U.S.C. 1536, *as amended by* Pub. L. 95–632, 92 Stat. 3752 (1978); Pub. L. 96–159, 93 Stat. 1226 (1979). *See, e.g.*, section 1536(a)(2) (the Secretary must assist other agencies) and section 1536(b) (the Secretary must provide written opinions regarding the effects on endangered or threatened species or critical habitats).
[34] To the extent that there is a violation of the Endangered Species Act at any project site notwithstanding the prefiling protection built into the rule, the Commission can take appropriate enforcement action to remedy the violation since compliance with that Act is a term and condition of the exemption. *See* 18 CFR 4.109(a)(9), (b)(4).
[35] For these reasons, the Commission will not accept certifications either that are different than those specified in the rule or which contain additional conditions or restrictions. That is not to say, however, that an agency is foreclosed from reaching a separate understanding with a potential exemption applicant or from exercising any independent statutory authority that the agency may have.
[36] *See* 16 U.S.C. 1536(a)(3).
[37] 42 U.S.C. 4321, *et seq.*
[38] *Supra* note 19.

projects, and examined how the proposed rule would affect these impacts.

Prior to issuance of the Notice of Proposed Rulemaking (NOPR), the written file on every licensed project with proposed installed capacity of 5 MW or less was reviewed and the physical characteristics of the projects were examined. Potential environmental impacts associated with these projects, other agency comments submitted on the filed applications, the staff's conclusions regarding the levels of potential impact, and any proposed mitigation measures were also reviewed.

Based on this record search, projects meeting certain characteristics were found not to have significant environmental impacts. The Commission, in the NOPR, adopted these characteristics in the form of generic terms and conditions and certification requirements which must be satisfied for each exempted project.

Following publication of the NOPR, four public meetings were held throughout the United States between January 21–29, 1981. Other discussions with FWS personnel also occurred.

The findings of the Environmental Assessments and the public comments (including those from the FWS and other agencies) are reflected in the preamble of the final rule. These findings, together with the earlier record search and the comments received, form the basis of the Commission's declaration of no significant environmental impact made in the final rule.[39] The procedures discussed above and the findings made satisfy the Commission's obligations under NEPA.

In the absence of more specificity by the Petitioners as to any impermissible deficiencies in the Environmental Assessments, in the procedures followed, or in the Commisson's negative declaration, the Commission is unable to conclude either that it has acted arbitrarily or capriciously or that the rule is a major federal action significantly affecting the quality of the human environment. Accordingly, the Commission finds no basis to modify or rescind the rule in this regard.

III. Conclusion

With the one exception of species and habitats proposed for listing, the application for rehearing does not raise any issue or present any data or arguments which warrant modification of the final rule.

Therefore, The Commission Orders:

(1) The Application for Rehearing on Order No. 202 on Behalf of the National Wildlife Federation, Trout Unlimited, Inc., and the New England Rivers Center is denied in part; and

(2) the foregoing Application is granted in part to the extent of the modifications of 18 CFR 4.109(a)(9), (b)(4), 4.112(b)(4), (c)(5)(iv), and 4.113(b)(1), (c)(5)(i), as set forth below.

(Energy Security Act of 1980, Pub. L. 96–294, 94 Stat. 611; Federal Power Act, as amended (16 U.S.C. 792–828c); Public Utility Regulatory Policies Act of 1978, as amended (16 U.S.C. 2601–2645); Department of Energy Organization Act (42 U.S.C. 7101–7352); and Exec. Order 12009, 3 CFR 142 (1978))

List of Subjects in 18 CFR Part 4

Electric power.

In consideration of the foregoing, Chapter I of Title 18, Code of Federal Regulations, is amended as set forth below, effective 30 days from date of publication in **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 4—LICENSES, PERMITS, EXEMPTIONS, AND DETERMINATIONS OF PROJECT COSTS

1. In § 4.109, paragraphs (a)(9) and (b)(4) are revised to read as follows:

§ 4.109 General provisions for exemption from licensing for certain categories of small hydroelectric power projects.

* * * * *

(a) * * *

(9) Does not entail construction or operation that would adversely affect any threatened or endangered species or critical habitat which is listed, designated, or proposed for listing or designation in the regulations of the U.S. Fish and Wildlife Service of the Department of the Interior or the National Marine Fisheries Service of the Department of Commerce; and

* * * * *

(b) * * *

(4) Does not entail construction or operation that would adversely affect any threatened or endangered species or critical habitat which is listed, designated, or proposed for listing or designation in the regulations of the U.S. Fish and Wildlife Service of the Department of the Interior or the National Marine Fisheries Service of the Department of Commerce.

* * * * *

2. In § 4.112, paragraphs (b)(4) and (c)(5)(iv) and revised to read as follows:

§ 4.112 Notice of exemption from licensing for projects with installed capacity of more than 100 kilowatts.

* * * * *

(b) * * *

(4) Obtain certification from the U.S. Fish and Wildlife Service or obtain an independent field survey and a survey of the applicable literature conducted by a biologist approved by the U.S. Fish and Wildlife Service, with respect to whether project construction or operation would adversely affect any endangered or threatened species or critical habitat which is listed, designated, or proposed for listing or designation in the regulations of the U.S. Fish and Wildlife Service of the Department of the Interior or the National Marine Fisheries Service of the Department of Commerce; and

* * * * *

(c) * * *

(5) * * *

(iv) The U.S. Fish and Wildlife Service [identify which office] or an approved biologist has certified that the proposed small hydroelectric power project does not entail construction or operation that would adversely affect any threatened or endangered species or critical habitat which is listed, designated, or proposed for listing or designation in the regulations of the U.S. Fish and Wildlife Service of the Department of the Interior or the National Marine Fisheries Service of the Department of Commerce.

* * * * *

3. In § 4.113, paragraphs (b)(1) and (c)(5)(i) are revised to read as follows:

§ 4.113 Notice of exemption from licensing for projects with installed capacity of 100 kilowatts or less.

* * * * *

(b) * * *

(1) Obtain certification from the U.S. Fish and Wildlife Service or obtain an independent field survey and a survey of the applicable literature conducted by a biologist approved by the U.S. Fish and Wildlife Service, with respect to whether project construction or operation would adversely affect any endangered or threatened species or critical habitat which is listed, designated, or proposed for listing or designation in the regulations of the U.S. Fish and Wildlife Service of the Department of the Interior or the National Marine Fisheries Service of the Department of Commerce; and

* * * * *

(c) * * *

(5) * * *

(i) The U.S. Fish and Wildlife Service [identify which office] or an approved biologist has certified that the proposed

[39] 47 FR 4242.

small hydroelectric power project does not entail construction or operation that would adversely affect any endangered or threatened species or critical habitat which is listed, designated, or proposed for listing or designation in the regulations of the U.S. Fish and Wildlife Service of the Department of the Interior or the National Marine Fisheries Service of the Department of Commerce.

* * * * *

[FR Doc. 82-28485 Filed 10-15-82; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-82-1038]

Deregulate Urgent Needs Fund and Inequities Fund

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: This final rule removes the provisions relating to the Urgent Needs Fund and the Inequities Fund, because HUD no longer has statutory authority to receive applications for these programs.

EFFECTIVE DATE: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, but not before further notice of the effective date is published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Leroy P. Gonnella, Secretary's Fund Division, Office of Program Policy Development, Room 7134, Department of Housing and Urban Development, 51 Seventh Street, SW, Washington, DC 20410, (202) 755-6090. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: This final rule amends 24 CFR Part 570 to remove the provisions relating to two Discretionary community development grant programs with respect to which the statutory authority to fund new projects has terminated (see Sections 301 and 305 of the Omnibus Budget Reconciliation Act of 1981). The sections of 24 CFR being removed and their programs are as follows: Section 570.401, Urgent Needs Fund; and Section 570.408, Inequities Fund. To the extent that there are still ongoing projects remaining under these programs, they continue to be governed by the provisions of the enabling legislation under which they were funded, as well as the obligations under the grant contracts with HUD.

The Secretary has determined that, in light of the termination of funding, prior notice and public procedure on this amendment is unnecessary, and that good cause exists for adopting this amendment as a final rule, without a public comment period.

This rule does not constitute a "major rule" as that term is defined in § 1(b) of Executive Order 12291 on Federal Regulation. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect 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.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements § 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10278, 451 Seventh Street, SW, Washington, DC 20410.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

This rule is listed in two places under the Office of Community Planning and Development in the Department's Semi-annual Agenda of Regulations published on August 17, 1981 (46 FR 41708) pursuant to Executive Order 12201 and the Regulatory Flexibility Act. The part of the rule removing the provisions in § 570.401 (Urgent Needs Fund) is listed as item C)19. CPD-22-81; the part of the rule removing the provisions in § 570.408 (Inequities Fund) is listed as item D)13. CPD-34-81, under Rules Under Review.

(Catalog of Federal Domestic Assistance Program Codes: 14.218, 14.219, 14.225, and 14.227)

List of Subjects in 24 CFR Part 570

Community development block grants, Grant programs—housing and community development, Low and moderate income housing, New communities, Pockets of poverty, Small cities.

PART 570—[AMENDED]

§§ 570.401 and 570.408 [Removed]

Accordingly, 24 CFR Part 570 is amended by removing §§ 570.401 and 570.408 in their entirety.

Authority.—Title 1 of the Housing and Community Development Act of 1974, 42 U.S.C. 5301 *et seq.*; Title 1 of the Housing and Community Development Act of 1977 (Pub. L. 95-128); Section 7(d), Department of Housing and Urban Development Act; 42 U.S.C. 3535(d).

Dated: October 6, 1982.

Claire E. Freeman,

Deputy Assistant Secretary for Program Policy Development and Evaluation.

[FR Doc. 82-28560 Filed 10-15-82; 8:45 am]
BILLING CODE 4210-29-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Non-Multiemployer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Non-Multiemployer Plans contains the interest rates and factors for the period beginning November 1, 1982. The interest rates and factors are to be used to value benefits provided under terminating non-multiemployer pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974.

The valuation of plan benefits is necessary because, under section 4041 of the Act, the Pension Benefit Guaranty Corporation and the plan administrator must determine whether a terminating pension plan has sufficient assets to pay all benefits under the plan that are guaranteed by the PBGC under the Title IV plan termination insurance program.

The interest rates and factors set forth in Appendix B to Part 2619 are adjusted periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after November 1, 1982, and will enable the PBGC and plan administrators to value the benefits provided under those plans. These rates and factors will remain in effect until PBGC publishes an amendment revising them.

EFFECTIVE DATE: November 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mrs. Renae R. Hubbard, Special Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006, 202–254–4895 (not a toll-free number).

SUPPLEMENTARY INFORMATION: On January 28, 1981, the Pension Benefit Guaranty Corporation ("PBGC") issued a final regulation (46 FR 9492) establishing the methods for valuing plan benefits of terminating non-multiemployer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.* (1976), *as amended by* the Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96–364, 94 Stat. 1208 (the "Act"). That regulation, 29 CFR Part 2610, was recodified as 29 CFR Part 2619 on June 24, 1981, effective June 29, 1981 (46 FR 32574). That regulation contains formulas for valuing different types of benefits. Appendix B to the regulation sets forth the interest rates and factors that are to be used in the formulas. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

When published as part of the final regulation, Appendix B contained interest rates and factors for valuing benefits in plans that terminated during the period from September 2, 1974 through April 1, 1981. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after April 1, 1981 and before October 1, 1982. (46 FR 26765, 46 FR 31257, 46 FR 36693, 46 FR 45761, 46 FR 50788, 46 FR 55958, 46 FR 61084, 47 FR 2313, 47 FR 6426, 47 FR 20761, 47 FR 30757).

On September 15, 1982, the PBGC published rates for plans that terminate on or after October 1, 1982 (47 FR 40541). At this time, changes in the financial and annuity markets require a decrease in the rates used for valuing benefits. Accordingly, this amendment adds to Appendix B a new set of interest rates and factors for plans that terminate on or after November 1, 1982. This interest rate and these factors will remain in effect until such time as PBGC publishes another amendment concerning the rates.

Generally, the rates will be in effect for at least one month. Any change in the rates will be published in the **Federal Register**, normally by the 15th of the month preceding the effective date of the new rates.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This determination is based on the need to determine and issue new interest rates and factors promptly, so that the rates can reflect, as accurately as possible, current market conditions. The PBGC has found that the public interest is best served by issuing the rates and factors on a prospective basis so that plans may be able to calculate the value of plan benefits before submitting a notice of intent to terminate. Also, plans will be able to predict employer liability more accurately prior to plan termination. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans that will terminate on or after November 1, 1982, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment to the final regulation effective less than 30 days after publicaton.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, February 17, 1981, because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, innovation, or competition.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

PART 2619—[AMENDED]

In consideration of the foregoing, Part 2619 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

1. The authority citation for Part 2619 is revised to read as follows:

Authority: Secs. 4002(b)(3), 4041(b), 4044, 4062(b)(1)(A), Pub. L. 93–406, 88 Stat. 1004, 1020, 1025, 1029 (1974) as amended by secs. 403(1), 403(d), and 402(a)(7), Pub. L. 96–364, 94 Stat. 1302, 1301, 1299 (1980) (29 U.S.C. 1302, 1341, 1344, 1362).

2. Rate Set 36 of Appendix B is revised and Rate Set 37 of Appendix B is added to read as follows:

Appendix B—Interest Rates and Quantities Used to Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "G_y" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45.

Rate set	For plans with a valuation date		Immediate annuity rate	Deferred annuities				
	On or after	Before		k_1	k_2	k_3	n_1	n_2
•	•	•	•	•	•	•	•	
36	Oct. 1, 1982	Nov. 1, 1982	10.75	1.1000	1.0875	1.0400	7	8
37	Nov. 1, 1982		10.50	1.0975	1.0850	1.0400	7	8

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82–28655 Filed 10–15–82; 8:45 am]

BILLING CODE 7708–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Parts 1600, 1601, 1610, 1611, 1612, 1620, and, 1690

Changes in Office Names and Position Titles Resulting from Reorganization

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission has recently approved a reorganization of its Washington, D.C. Headquarters offices in order to more efficiently administer and enforce statutes prohibiting employment discrimination. The names of several offices and the titles of certain agency positions have been changed. This document amends the Commission's regulations so that they contain the changes in office names and position titles resulting from the reorganization.

DATE: This final rule is effective on October 17, 1982.

FOR FURTHER INFORMATION CONTACT: The Office of Legal Counsel, Legal Services, Nicholas M. Inzeo (634–6595) or Jeffery M. Mallamad (653–5490).

For the Commission.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

PART 1600—EMPLOYEE RESPONSIBILITIES AND CONDITIONS

§ 1600.735–104 [Amended]

1. Section 1600.735–104(a) is amended by removing the term "Associate General Counsel, Legal Counsel Division" and replacing it with the term "Legal Counsel."

§§ 1600.735–204 and 1600.735–402 [Amended]

2. Section 1600.735–204(d), (f)(4) and 1600.735–402 are amended by removing the term "Associate General Counsel, Legal Counsel Division" and replacing it with the term "Associate Legal Counsel, Legal Services."

3. Section 1600.735–403. This section is revised to read as follows:

§ 1600.735–403 Review of statement of employment and financial interests.

The Associate Legal Counsel, Legal Services, shall review these statements for the purpose of disclosing any conflict of interest or apparent conflict of interest. When a question arises the reviewing officer shall consult with the employee to resolve the matter. If the indicated conflict cannot be resolved, the Legal Counsel should submit a written report with the recommendation for appropriate remedial action to the Chairman.

§§ 1600.735–104 and 1600.735–402 [Amended]

4. Sections 1600.735–104(a)(3), (d) and 1600.735–402 are amended by removing the term "Director of Personnel" and replacing it with the term "Director of Personnel Management Services" wherever it appears.

§ 1600.735–104 [Amended]

5. Section 1600.735–104(b) is amended by removing "Associate General Counsel, Legal Counsel Division" and replacing it with "Deputy General Counsel."

§ 1600.735–204 [Amended]

6. Section 1600.735–204(e)(3)(iii) is amended by removing "General Counsel" and replacing it with "Legal Counsel."

§ 1600.735–401 [Amended]

7. Section 1600.735–401(b)(1) is amended by removing "State and Local Programs Division, Office of Field Services" and replacing it with "Office of Program Operations who have responsibilities for state and local programs."

8. Section 1600.735–401(b)(2) is amended by removing "Contracts and Procurement Division, Office of Administration" and replacing it with "Office of Management who have responsibilities for contracts and procurement."

9. Section 1600.735–401(b)(3) is amended by removing "Office of Internal Audit" and replacing it with "Office of Audit."

PART 1601—PROCEDURAL REGULATIONS

§ 1601.5 [Amended]

10. Section 1601.5 is amended by removing "Executive Director, through the Director of the Office of Field Services" and replacing it with "Program Director, Office of Program Operations through the Directors, Regional Programs, Office of Program Operations."

§§ 1601.10, 1601.14, 1601.20, 1601.24, 1601.25, and 1601.28 [Amended]

11. Sections 1601.10, 1601.14(b), 1601.20(a), 1601.24(b), 1601.25, and 1601.28(c) are amended by removing "Director, Office of Field Services" and "Director, Office of Systemic Programs" and replacing them with "Program Director, Office of Program Operations, Director of Systemic Programs, Office of Program Operations, or Directors, Regional Programs, Office of Program Operations" wherever they appear.

§§ 1601.16, 1601.19, 1601.21, 1601.23 and 1601.28 [Amended]

12. Sections 1601.16(a), 1601.19(g), 1601.21(d), 1601.23 (a) and (b), and 1601.28(a) (2) and (3) are amended by removing "Director, Office of Field Services" and Director, Office of Systemic Programs" and replacing them with "Program Director, Office of Program Operations or upon delegation, the Director of Systemic Programs, Office of Program Operations or the Directors, Regional Programs, Office of Program Operations."

§ 1601.16 [Amended]

13. Section 1601.16(b) is amended by removing the term "Director of a Model Office or the Director of the Office of Systemic Program" and replacing it with "District Director, the Program Director, Office of Program Operations, Director of Systemic Programs, Office of Program Operations, or Directors, Regional Programs, Office of Program Operations" wherever it appears.

§§ 160.170 and 1601.71 [Amended]

14. Sections 1601.70 (b) and (e), and 1601.71 (a), (b), and (c) are amended by removing "Director, Office of Field Services" and replacing it with "Program Director, Office of Program Operations" wherever it appears.

15. In § 1601.33, paragraph (a) is revised to read as follows:

§ 1601.33 Issuance of interpretation or opinion.

* * * * *

(a) A letter entitled "opinion letter" and signed by the Legal Counsel on behalf of the Commission, or, if issued in the conduct of litigation, by the General Counsel on behalf of the Commission, or

* * * * *

PART 1610—AVAILABILITY OF RECORDS

§ 1610.32 [Amended]

16. Section 1610.32 is retitled *§ 1610.32 Production prohibited unless approved by the Legal Counsel.*

§§ 1610.7, 1610.8, 1610.9, 1610.10, 1610.11, 1610.13, 1610.14, 1610.20, 1610.32, 1610.34, 1610.36 [Amended]

17. Sections 1610.7 (b) and (d), 1610.8, 1610.9 (a) and (b), 1610.10 (a) and (b), 1610.11 (a), (b) and (c), 1610.13 (a) and (b), 1610.14(a), 1610.20, 1610.32, 1610.34 (a) and (b), and 1610.36 are amended by removing the term "Associate General Counsel, Legal Counsel Division" and replacing it with the term "Associate Legal Counsel, Legal Services" wherever it appears, and are also amended by removing the term "General Counsel" and replacing it with the term "Legal Counsel" wherever it appears.

PART 1611—PRIVACY ACT REGULATIONS

§ 1611.3 [Amended]

18. Section 1611.3(b) is amended by removing the term "Office of General Counsel, EEOC" and replacing it with the term "Office of Legal Counsel, EEOC."

19. Sections 1611.3 (b) and (b)(2) are amended by removing the term "Director, Office of Personnel, EEOC" and replacing it with the term "Director, Personnel Management Services" wherever it appears.

20. Section 1611.3(b)(1) is amended by removing the term "District or Regional Offices" and replacing it with the term "District or Area Offices."

21. Section 1611.3(b)(1) is amended by removing the term "Regional Director" and replacing it with the term "District Director."

22. Section 1611.3(b)(1) is amended by removing the term "Regional Offices" in the last sentence of this section and replacing it with the term "District Offices."

PART 1612—GOVERNMENT IN THE SUNSHINE ACT

§ 1612.9 [Amended]

23. Section 1612.9 is retitled *§ 1612.9 Legal Counsel's certification in closing a meeting.*

§ 1612.5 [Amended]

24. In § 1612.5(a) the words "Executive Director" are removed.

§§ 1612.5, 1612.6, 1612.9, and 1612.10 [Amended]

25. Sections 1612.5 (a), (b) and (c), 1612.6 (c)(2) and (e), 1612.9 (a) and (b), and 1612.10(a)(1) are amended by removing "General Counsel" and replacing it with the term "Legal Counsel" wherever it appears.

PART 1620—THE EQUAL PAY ACT

§ 1620.19 [Amended]

26. Section 1620.19(b) is amended by removing the term "the Director of Field Services, and the Director of Systemic Programs" and replacing it with the term "and the Program Director, Office of Program Operations."

PART 1690—PROCEDURES ON INTERAGENCY COORDINATION OF EQUAL EMPLOYMENT OPPORTUNITY ISSUANCES

§§ 1690.201 and 1690.301 [Amended]

27. Sections 1690.201 and 1690.301(b) are amended by removing the term "Director, Office of Interagency Coordination" and replacing it with the term "Associate Legal Counsel, Coordination and Guidance Services" wherever it appears.

[FR Doc. 82-28565 Filed 10-15-82; 8:45 am]
BILLING CODE 6570-06-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 61

[A-2-FRL 2229-2]

Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to the State of New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Notice of Delegation of Authority.

SUMMARY: This notice announces the delegation of authority by the Environmental Protection Agency to the State of New Jersey to implement and enforce additional source categories of the Standards of Performance for New Stationary Sources (NSPS) and portions of the National Emission Standards for Hazardous Air Pollutants (NESHAPS). This delegation was requested by the New Jersey Department of Environmental Protection.

NSPS and NESHAPS are air pollution control requirements set under the Clean Air Act. NSPS are applicable to certain categories of new air pollution sources. NESHAPS require the control of certain hazardous pollutants from both new and existing sources.

EFFECTIVE DATE: This action is effective October 18, 1982.

FOR FURTHER INFORMATION CONTACT: Francis W. Giaccone, Chief, Air Facilities Branch, Air & Waste Management Division, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278 (212) 264-9627

SUPPLEMENTARY INFORMATION: Section 111(c) of the Clean Air Act directs the Administrator of the Environmental Protection Agency (EPA) to delegate EPA's authority to implement and enforce Standards of Performance for New Stationary Sources (NSPS) to any state which has submitted adequate procedures. Section 112(d) of the Clean Air Act provides similar direction with respect to National Emission Standards for Hazardous Air Pollutants (NESHAPS). In both instances, the Administrator retains concurrent authority to enforce the standards following delegation of authority to a state.

On September 30, 1981 the Commissioner of the New Jersey Department of Environmental Protection (DEP) requested that the EPA delegate to that Department the authority to implement and enforce certain additional source categories of NSPS and NESHAPS. The following is a complete listing of NSPS and NESHAPS delegated to the DEP. The source categories now being delegated by today's action are identified with an asterisk(*).

NSPS (40 CFR Part 60)

D—Fossil-Fuel Fired Steam Generators for Which Construction Commenced After August 17, 1971
*Da—Electric Utility Steam Generating Units for Which Construction Commenced After September 18, 1978
E—Incinerators
F—Portland Cement Plants
G—Nitric Acid Plants
H—Sulfuric Acid Plants
I—Asphalt Concrete Plants
J—Petroleum Refineries—(All Categories)
K—Storage Vessels for Petroleum Liquids Constructed After June 11, 1973 and Prior to May 19, 1978
*Ka—Storage Vessels for Petroleum Liquids Constructed After May 18, 1978
L—Secondary Lead Smelters
M—Secondary Brass and Bronze Ingot Production Plants
N—Iron and Steel Plants
O—Sewage Treatment Plants
P—Primary Copper Smelters
Q—Primary Zinc Smelters
R—Primary Lead Smelters
S—Primary Aluminum Reduction Plants
T—Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants
U—Phosphate Fertilizer Industry: Superphosphoric Acid Plants
V—Phosphate Fertilizer Industry: Diammonium Phosphate Plants
W—Phosphate Fertilizer Industry: Triple Superphosphate Plants
X—Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities
Y—Coal Preparation Plants
Z—Ferroalloy Production Facilities
AA—Steel Plants: Electric Arc Furnaces
*BB—Kraft Pulp Mills
*CC—Glass Manufacturing Plants
*DD—Grain Elevators
*GG—Stationary Gas Turbines
*HH—Lime Plants
*MM—Automobile and Light Duty Truck Surface Coating Operations
*PP—Ammonium Sulfate Manufacture
*KK—Lead Acid Battery Manufacturing Plants
*NN—Phosphate Rock Plants

NESHAPS (40 CFR Part 61)

B—Asbestos (manufacturing, spraying, fabricating, insulating, waste disposal from above operations)
C—Beryllium (all categories)
D—Beryllium Rocket Motor Firing (all categories)
E—Mercury (all categories)
F—Vinyl Chloride (all categories)

NESHAPS (40 CFR 61 Subpart)

B—Asbestos
*—manufacturing
*—spraying
*—fabricating
*—insulating
*—waste disposal from above operations
C—Beryllium (all categories)
D—Beryllium Rocket Motor Firing (all categories)
E—Mercury (all categories)
*F—Vinyl Chloride (all categories)

EPA's Findings

The authority and procedures which the Department would use for program implementation and enforcement were outlined in correspondence with the Commissioner and the General Counsel of the DEP. Copies of this correspondence and EPA's delegation letter are available for public inspection in the Office of the Air Facilities Branch at the Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

EPA's determination that the delegation request should be approved is based on the Agency's review of the New Jersey Air Pollution Control Act N.J.S.A. 26:2C; the State Public Records Act, N.J.S.A. 47:1A–1; and Title 7 Chapters 27 and 27B of the New Jersey Administrative Code. Specifically, N.J.S.A. 26:9C–9.2 provides that no one shall construct or operate a source capable of causing the emission of an air contaminant without obtaining a valid installation or alteration permit from the DEP. These permits must incorporate "advances in the art of air pollution control developed for the kind and amount of air contaminant emitted * * *." EPA determined that such delegation is, therefore, appropriate and so notified the Commissioner of the DEP, in a letter dated June 22, 1982. This letter identified the conditions under which delegation would be made. DEP, in a letter dated August 5, 1982, requested that the EPA approve minor revisions to some of the conditions for delegation. EPA approved these modifications in a September 8, 1982 letter to the Commissioner of the DEP.

Consequences of EPA's Action

Effective immediately, all correspondence, reports and notifications required by the delegated NSPS and NESHAPS should be submitted to the Offices of the New Jersey Department of Environmental Protection located at John Fitch Plaza, CN027, Trenton, New Jersey, 08625.

The Office of Management and Budget has exempted this action from the requirements of Section 3 of Executive Order 12991.

(Secs. 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 7411 and 7412))

Dated: October 1, 1982.

Jacqueline E. Schafer,

Regional Administrator.

[FR Doc. 82–28572 Filed 10–15–82; 8:45 am]

BILLING CODE 6560–50–M

---

40 CFR Parts 262, 264, and 265

[SW–FRL–2158–5]

Hazardous Waste Management System: Standards Applicable to Generators of Hazardous Waste and Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities

Correction

In FR Doc. 82–27818, beginning on page 44938, on Tuesday, October 12, 1982, on page 44939, in the first column, in the first and second lines "[insert date 90 days after date of publication]" should have read "January 10, 1983".

BILLING CODE 1505–01–M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 1

[FPR Temporary Reg. 66]

Federal Procurement Regulations

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This FPR Temporary Regulation prescribes policies and procedures which provide for the prompt payment of Government contracts and the payment of interest penalties for late payments and the taking of discounts which were not earned. The basis for the regulation is the Prompt Payment Act (Pub. L. 97–177) and Office of Management and Budget Circular A–125. The intended effect is to achieve timely and proper payment of Government contracts.

DATES: This regulation is effective for acquisitions initiated by solicitations as follows:

a. When solicitations have been issued before October 1, 1982, and awards have not been made before October 1, 1982, appropriate prompt payment provisions shall be included in contracts resulting from the solicitations.

b. All solicitations issued on or after October 1, 1982, shall comply fully with the provisions of this regulation.

Expiration date: October 1, 1984.

Comments due by: December 10, 1983.

ADDRESS: Comments should be addressed to Philip G. Read, Director, Office of Federal Procurement Regulations (VR), Office of Acquisition Policy, General Services Administration, Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, (202–523–4755).

SUPPLEMENTARY INFORMATION:

Agency Action: (a) Agencies that have not adopted individual agency policies and procedures shall follow the policies and procedures in this temporary regulation; (b) Agencies that have adopted policies and procedures shall utilize the policies and procedures in this temporary regulation as soon as practicable.

Submission of Comments: The October 1, 1982, effective date of the Prompt Payment Act did not permit time for the solicitation of comments prior to the issuance of this regulation. However, comments from interested parties would be welcomed. We are particularly interested in implementation problems and specific suggestions for amplification of regulatory coverage in areas that may not have been included in this regulation.

OMB Preamble

The following supplementary information was published by OMB in the **Federal Register** of August 25, 1982 (47 FR 37321), accompanying OMB Circular A–125:

BILLING CODE 6820–61–M

SUPPLEMENTARY INFORMATION: On July 7, 1982, the Office of Management and Budget published a proposed Circular, "Timely Payments," for comment. Comments were received from more than 80 individuals or organizations, including Members of Congress, Federal agencies, universities, professional and business associations, and members of the general public.

There follows a summary of the major comments grouped by subject and a response to each, including a description of changes made as a result of the comments. Other changes have been made to increase clarity, precision, and readability, and to reduce the burden of compliance as much as possible.

Policy

Comment: Several commenters objected to OMB providing guidance to the agencies on proper timing of payments. They argued that the Act was intended to solve the problem of late payment, and that the guidance should not discourage agencies from paying earlier than required by law or contract.

Response: We disagree. Federal agencies have a responsibility to manage resources efficiently, including the use of sound, businesslike cash management practices. Moreover, the legislative history of the Prompt Payment Act shows that the Congress intended that the Act would strengthen agency cash management practices. The report on the bill by the Senate Committee on Governmental Affairs says, beginning on page 4, "the Committee expects that this legislation will not only reduce late payments, but also will reduce the number of early payments, with resultant savings to the government."

BILLING CODE 6820-61-C

Interest Penalty Requirements

Comments: Several commenters objected to the provisions of Section 8.d., which provided that interest penalties need not be paid in certain circumstances. The major concerns expressed dealt with the provisions concerning payments made outside the United States and payments of less than $10.

Response: Section 8.d. has been deleted. The provision concerning payments outside the United States has been eliminated, as has the provision concerning interest penalties of less than $10. There has, however, been a new provision added to Section 9, "Calculation of Interest Penalties," concerning payment of penalties amounting to less than one dollar. Other provisions of Section 8.d. have been modified, and used in clarification of the provisions of Section 8.c.

Effective Date

Comment: Several commenters suggested that the interest penalty provisions of the Act be made applicable to existing contracts as well as those entered into on or after October 1, 1982. Some cited the legislative history of S. 1131, the "Delinquent Payments Act of 1981," in support of the view that the Circular should cover "payments made" on or after October 1, 1981.

Response: The Prompt Payment Act covers "acquisitions" made on or after October 1, 1982. Our understanding of the term acquisition is that it includes the entire process of contracting, delivery, receipt, and payment. We believe this is consistent with the use of the term in Pub. L. 96–83, the "Office of Federal Procurement Policy Act." Moreover, the legislative history of S. 1131 is associated with language in that bill that called for interest penalties to be applicable to "payments" rather than to "acquisitions." The bill that was enacted, however, refers to acquisitions, rather than to payments.

In addition, applying the interest penalty provisions only to contracts entered into after a certain date assures a more orderly administrative transition for the provisions of the Act. It also assures that payment terms will be considered at the same time that other contractual provisions are entered into.

Nothing in the Circular prohibits business concerns from proposing amendments to contracts entered into before October 1, 1982.

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

In 41 CFR Chapter 1, the following temporary regulation is added to the appendix at the end of the chapter.

[FPR Temp. Reg. 66]

October 5, 1982.

To: Heads of Federal agencies.

Subject: Prompt payment procedures.

1. *Purpose.* This temporary regulation implements the provisions of the Prompt Payment Act and Office of Management and Budget (OMB) Circular A–125.

2. *Effective date.* This regulation is effective for acquisitions initiated by solicitations as follows:

a. When solicitations have been issued before October 1, 1982, and awards have not been made before October 1, 1982, appropriate prompt payment provisions shall be included in contracts resulting from the solicitations.

b. All solicitations issued on or after October 1, 1982, shall comply fully with the provisions of this regulation.

3. *Expiration date.* This regulation expires on October 1, 1984.

4. *Background.*

a. *Prompt Payment Act (Pub. L. 97–177, May 21, 1982, 31 USC 1801).* The Prompt Payment Act provides an incentive for Federal agencies to pay their bills on time by requiring agencies to pay interest penalties when payments are made late, and imposes an interest penalty when discounts are taken after the discount period. The Act represents a response to industry and General Accounting Office complaints that the Government often was slow in paying its bills. The Act was specifically designed to encourage Federal Government managers to improve their bill paying procedures by authorizing the charging of an interest penalty against program operating budgets when agencies fail to pay their bills on time or when discounts are taken after the discount period. Congress anticipated the following benefits:

(1) Procurement of lower priced and better goods and services, as more firms become willing to do business with the Government;

(2) Savings through lower bids on contracts, as firms cease inflating estimates to compensate for anticipated late payments of bills; and

(3) More efficient bill paying systems and more productive use of personnel.

b. *OMB Circular A–125.* The Prompt Payment Act required OMB to issue implementing regulations. OMB Circular A–125, August 19, 1982 (47 FR 37321, August 25, 1982), provides guidance to Federal agencies on the implementation of the Act. A copy is enclosed.

c. *Content of this temporary regulation.* This regulation sets forth policies, procedures, and suggested contract clauses that are designed to facilitate implementation of the Prompt Payment Act and OMB Circular A–125.

.5. *Explanation of changes.* Part 1–29 is added to read as follows:

PART 1–29—PAYMENTS TO CONTRACTORS

§ 1–29.000 Scope of part.

This part prescribes policies and procedures relating to (a) the inclusion of payment terms in contracts, (b) the requirements of the Prompt Payment Act (Public Law 97–177), (c) the implementation of Pub. L. 97–177 by the Office of Management and Budget (OMB) Circular No. A–125, and (d) invoice requirements and matters concerning payments to contractors.

Subpart 1–29.1 General

§ 1–29.101 Meaning of words and phrases.

The terms used in this part have the meanings stated in OMB Circular A–125.

§ 1–29.102 Policy and responsibilities.

(a) Each agency head is responsible for ensuring timely payments and the payment of interest penalties when required.

(b) It is the policy of the Government to include payment terms in contracts and to make payments by the due dates determined in accordance with such terms. Adherence to this policy is intended to result in the avoidance of interest penalties on overdue payments, establish better business relationships with suppliers, and increase competition for Government contracts.

(c) In accordance with guidelines set forth in Chapter 8000, Cash Management, Section 8040.20, Timeliness of Disbursements, of the Treasury Fiscal Requirements Manual (TFRM), it is also the policy of the Government to defer payment until as close as administratively possible to due date for payment or, if appropriate, the discount date. In addition, payments shall not be expedited to earn discounts for early payment unless such discounts are determined to be economical in accordance with § 8040.3 of the TFRM. These practices will tend to maximize cash balances available to the Treasury, reduce the need for borrowing, and thus contribute to lowering the public debt.

(d) Notice of an apparent error, defect, or impropriety in an invoice shall be given to a business concern within 15 days of receipt of an invoice (3 days for meat or meat food products and 5 days for perishable agricultural commodities). The notice shall be suitably documented.

(e) Agencies shall ensure that receipt and acceptance are executed as promptly as possible. Receiving reports shall be forwarded in time to be received by the designated payment office by the fifth business day after acceptance, unless other arrangements are made. Designated payment offices shall stamp receiving reports and invoices with the date received in those offices.

(f) Checks shall be mailed or transmitted on or about the same day for which the check is dated.

(g) Any agency which acquires property or services from a business concern, but which does not make payment for each such complete delivered item of property or service by the required payment date, shall pay an interest penalty to such business concern as provided in the Payment Due Date clause in the contract.

(h) If a business concern offers a Federal agency a discount from the amount otherwise due under a contract for property or services in exchange for payment within a specified period of time, the agency may make payment in an amount equal to the discounted price only if payment is made within such specified period of time. Each agency which violates this provision shall pay an interest penalty on any amount which remains unpaid and on which the agency fails to correct the underpayment within 15 days of the expiration of the discount period (3 days for meat and meat food products, and 5 days for perishable agricultural commodities) as provided in the clause set forth in § 1–29.104.

§ 1–29.103 Exemptions.

The provisions of this Part 1–29 are not applicable to the following types of contracts:

(a) Contracts when payments are made for financing purposes before receipt of complete delivered items of property or service.

(b) Contracts for utilities (gas, water, electricity, etc.) that include provisions for late payment charges established by tariff or State regulatory commissions.

(c) Informal contracts for the purchase of utilities under a tariff when such tariff provides for late payment charges.

§ 1–29.104 Contract clauses.

The following Interest on Overdue Payments clause, which sets forth the Government's liability for interest penalties, shall be included (incorporation may be by reference) in all nonexempt contracts and purchase orders, including leases of real property.

Interest on Overdue Payments

(a) The Prompt Payment Act, Public Law 97–177 (96 Stat. 85, 31 USC 1801) is applicable to payments under this contract and requires

the payment to contractors of interest on overdue payments and improperly taken discounts.

(b) Determinations of interest due will be made in accordance with the provisions of the Prompt Payment Act and Office of Management and Budget Circular A–125.

Subpart 1–29.2 Payment Terms in Contracts

§ 1–29.201 General requirements.

Agencies shall include in each nonexempt contract and purchase order the Government's terms of payment, in accordance with guidelines in this subpart.

§ 1–29.202 Contract clauses.

The clauses set forth in this § 1–29.202 may be modified, or other clauses may be used, provided the basic features are included in the payment terms.

§ 1–29.202–1 Payment due dates based on receipt of invoice.

(a) When invoices required to be furnished by contractors may be received before the Government has had an opportunity to inspect and accept the supplies or services, it shall be stipulated in the payment terms that payment will be due on the later of (1) receipt of the invoice, or (2) the acceptance of the supplies or services. The following clause, for example, is suitable for use in supply contracts when delivery is on an f.o.b. destination basis.

Payment Due Date

(a) Payments under this contract will be due on the ———* calendar day after the later of:

(1) The date of actual receipt of a proper invoice in the office designated to receive the invoice, or

(2) The date the supplies are accepted by the Government.

(b) For the purpose of determining the due date for payment and for no other purpose, acceptance will be deemed to occur on the ** calendar day after the date of delivery of the supplies in accordance with the terms of the contract.

(c) If the supplies are rejected for failure to conform to the technical requirements of the contract, or for damage in transit or otherwise, the provisions in paragraph (b) of this clause will apply to the new delivery of replacement supplies.

(d) The date of the check issued in payment shall be considered to be the date payment is made.

(b) In some cases, invoices may be required to reflect that delivery (or performance) and acceptance has already occurred. This would be the situation in the case of supplies purchased on an f.o.b. origin basis, with inspection and acceptance at source, and proof of shipment (e.g., a Government bill of lading) required to be furnished with the invoice. This may also be the case with respect to various contracts for services. As indicated by the following example clause, the terms are relatively simple because no (whichever is later) stipulation is necessary.

Payment Due Date

(a) Payments under this contract will be due on the ———* calendar day after the date of actual receipt of a proper invoice in the office designated to receive the invoice.

(b) The date of the check issued in payment shall be considered to be the date payment is made.

§ 1–29.202–2 Due dates based on delivery.

(a) In connection with the procurement of meat and meat food products, as defined in section 2(a)(3) of the Packers and Stockyards Act of 1921, (7 U.S.C. 182 (3)), the Prompt Payment Act requires payment to be made not later than 7 days after the date of delivery. Contracts for these commodities should require invoices to be furnished with each shipment, and payment terms may stipulate that supplies will not be deemed to be delivered until the later of the date of actual delivery or the date or receipt of a proper invoice.

(b) The circumstances regarding meats, as described in the preceding paragraph, also apply to perishable agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), except that the required time for payment is 10 calendar days after delivery. This period is subject to changes based on any amendment to the Perishable Agricultural Commodities Act of 1930, or any implementing regulations issued thereunder.

(c) A clause similar to the following may be used in contracts for meats and meat food products, or perishable agricultural commodities.

Payment Due Date

(a) Payments under this contract will be due on the ———** calendar day after the date of delivery.

(b) A proper invoice covering the supplies delivered is required to be submitted with the shipment. Delivery will be deemed to be made on the later of the actual date of delivery, or the date a proper invoice is received in the office designated to receive the invoice.

(c) The date of the check issued in payment shall be considered to be the date payment is made.

§ 1–29.202–3 Recurring payments under leases of real property.

Leases of real property usually provide for payment in arrears of a fixed amount, due on the first day of each month. Payment terms should provide that payment is due on a workday early in the month, but not in excess of the fifth workday.

Subpart 1–29.3 Invoice Requirements

§ 1–29.301 Invoice requirements.

§ 1–29.301–1 Basic requirements of a proper invoice.

(a) Public Law 97–177 provides, in section 6(3), that "an invoice shall be considered a 'proper invoice' when it contains or is accompanied by such substantiating documentation (A) as the Director of the Office of Management and Budget may require by regulation, and (B) as the Federal agency involved may require by regulation or contract."

(b) OMB Circular A–125 provides that the following data must be included in an invoice for it to constitute a proper invoice:

(1) Name of the business concern and invoice date.

(2) Contract number, or other authorization for delivery of property or services.

(3) Description, price, and quantity of property and services actually delivered or rendered.

(4) Shipping and payment terms.

(5) Name (where practicable), title, phone number, and complete mailing address of responsible official to whom payment is to be sent.

(6) Other substantiating documentation or information as required by the contract.

§ 1–29.301–2 Specific agency requirements.

Agencies shall specify in the contract the data set forth in § 1–29.301–1(b) plus whatever additional information and/or supporting documentation is required to constitute a proper invoice.

§ 1–29.301–3 Information requested for convenience.

In addition to the information required for a proper invoice, contractors may be requested to furnish information which is helpful to the paying office, but which is not essential or is available from other sources (e.g., from the contract). However, information of this type should be held to a minimum, and the

*Contracting Officer to insert an appropriate number (e.g., 30 days, unless some other number of days is necessary).

**Contracting Officer to insert a number of days which constitutes the number of days necessary for inspection, acceptance, and other necessary actions.

*Contracting Officer to insert number of days.

**Contracting Officer to insert 7th or 10th, as appropriate.

failure of the contractor to furnish it with the invoice shall not render the invoice defective.

§ 1-29.301-4 Invoice requirements clause.

A clause clearly stating the information and documentation required for an invoice to be considered "proper" shall be included in each solicitation and resultant contract. The following Invoice Requirements clause, modified as appropriate, is suggested for use.

Invoice Requirements

(a) Invoices shall be submitted in an original and ——— copies to the Government office designated in this contract or on the delivery order to receive invoices. To constitute a proper invoice, the invoice must include the following information and/or attached documentation:

(List the information set forth in § 1-29.301-1(b), including any specific agency requirements as discussed in § 1-29.301-2.)

(b) To assist the Government in making timely payments, the Contractor is requested to furnish the following additional information either on the invoice or on an attachment to the invoice:

(List any such additional information)

6. *Agency action.*

a. Agencies that have not adopted individual agency policies and procedures shall follow the policies and procedures in this temporary regulation.

b. Agencies that have adopted individual agency policies and procedures shall utilize the policies and procedures in this temporary regulation as soon as practicable.

7. *Submission of comments.* The October 1, 1982, effective date of the Prompt Payment Act did not permit time for the solicitation of comments prior to the issuance of this regulation. However, comments from interested parties would be welcomed. We are particularly interested in implementation problems and specific suggestions for amplification of regulatory coverage in areas that may not have been included in this regulation. Comments should be addressed to Philip G. Read, Director, Office of Federal Procurement Regulations (VR), General Services Administration, Washington, DC 20405.

Gerald P. Carmen,

Administrator of General Services.

BILLING CODE 6820-61-M

[FPR Temp. Reg. 66, Attachment A]

[Circular No. A-125]

To The Heads of Executive Departments and Establishments

Subject: Prompt payment.

1. *Purpose.* This Circular prescribes policies and procedures to be followed by executive departments and agencies in paying for property and services acquired under Federal contract.

2. *Background.* The Prompt Payment Act (Pub. L. 97-177) requires Federal agencies to pay their bills on time, to pay interest penalties when payments are made late, and to take discounts only when payments are made within the discount period. Section 2(a)(1) of the Act requires the Director of the Office of Management and Budget to issue implementing regulations. Implementation will result in timely payment, better business relationships with suppliers, improved competition for Government business, and reduced costs to the Government for goods and services. Implementation must be consistent with sound cash management practices and related Treasury regulations.

3. *Policy.* Agencies will make payments as close as possible to, but not later than, the due date, or if appropriate, the discount date. Payment will be based on receipt of proper invoices and satisfactory performance of contract terms. Agencies will take discounts only when payments are made within the discount period. When agencies take discounts after expiration of the discount period or fail to make timely payment, interest penalties will be paid. Agencies will pay interest penalties without the need for business concerns requesting them, and will absorb interest penalty payments within funds available for the administration or operation of the program for which the penalty was incurred.

4. *Definitions.* For the purposes of this Circular, the following definitions apply:

a. *Agency*—has the same meaning as the term "agency" in Section 551(1) of Title 5, United States Code, and also includes any entity (1) that is operated exclusively as an instrumentality of such an agency for the purpose of administering one or more programs of that agency, and (2) that is so identified for this purpose by the head of such agency. The term agency includes military post and base exchanges and commissaries, but does not include the Tennessee Valley Authority, which is exempted from coverage by this Circular under the provisions of the Prompt Payment Act.

b. *Applicable interest rate*—the interest rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) and published in the **Federal Register**. This rate is referred to as the "Renegotiation Board Interest Rate," and is published semiannually on or about January 1 and July 1.

c. *Business concern*—any person or organization engaged in a profession, trade, or business; and not-for-profit entities (including State and local governments, but excluding Federal entities) operating as contractors.

d. *Contract*—any enforceable agreement, including rental and lease agreements and purchase orders, between an agency and a business concern for the acquisition of property or services.

e. *Designated payment office*—the place named in the contract for forwarding of invoices for payment, or in certain instances, for approval.

f. *Due date*—the date on which Federal payment should be made. Determination of such dates is discussed in Section 7 of this Circular.

g. *Discount date*—the date by which, if payment is made, a specified discount can be taken.

h. *Payment date*—the date on which a check for payment is dated or a wire transfer is made.

i. *Proper invoice*—a bill or written request for payment provided by a business concern for property or services rendered. A proper invoice must meet the requirements of Section 6.b. of this Circular.

j. *Receipt of invoice*—the later of:

—The date a proper invoice is actually received in the designated payment office, or

—The date on which the agency accepts the property or service.

k. *Receiving report*—written evidence of acceptance of property or services by a Government official. Receiving reports must meet the requirements of Section 6.c. of this Circular.

5. *Responsibilities.* Each agency head is responsible for assuring timely payments and the payment of interest penalties where required. Each agency head will issue internal instructions, as necessary, to implement this Circular by October 1, 1982. Such instructions will include provisions for determining the causes of any interest penalties incurred, and for taking necessary corrective or disciplinary action. Inspectors General and internal auditors will make reviews of implementation, as they and the agency head deem appropriate.

6. *Payment Standards.* Payments will be made as close as possible to, but not later than, the due date, consistent with Treasury regulations (I *Treasury Fiscal Requirements Manual* 6-8040.20). To establish adequate documentation to support payment of interest penalties, the following information must be included in contracts, invoices, and receiving reports.

a. A contract must include the following payment provisions:

—Payment due date(s).

—Separate payment dates if partial payment is provided for partial executions or deliveries.

—If applicable, a statement that the special payment provisions of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)) or the Perishable Agriculture Commodities Act of 1930 (7 U.S.C. 499a(4)) applies.

—A stated inspection period following delivery, where necessary, for Federal acceptance of property or services.

—Name where practicable, title, phone number, and complete mailing address of officials of the business concern, and of the designated payment office.

b. A proper invoice must include:

—Name of the business concern and invoice date.

—Contract number, or other authorization for delivery of property or services.

—Description, price, and quantity of property and services actually delivered or rendered.

—Shipping and payment terms.

—Other substantiating documentation or information as required by the contract.

—Name where practicable, title, phone number, and complete mailing address of responsible official to whom payment is to be sent.

Notice of an apparent error, defect, or impropriety in an invoice will be given to a business concern within 15 days of receipt of an invoice (3 days for meat or meat food products and 5 days for perishable agricultural commodities) and suitably documented.

c. A receiving report must include:

—Contract or other authorization number.

—Product or service description.

—Quantities received, if applicable.

—Date(s) property or services accepted.

—Signature, printed name, title, phone number, and mailing address of the receiving official.

Agencies will ensure that receipt and acceptance are executed as promptly as possible. Receiving reports will be forwarded in time to be received by the designated payment office by the fifth business day after acceptance, unless other arrangements are made. Designated payment offices will stamp receiving reports and invoices with the date received in that office.

d. Checks will be mailed or transmitted on or about the same day for which the check is dated.

7. *Determining Due Dates.* Payment will be made as close as possible to, but not later than, the thirtieth day after receipt of a proper invoice as defined in Section 4.i. of this Circular, except as follows:

—When a specific payment date is provided for in the contract, payment will be made as close as possible to, but not later than, that date.

—When a time discount is taken, payment will be made as close as possible to, but not later than, the discount date. Discounts will be taken whenever economically justified. (See I *Treasury Fiscal Requirements Manual* 6-8040.30.)

—Payment for meat or meat food products, as defined in Section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), will be made as close as possible to, but not later than, the seventh day after the date of delivery.

—Payment for perishable agriculture commodities, as defined in Section 1(4) of the Perishable Agriculture Commodities Act of 1930 (7 U.S.C. 499a(4)), will be made as close as possible to, but not later than, the tenth day after the date of delivery, unless another date is specified in the contract.

8. *Interest Penalty Requirement.*

a. An interest penalty will be paid automatically when all of the following conditions are met:

—There is a contract or purchase order with a business concern.

—Federal acceptance of property or services has occurred and there is no disagreement over quantity, quality, or other contract provisions.

—A proper invoice has been received (except where no invoice is required, e.g., some periodic lease payments) or the agency fails to give notice that the invoice is not proper within 15 days of receipt of an invoice (3 days for meat or meat food products, and 5 days for perishable agricultural commodities).
—Payment is made to the business concern more than 15 days after the due date (3 days for meat or meat food products, and 5 days for perishable agricultural commodities).

b. An interest penalty will also be paid when an agency takes a discount after the discount period has expired, and fails to correct the underpayment within 15 days of the expiration of the discount period (3 days for meat and meat food products, and 5 days for perishable agricultural commodities).

c. Interest penalties are not required when payment is delayed because of a disagreement between a Federal agency and a business concern over the amount of the payment or other issues concerning compliance with the terms of a contract; nor are they required when payments are made solely for financing purposes, payments are made in advance, or for a period when amounts are withheld temporarily in accordance with the contract. Claims concerning disputes, and any interest that may be payable with respect to the period while the dispute is being settled, will be resolved in accordance with the provisions in the Contract Disputes Act of 1978 (41 U.S.C. 601 *et. seq.*).

9. *Calculation of Interest Penalties.* Whenever a proper invoice (or periodic payment where no invoice is required) is paid after the due date plus 15 days (except 3 days for meat and meat food products, and 5 days for perishable agricultural commodities), interest will be included with the payment at the interest rate applicable on the payment date. Interest will be computed from the day after the due date through the payment date and the amount will be separately stated on the check or accompanying remittance advice. Adjustments will be made for errors in calculating interest, if requested. When an interest penalty that is owed is not paid, interest will accrue on the unpaid amount until paid. Interest penalties remaining unpaid for any 30-day period will be added to the principal, and interest penalties, thereafter, will accrue monthly on the total of principal and previously accrued interest.

When an agency takes a discount after the discount period has expired, the interest payment will be calculated on the amount of the discount taken, for the period beginning the day after the end of the specified discount period through the payment date.

When an agency fails to make notification of an improper invoice within 15 days (3 days for meat or meat food products, and 5 days for perishable agricultural commodities), the number of days allowed for payment of the corrected, proper invoice will be reduced by the number of days between the fifteenth day and the day notification was transmitted to the business concern. Calculation of interest penalties, if any, will be based on an adjusted due date reflecting the reduced number of days allowable for payment.

Interest penalties under the Prompt Payment Act will not continue to accrue (1) after the filing of a claim for such penalties under the Contract Disputes Act of 1978, or (2) for more than one year. Interest penalties of less than one dollar need not be paid.

10. *Grant Recipients.* Recipients of Federal assistance may pay interest penalties if so specified in their contracts with business concerns. However, obligations to pay such interest penalties will not be obligations of the United States. Federal funds may not be used for this purpose, nor may interest penalties be used to meet matching requirements of federally-assisted programs.

11. *Reporting.* Each Federal agency will report to the Director of OMB within 60 days after the end of each fiscal year, beginning with Fiscal Year 1983, the following information:

Number of interest penalties paid.
Amount of interest penalties paid.
Relative frequency, on a percentage basis, of interest penalty payments to the total number of payments.
Number, total amount, and relative frequency, on a percentage basis, of payments made 5 days or more before the due date, except where cash discounts were taken.
Reasons that interest penalties were incurred.
An analysis of the progress made from previous years in improving the timeliness of payments.

In order to minimize the cost of reporting, statistical sampling may be used to derive the information above.

12. *Additional Provisions.* Additional procurement guidelines and requirements are set forth in applicable acquisition regulations.

13. *Effective Date.* This Circular is effective on publication. Interest penalties will apply to payments made under contracts issued on or after October 1, 1982.

14. *Inquiries.* Questions or inquiries may be directed to the Financial Management Division, Office of Management and Budget, Washington, D.C. 20503, telephone number 202/395-4773. Inquiries concerning the applicable interest rate may be directed to the Appropriation and Investment Branch, Department of the Treasury, telephone number 202/566-5651.

15. *Sunset Review Date.* This Circular will have an independent policy review to ascertain its effectiveness three years from the date of issue.

David A. Stockman,
Director.

[FR Doc. 82-28461 Filed 10-15-82; 8:45 am]
BILLING CODE 6820-61-C

FEDERAL MARITIME COMMISSION

46 CFR Part 522

[Docket No. 76-63; General Order 24, Amdt. 2]

Filing of Agreements by Common Carriers and Other Persons Subject to the Shipping Act, 1916

AGENCY: Federal Maritime Commission.

ACTION: Final rules.

SUMMARY: This revises the Commission's regulations prescribing procedures for filing of agreements pursuant to section 15 of the Shipping Act, 1916. The purpose of the revision is to ensure the fair, orderly, and expeditious processing of agreements.

DATE: Effective January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: By a proposed rule published in the **Federal Register** of June 20, 1979 (44 FR 36077-36080), the Commission proposed to revise its regulations (46 CFR Part 522) governing the filing of agreements by common carriers and other persons subject to section 15 of the Shipping Act, 1916 (46 U.S.C. 814). This further proposed revision was published in response to the original Notice of Proposed Rulemaking which appeared in the **Federal Register** of November 23, 1976 (41 FR 51622). Comments on the proposal were submitted by conferences of carriers, individual carriers, shipowners associations, port authorities, a shipper, and the United States Department of Justice. A list of commentators is set forth in Appendix A hereto.

Although many of the commentators welcome the concept of the proposed procedures, certain general objections are raised which are discussed below.

1. *Delay in Processing Agreements.* A number of commentators object to the perceived premise for the proposal, *i.e.*, that those filing agreements were responsible for the delay in processing. Commentators assert that much of the delay rests with the Commission and that internal deadlines should be established for processing and incorporated into the rules.

The purpose of the proposed revision was to provide for standardized, expeditious processing of agreements; there was no intention to assign blame for delay to anyone. Internal deadlines and procedures have been established and are now in the process of being further updated. However, these matters are inappropriate for inclusion in a Commission General Order and are more properly the subject of an internal Commission directive.

2. *Filing of Supporting Statements.* Of great concern is the requirement for the filing of a supporting statement along with the agreement. Many arguments are asserted which need not be dealt with in light of the final rule promulgated here. The final rule makes the filing of statements supporting the approval of agreements optional with the filing parties.[1] However, the Commission will require that a letter of transmittal accompany the agreement which summarizes its contents and expressly requests approval pursuant to section 15. This will facilitate preparation of the **Federal Register** notice of filing.

3. *Scope of the Rules.* Several port authorities believe that the rules should not apply to terminal agreements. Much of their argument goes to the originally proposed requirement for submission of supporting statements. The elimination of that requirement should serve to obviate the port authorities' concerns. In any event, we see no reason to make an exception for this or any other type of agreement.

4. *Rejection of Agreements.* Objection is made to the provision that empowered the Commission staff to reject agreements for failure to comport with the requirements of the proposed agreement processing rules. Again, the basis of these arguments is the requirement for submission of supporting statements which has been eliminated. Rejection now will be made only for failure to comply with procedural requirements.

5. *Miscellaneous Comments.* a. In proposed § 522.2, comment is made that the definition of "modification" to an agreement would require the submission of a supporting statement for cancellation of an agreement. In light of the elimination of the supporting statement requirement, no further consideration of this comment is necessary. In addition, we have simplified the definition of "modification."

b. In proposed § 522.3, objection is made to the filing of 15 copies of an agreement. The Commission has carefully considered its internal requirements and concludes that 15 copies are necessary.

c. Objection is made to the elimination of current § 522.6 which prescribes suggested language for agreements. The existence of this section, although providing some uniformity, conveys a false impression of automatic approvability. It is the economic consequences of an agreement which should control, not its form.

d. With respect to proposed § 522.6, certain commentators suggest a limitation on public access to information submitted in support of the filing of an agreement. A section 15 agreement is not a private contract but one impressed with the public interest. Limitation on access to information would stifle candid justification and explicit protests. Accordingly, no claims for confidentiality will be allowed.

e. A number of technical comments were submitted regarding proposed § 522.7, which governs the content of comments and protests to agreements. The Commission has considered carefully all of these and concludes that the proposed rule should be adopted in substance. Some technical changes have been made to the rule and a provision for the filing of supplemental documents upon a showing of good cause has been added.

f. One commentator suggests that proposed § 522.8, which provides that nothing in the rules should be construed as limiting the Commission's authority to require information from persons subject to its jurisdiction, is extraneous. We agree and it has been eliminated in the final rule. This action should in no way be interpreted, however, as a retreat from the proposition reflected in the section.

g. Several commentators suggest that proposed § 522.9 is unnecessary and one suggests that it await further study. We are satisfied that inclusion of the section is worthwhile. The section has undergone revision, however, mostly in the interest of simplification and clarification. Another commentator suggests an amendment to provide for interim approval. This was not contemplated by the proposed rule and cannot be dealt with in this proceeding.

Other commentators suggest certain changes as to technical details which we believe to be either satisfied by the final rule or unwarranted. Certain purely editorial changes have also been made in the text of the final rule. All comments not specifically discussed

[1] This does not, however, eliminate the need for supporting statements where they are otherwise legally required. It is established that proponents of an agreement which is anticompetitive by its nature have a burden to demonstrate that it is required by a serious transportation need, is necesssary to secure important public benefits or is in furtherance of a valid regulatory purpose of the Shipping Act. *Federal Maritime Commission v. Aktiebolaget Svenska Amerika Linien*, 390 U.S. 238 (1968); *United States Lines, Inc. v. FMC*, 584 F.2d 519 (D.C. Cir., 1978).

herein have been carefully considered and either incorporated in the final rule or rejected.

List of Subjects in 46 CFR Part 522

Administrative practice and procedure.

PART 522—[AMENDED]

Therefore, pursuant to 5 U.S.C. 553 and sections 15, 21, 22 and 43 of the Shipping Act, 1916 (46 U.S.C. 814, 820, 821 and 841a), Part 522 of Title 46, Code of Federal Regulations, is amended as follows.

1. Part 522 is amended by removing the title of Part 522, "FILING OF AGREEMENTS BETWEEN COMMON CARRIERS OF FREIGHT BY WATER IN THE FOREIGN COMMERCE OF THE UNITED STATES," and substituting therefor the following: "FILING OF AGREEMENTS BY COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT, 1916."

2. Section 522.1 is revised to read as follows:

§ 522.1 Purpose.

This part establishes procedures for: (a) Filing agreement approval requests pursuant to section 15, Shipping Act, 1916 (46 U.S.C. 814), including statements in support thereof; (b) filing comments and protests to such agreements, and responsive pleadings thereto; and (c) the disposition of agreement approval requests. The purpose of this part is to ensure the fair, orderly and expeditious processing of agreement approval requests.

3. Section 522.2 is amended by revising the introductory text of paragraph (a), by revising paragraph (b); and by adding a new paragraph (c) to read as follows: [2]

§ 522.2 Definitions.

For the purposes of the provisions in this part, the following definitions of terms used therein shall apply.

(a) *Agreement.* As used in this part, an agreement is a written document which reflects an understanding, arrangement, or undertaking, between two or more common carriers by water or other persons subject to the Shipping Act, 1916, which is required by section 15 of the Act to be filed with the Commission. The term "agreement" includes, but is not limited to, the following types:

* * * * *

(b) *Modification.* An amendment to an approved agreement.

(c) *Proponents.* The parties to an agreement for which section 15 approval has been requested pursuant to this part.

4. Section 522.3 is revised to read as follows:

§ 522.3 Filing of agreements.

Agreement approval requests shall be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573. Such requests shall consist of a true copy and 15 additional copies of the agreement and all supporting information. Requests shall also be accompanied by a letter of transmittal which summarizes the agreement's contents, and expressly requests Commission approval pursuant to section 15. The true copy shall be signed by each of the proponents personally or by an authorized representative, and shall show immediately below each signature the name, position, and authority of the signer. Requests for approval which do not meet the requirements of this section shall be rejected within 30 days of receipt.

5. Section 522.4 is revised to read as follows:

§ 522.4 Modifications.

(a) A request for approval of an agreement modification shall be filed in accordance with the provisions of § 522.3 and shall identify the page and paragraph to be amended and restate each such paragraph. The language to be excised should be struck through, but not obliterated, and the substituted language, if any, should be inserted directly following that which is to be excised. The new language should be underscored. If the modification does not completely replace approved provisions, the page or pages on which the proposed amendments will appear should be restated with the proposed amendments underscored and placed in proper sequence on the page.

(b) Whenever an approved agreement shall have been modified three times in the manner stated in paragraph (a), the next succeeding modification shall be accomplished by restating the entire agreement, incorporating all previous modifications, and showing the latest change in the manner required by paragraph (a).

6. Section 522.5 is revised to read as follows:

§ 522.5 Supporting statements.

Agreements submitted for approval may be accompanied by a supporting statement, signed by an authorized representative of the proponents, indicating the reasons which caused the making of the agreement and the results intended to flow from its implementation, or other facts or arguments which support approval. Affidavits or other evidence may be attached to such statements. Supporting statements are public records. No claims of confidentiality will be allowed.

7. Section 522.6 is removed and new § 522.6 is added as follows:

§ 522.6 Federal Register notice.

Requests for approval which are not rejected pursuant to § 522.3 shall be noticed in the **Federal Register.** The notice shall include:

(a) A short title for the agreement;

(b) The identity of the proponents;

(c) The Federal Maritime Commission agreement number;

(d) A concise summary of the agreement's contents;

(e) A statement that the agreement and any supporting statement are available for inspection at the Commission's offices;

(f) The final date for filing protests or comments regarding the agreement; and

(g) The name and address of the filing agent.

8. Section 522.7 is removed and new § 522.7 is added as follows:

§ 522.7 Comments and protests.

(a) A comment is a written statement regarding the approvability of an agreement. Comments have no prescribed form or content and are not limited in any way, except by the time limits provided in the **Federal Register** notice. A written communication regarding the approvability of an agreement, not conforming to the requirements of paragraph (b) of this section, shall be considered a comment. Filing a comment shall not necessarily entitle a person to: (1) Any discussion of the comment in a Commission order disposing of the agreement; (2) the institution of any further Commission proceeding; or (3) participation in any further proceeding which may be instituted.

(b) A protest is a written opposition to the approval of an agreement which complies with the requirements of this paragraph. A protest also constitutes an undertaking by the protestant to actively participate as a party in any further proceeding concerning the agreement, and protestants shall be so named in any Commission hearing order which may be issued. Protests shall:

[2] Only those portions of § 522.2 which were the subject of the Commission's rulemaking proceeding in Docket No. 76-63 are included here. The definitions of various types of agreements contained in subparagraphs (a)(1) through (a)(7) of existing §522.2 were not part of the rulemaking and, while not republished here, remain unchanged.

(1) Identify, with particularity, the reasons why the agreement, or any constituent part, should be disapproved;

(2) Address the accuracy of any statements and conclusions submitted by the proponents pursuant to § 522.5 of this part;

(3) Allege facts which support the arguments made in subparagraphs (1) and (2) of this paragraph; and

(4) Specify the source or derivation of the facts alleged pursuant to subparagraph (3).

(c) A copy of all comments and protests filed with the Commission shall be served upon the filing agent identified in § 522.6(g) on the same date they are filed with the Commission. A certificate of service attesting that this requirement has been met shall be attached to the comment or protest.

(d) Within 15 days from the date that comments or protests are due (as specified by the **Federal Register** notice or as subsequently extended by the Commission), the proponents or their authorized representative may file a response to each such comment or protest with service to all persons which have filed comments or protests.

(e) Except as provided in this section and § 522.5, or unless specifically requested in writing by the Commission, with copies to the proponents and persons which have filed protests or comments, no other written or oral communication concerning a pending agreement shall be permitted. Amendments or supplements to documents submitted pursuant to § 522.5 and this section shall be permitted in the discretion of the Commission upon a showing of good cause; *provided that*, in no case shall such permission be granted where the agreement has been scheduled and noticed for an agency meeting pursuant to 46 CFR 503.82. A change in material fact or in applicable law occurring after the submission of the initial statement, comment or protest will normally constitute good cause. Inquiries as to the status of agreements shall be made to the Secretary of the Federal Maritime Commission.

9. Section 522.8 is removed and new § 522.8 is added as follows:

§ 522.8 Disposition of agreement approval requests.

(a) The Commission shall, by conditional or unconditional orders, approve, disapprove or institute further proceedings regarding agreements filed with it.

(b) Further proceedings regarding an agreement will be instituted when:

(1) The Commission, in its discretion, considers further inquiry advisable;

(2) A protest alleges material facts which, if true and reasonably subject to proof on the basis of their source and derivation, and arguments advanced, would preclude approval of the agreement; *provided, however,* that no further proceeding will be instituted if the disputed factual issues are resolved by the proponents' acceptance of conditions imposed by a conditional order in accordance with paragraph (c) of this section;

(3) The proponents of an agreement which seemingly contravenes the standards of section 15 properly exercise their right to request a further hearing pursuant to paragraph (d)(2) of this section.

(c) The Commission may issue a conditional order prescribing modifications in the agreement necessary to obtain approval when the agreement: (1) Does or appears to contravene the standards of section 15; and (2) if so modified, would be approvable without further proceedings. If conditions imposed by the Commission are met within the time specified by a conditional order, the revised version will stand approved from the date of receipt. Notice of such date shall be given to proponents or their representative by the Commission.

(d) Failure to meet conditions imposed by the Commission will result in either: (1) The automatic disapproval of the agreement; or (2) the institution of further proceedings by the Commission on its own initiative or, where the conditional order found that the agreement was unapprovable, pursuant to a request from proponents. Any such request shall include a detailed recital of the facts that they intend to prove at that hearing, a description of evidence intended to be used to prove those facts, and an explanation as to why the facts sought to be proven support the approval of the agreement. If a finding of unapprovability was made, the conditional order will expressly state the date upon which disapproval would take place.

(e) It is unlawful to carry out the provisions of a conditionally approved or disapproved agreement prior to approval by the Commission in this section.

By the Commission.

Joseph C. Polking,

Assistant Secretary.

Appendix A

I. Conferences

A. *Conference Group A.* Agreement No. 10140; Australia-Eastern USA Shipping Conference; Continental North Atlantic Westbound Freight Conference; Continental/US Gulf Freight Association; The "8900" Lines; Greece/United States Atlantic Rate Agreement; Gulf-European Freight Association; Gulf-United Kingdom Conference; Iberian/US North Atlantic Westbound Freight Conference; Marseilles/North Atlantic USA Freight Conference; North Atlantic Baltic Freight Conference; North Atlantic Continental Freight Conference; North Atlantic French Atlantic Freight Conference; North Atlantic Mediterranean Freight Conference; North Atlantic United Kingdom Freight Confere..ce; North Atlantic Westbound Freight Association; Scandinavia Baltic/US North Atlantic Westbound Freight Conference; South Atlantic-North Europe Rate Agreement; UK/USA Gulf Westbound Rate Agreement; US Atlantic and Gulf/Australia-New Zealand Conference; US North Atlantic Spain Rate Agreement; US/South Atlantic/Spanish, Portuguese, Moroccan, and Mediterranean Rate Agreement; The West Coast of Italy, Sicilian, and Adriatic Ports North Atlantic Range Conference.

B. *Conference Group B.* Associated Latin American Freight Conferences; Atlantic & Gulf/Panama Canal Zone & Panama City Conference; Atlantic and Gulf/West Coast of Central America and Mexico Conference; Atlantic and Gulf/West Coast of South America Conference; East Coast Colombia Conference; Leeward and Windward Islands and Guianas Conference; United States Atlantic and Gulf-Haiti Conference; United States Atlantic and Gulf-Jamaica Conference; United States Atlantic and Gulf-Santo Domingo Conference; US Atlantic and Gulf-Venezuela and Netherlands Antilles Conference; and West Coast South America Northbound Conference.

C. *Conference Group C.* Inter-American Freight Conference; The Far East Conference; The Atlantic and Gulf/Indonesia Conference; and the Atlantic and Gulf/Singapore, Malaya, and Thailand Conference.

D. *Conference Group D.* Japan/Korea-Atlantic and Gulf Freight Conference; Japan-Puerto Rico and Virgin Islands Freight Conference; New York Freight Bureau; Phillippines North America Conference; Straits/New York Conference; TransPacific Freight Conference (Hong Kong); TransPacific Freight Conference of Japan/Korea; Agreement No. 10107; Agreement No. 10108; and their member lines.

E. *Conference Group E.* Latin America/Pacific Coast Steamship Conference; North Europe-US Pacific Coast Freight Conference; Pacific Coast-Australasian Tariff Bureau; Pacific Coast European Conference; Pacific Coast River Plate Brazil Conference.

F. *Conference Group F.* Pacific Westbound Conference; Pacific-Straits Conference; Pacific Indonesia Conference.

II. Carriers

A. Seatrain International, S.A., Seatrain Pacific Services, S.A.

B. Moore-McCormack Lines, Inc.

C. Sea-Land Service, Inc.

III. Shipowners Associations—CENSA

European and Japanese National Shipowners Association, Council of—(CENSA)—National Shipowners'

Associations of Belgium, Denmark, Finland, France, the Federal Republic of Germany, Greece, Italy, Japan, the Netherlands, Norway, Sweden, and the United Kingdom, plus individual liner operators/container consortia from most of these countries.

IV. Port Authorities

A. California Association of Port Authorities Northwest Marine Terminal Association, Inc. California Association of Port Authorities (Port of Long Beach, Port of Los Angeles, Port of Oakland, Oxnard Harbor District, Port of Hueneme, Port of Redwood City, Port of Richmond, Port of Sacramento, Port of San Diego, Port of San Francisco, Port of Stockton) and the Northwest Marine Terminal Association (Port of Anacortes, Port of Astoria, Port of Bellingham, Port of Everett, Port of Grays Harbor, Port of Longview, Port of Olympia, Port of Port Angeles, Port of Portland, Port of Seattle, Port of Tacoma, Port of Vancouver, SeaTerm Services, Inc.)

B. Port of Houston Authority.

C. Maryland Port Administration.

D. Port of New Orleans.

E. Port Authority of New York and New Jersey.

F. Virginia Port Authority.

V. Shippers—Outboard Marine Corporation

VI. U.S. Government—Department of Justice

[FR Doc. 82-28567 Filed 10-15-82; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Oversight of the Radio and TV Broadcast Rules; Correction

Correction

In FR Doc. 82-26708, appearing on page 42750, on Wednesday, September 29, 1982, in the second column, in § 73.561 (b), in the fourth line "but will" should read "but which do not operate 12 hours per day each day of the year, will".

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 21008-209]

Pacific Coast Groundfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of in season adjustment.

SUMMARY: This notice announces the reduction in the level of fishing for widow rockfish in the Pacific Ocean by imposition of a trip limit (of 75,000 pounds per vessel per fishing trip) and seeks public comments on the reduction. This action is authorized under regulations implementing the Pacific Coast Groundfish Fishery Management Plan. This action is necessary because several signs of biological stress to the stock have been identified. This action allows the fishery to continue operating, but at a somewhat reduced level.

DATES: Effective Date: 2359 hours PDT on October 13, 1982, until 2359 hours PST on December 31, 1981. Comments will be accepted through November 2, 1982.

ADDRESS: Send comments to H. A. Larkins, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way N.E., BIN, C-15700, Seattle, Washington 98115.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, 206-527-6150.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved on January 4, 1982, and implementing final regulations were published October 5, 1982 (47 FR 43964). The regulations at 50 CFR 663.22 allow the Secretary of Commerce (Secretary) to reduce fishing levels if it is determined that continued fishing at current levels would cause biological stress to any species.

At the August meeting of the Pacific Fishery Management Council (Council) in Portland, Oregon, the Council's Groundfish Management Team (Team) presented a stock assessment of widow rockfish *(Sebastes entomelas)* and stated that the updated acceptable biological catch (ABC) levels had been, or soon would be, surpassed in four of five regulatory subareas. The Team identified several signs of biological stress, noting that 1981 landings exceeded the estimated maximum sustainable yield (MSY) by 100 to 400 percent on fishing grounds that produced significant catches in 1980, but that the projected catches from these areas in 1982 are below MSY. Previously fished grounds are relatively less productive in 1982 than in 1981, and juvenescence (an increasing proportion of young fish) is noted in catches from most of these areas. Over 70 percent of the 1982 landings (from January to June) were from new fishing sites. The new sites were productive early in 1982 but landings have declined. The ABCs for newly exploited subareas are more than twice the MSY estimates to allow essentially unexploited stocks to be fished down to MSY levels; these ABCs were exceeded by June 1982. The Team believes it is unlikely that any large, unexploited concentrations of widow rockfish will be found off Washington, Oregon, and California, and recommended that the fishery be closed for the remainder of 1982.

A public hearing was held as specified in 50 CFR 663.22(a)(2). About 150 persons interested in the groundfish fishery met on September 15, 1982, in Newport, Oregon, to discuss various management alternatives for widow rockfish. Most participants agreed that some restriction is needed, and, although a single industry proposal was not forthcoming, the most widely accepted alternative was a trip limit.

Following receipt of further public comment at its September meeting in Portland, Oregon, the Council recommended a trip limit of 75,000 pounds per trip for the remainder of 1982. This action allows the fishery to continue operating, but at a somewhat reduced level, and gives the fishing industry time to adjust to the more restrictive catch levels that are certain to be required in 1983.

The Secretary hereby announces that the trip limit for widow rockfish is 75,000 pounds per vessel per fishing trip, until January 1, 1983.

The determination to impose a 75,000 pound trip limit of widow rockfish is based on the most recent data available. The aggregate data upon which this determination is based are available for public inspection at the Regional Director's office during business hours until the end of the comment period.

This action is taken under the authority of 50 CFR 663.23 and is taken in compliance with Executive Order 12291. The action is covered by the Regulatory Flexibility Analysis prepared for the authorizing regulations.

Section 663.23 of the groundfish regulations state that the Secretary will publish a notice of proposed regulatory action before taking such action unless he determines that such notice and public review are impracticable, unnecessary, or contrary to the public interest. Because of the immediate need to impose a trip limit for widow rockfish and thereby reduce the level of overharvest that will otherwise occur,

this regulatory action is taken without prior notice in the **Federal Register** and is made effective immediately. The public had an opportunity to comment at both the August and September Council meetings and at the industry meeting in Newport, Oregon.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 663

Fish, Fisheries, Fishing.

Dated: October 12, 1982.

Herbert L. Blatt,

Acting Assistant Administrator for Fisheries.

[FR Doc. 82-28493 Filed 10-13-82; 3:13 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 201
Monday, October 18, 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 Part 1004

[Docket No. AO-160-A59]

Milk in the Middle Atlantic Marketing Area; Partial Decision on Proposed Amendments to Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision adopts on an emergency basis a change in a provision of the Middle Atlantic order which limits the amount of milk a handler may move directly from farms to nonpool plants. The order now provides that a handler may divert to nonpool plants no more than 18 days' production of each producer or, in the alternative, 30 percent of the volume of the handler's total producer milk receipts during the months of September through February. This decision increases the percentage of allowable diversions to 40 percent.

This change was considered at a public hearing held August 24, 1982, in Philadelphia, Pennsylvania. The change is necessary to reflect current marketing conditions and to insure orderly marketing of milk in the Middle Atlantic marketing area. Marketing conditions are such that prompt amendatory action is required. For this reason, a recommended decision and the opportunity to file exceptions thereto have been omitted. A separate recommended decision will deal with the remaining issues in this proceeding.

Cooperative associations will be polled to determine whether producers favor the issuance of the proposed amended order.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202/447/6273.

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.

This action will not have a significant economic impact on a substantial number of small entities. The amendments will promote orderly marketing of milk by producers and regulated handlers.

Prior documents in this proceeding:

Notice of Hearing: Issued August 4, 1982; published August 10, 1982 (47 FR 34573).

Suspension of rule: Issued September 27, 1982; published September 30, 1982 (47 FR 42962).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the Middle Atlantic and Southeastern Florida marketing areas. The hearing was held, pursuant to the provisions of the Agricultual Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Philadelphia, Pennsylvania, on August 24, 1982. Notice of such hearing was issued on August 4, 1982, and published on August 10, 1982 (47 FR 34573).

Interested parties were given until September 17, 1982, to file post-hearing briefs on proposals Nos. 1 and 2 as published in the notice of hearing and on whether these proposals should be considered on an expedited basis.

The material issues on the record relate to:

1. Limits on diversions of producer milk to nonpool plants under the Middle Atlantic order, and the necessity for suspending the present diversion limits pending completion of the hearing proceedings on this issue.

2. Whether an emergency exists to warrant the omission of a recommended decision and the opportunity to file written exceptions thereto with respect to issue No. 1.

3. Location adjustments applicable to milk received at a Southeastern Florida pool plant located outside the defined marketing area and transferred to a plant located under another Federal order.

This decision deals only with issues No. 1 and 2. The remaining issues of the hearing will be considered in a later decision on this record.

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. The order should be amended to increase allowable diversions of producer milk to nonpool plants to 40 percent of a handler's milk supply during any month of September through February. The order now provides that a handler's total monthly diversions to nonpool plants during September through February may not exceed 30 percent of the producer milk supply of the handler during the month. Alternatively, up to 18 days' production of each dairy farmer may be diverted during the month to nonpool plants. No deversion limitations apply during the months of March through August.

The increased percentage of allowable diversions was proposed by a cooperative association and supported by two other associations. The witness testifying on behalf of proponent cooperative stated that such an amendment has been necessitated by the loss of pool status, because of a change in ownership, of a reserve processing plant located at Belleville, Pennsylvania, which has been an important outlet for a significant portion of the association's member milk. The cooperative spokesman testified that increased diversion limits are necessary to ensure the continued pooling of the association's member producers who historically have been associated with the market. The delivery of milk not needed for fluid use directly from farms to nonpool plants is a more efficient and less costly means of marketing such milk than requiring that it be delivered first to pool plants. Proponent association, which represents producers supplying over 35 percent of the milk pooled in the Middle Atlantic market, is responsible for marketing a significant proportion of the reserve milk supply needed to balance the fluid requirements of the market.

Spokesmen for two other cooperative associations marketing milk in the Middle Atlantic market also testified in support of increased diversion limits. The cooperative represented by one

witness also markets milk under the New York-New Jersey order. This witness pointed out that because of the overlap of sales and procurement areas for Orders 2 and 4, his cooperative's members under Order 2 also would be affected by disorderly conditions in Order 4.

The present 30-percent limit on diversions to nonpool plants has been in effect since March 1, 1982, at which time the allowance was increased from 25 percent. The 25-percent limit has been in force since September 1971. In support of further increases in diversion limits, proponent's spokesman cited the continuation of trends in marketing conditions upon which the March 1982 amendment was based. The principal developments requiring such an increase are expanded milk production, declining Class I use, and pool plant closures.

The witness introduced data which show that producer milk pooled under the Middle Atlantic order since the marketing area was expanded in 1975 had increased by over 10 percent by the end of 1981. For the same period, the amount of producer milk used in Class I declined by more than 12 percent. For 1982, production during the first six months of the year was nearly 1 percent in excess of production for the first half of 1981, while Class I use was down 4.4 percent. The impact of both of these trends is to place a greater burden of surplus milk on the market's manufacturing facilities and on the cooperative associations which must find outlets for their members' milk.

At the same time the quantity of milk which is surplus to the fluid needs of the market has expanded, the number of pool plants available to handle the milk has declined. Proponent's spokesman referred to evidence introduced at the most recent amendment proceeding for this order which showed that out of 80 pool plants in June 1975, 30 had ceased to operate as pool plants under the order by July 1981. The concentration of activity at the remaining plants on weekdays results in a need for larger reserves to meet fluid needs on fewer bottling days, and, correspondingly, larger quantities of milk which must be diverted to nonpool plants on weekends.

Proponent cooperative has operated within the diversion allowances of the order while using as an outlet the reserve processing plant which has lost pool status. According to an exhibit introduced at the hearing, proponent's deliveries to that plant during the most recent period to which diversion limits were applicable represented 6.5 to 7.1 percent of the association's pooled milk. When these deliveries are added to the cooperative's diversions to nonpool plants for the same period there are several months in which the total exceeds 30 percent of the cooperative's milk supply.

With the combination of factors which contribute to an expanding milk surplus and the changed status of the Belleville plant, it is apparent from testimony received that without an increase in diversion limits the cooperative will encounter difficulty in pooling all of its members' milk without resorting to unnecessary movements of milk which are inefficient and costly. At the same time, loss of pool status for the milk of a significant number of dairy farmers who historically have been associated with the Middle Atlantic market would be detrimental to the efficient and orderly disposition of milk in this and adjacent markets. Marketing conditions considered at the most recent amendatory proceeding, by which diversion limits were increased, included the Belleville plant as a pooled outlet for surplus milk. A change in the status of that plant, as well as the increased supply of surplus milk on the market, warrant a revision of the diversion limits within which handlers of producer milk must operate. Accordingly, the diversion allowance under the Middle Atlantic order should be increased from 30 percent to 40 percent of a handler's producer milk.

As suggested by the proponent of Issue No. 1, the paragraph of the Order 4 "Pool plant" definition under which the Belleville plant has qualified for pooling should be removed from the order. The provision to be removed defines as a pool plant a reserve processing plant which is owned and operated by a distributing plant handler and, in combination with the distributing plant, meets the pool distributing plant performance standards. In addition, such a plant, to be pooled, must have held pool status prior to the 1975 amended order and continued such status for each consecutive succeeding month. Prior to the change of the Belleville plant's ownership and its resulting loss of pool status, it was the only plant which qualified for pooling under the paragraph in question. With the loss of pool status by the Belleville plant, there is no possibility that it or any other plant would ever again qualify for pooling under this paragraph. The presence of the paragraph in the order therefore has become meaningless.

2. *Emergency action.* The omission of a recommended decision was proposed at the hearing by proponent of Issue No. 1 and supported by a spokesman for another cooperative association. No testimony was received in opposition to emergency action. The testimony and data in the record of this proceeding strongly indicate the need for prompt amendatory action. The evidence shows that without emergency action the milk of dairy farmers long associated with the market will fail to be included in the marketwide pool. Pending action based on the hearing record, the order's diversion limits were suspended for the month of September. On the basis of the evidence presented at the hearing, the Department suspended the 30 percent limit on diversions to nonpool plants for the months of October and November to ensure that milk of producers long associated with the Middle Atlantic market would continue to be pooled and priced under the order. Although the suspension could be extended, amendment of the diversion limits will provide a more stable regulatory environment for dealing with a permanent change in marketing conditions.

It is therefore found that due and timely execution of the Secretary's function in this proceeding imperatively and unavoidably requires omission of the recommended decision and the opportunity for filing exceptions thereto.

Rulings on Proposed Findings and Conclusions

A brief and proposed findings and conclusions were filed on behalf of Inter-State Milk Producers' Association. This brief, 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 the aforesaid order 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.

(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.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and Order amending the order regulating the handling of milk in the Middle Atlantic marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement,[1] be published in the **Federal Register.** The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

August 1982 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Middle Atlantic marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

List of Subjects in 7 CFR Part 1004

Milk marketing orders, Milk, Dairy products.

[1] The marketing agreement was filed as a part of the original document.

Signed at Washington, D.C., on: October 13, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

Order [1] amending the order, regulating the handling of milk in the Middle Atlantic marketing area

Findings and Determinations

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 the aforesaid order 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.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Middle Atlantic marketing area. The hearing was held 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 (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) 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 said marketing area, and the minimum prices specified in the order as hereby 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

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Middle Atlantic marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

1. In § 1004.7 paragraph (c) is removed and reserved to read as follows:

§ 1004.7 Pool plant.

* * * * *

(c) [Reserved]

* * * * *

2. In § 1004.12, paragraph (d) is revised to read as follows:

§ 1004.12 Producer.

* * * * *

(d) A dairy farmer with respect to milk which is diverted to a nonpool plant (other than a producer-handler plant) in accordance with the conditions of paragraphs (d)(1) and (d)(2).

(1) During any month of March through August.

(2) Not more than 18 days' production during any month of September through February unless all of the diversions of member and nonmember milk, as the case may be, are pursuant to paragraph (d)(2) (i) or (ii) of this section, respectively, and they fall within the limits prescribed thereunder. If a handler diverting milk pursuant to this paragraph (d)(2) diverts milk of any dairy farmer in excess of the limits prescribed such dairy farmer shall be a producer only with respect to that milk physically received at a pool plant.

(i) All of the diversions of milk of members of a cooperative association to nonpool plants are for the account of such cooperative association and the amount of member milk so diverted does not exceed 40 percent of the volume of milk of all such members of such cooperative association for which the cooperative association is the handler during the month.

(ii) All of the diversions of milk of dairy farmers who are not members of a cooperative association diverting milk for its own account during the month are diversions by a handler in his capacity as the operator of a pool plant from which the quantity of such nonmember milk so diverted does not exceed 40 percent of the total of such nonmember

milk for which the pool plant operator is the handler during the month.

* * * * *

[FR Doc. 82-28661 Filed 10-15-82; 9:00 am]

BILLING CODE 3410-02-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 523

[No. 82-675]

Interstate Institution Membership in Federal Home Loan Banks

Dated: October 6, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") proposes to amend its Federal Home Loan Bank System Regulations to provide a standard for determining appropriate Federal Home Loan Bank district membership for federally chartered savings and loan associations and mutual savings banks (both referred to as "federal associations") with offices in more than one state. Under the proposed amendment an interstate association having substantial business in more than one state could become a member of the Bank district in which it has its principal place of business, as designated by the association. A clarification of this issue is necessary in light of the increasing number of interstate associations.

DATES: Comments must be received by: November 12, 1982.

ADDRESS: Send comments to Director, Information Services Section, Office of Communications, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Comments will be available at this address for public inspection.

FOR FURTHER INFORMATION CONTACT: David Permut, Attorney, Office of General Counsel, (202) 377-6962, at the above address.

SUPPLEMENTARY INFORMATION: Section 4(b) of the Federal Home Loan Bank Act ("Bank Act") provides, in relevant part, that "An institution eligible to become a member or nonmember borrower under this section may become a member only of, or secure advances from, the Federal Home Loan Bank of the district in which is located the institution's principal place of business * * *." 12 U.S.C. 1424 (1932). Similarily, Section 5(f) of the Home Owners' Loan Act ("HOLA") provides, in relevant part, that Bank membership will be in "the district in which it [the institution] is located * * *." 12 U.S.C. 1464 (1933).

For the 49 years following passage of the Bank Act, except for minor exceptions, the offices, and consequently principal place of business, of a federal association could be only in one state and therefore, the institution could be eligible to be a member of only one Federal Home Loan Bank, "or of the bank of a district adjoining such district, if demanded by convenience and then only with the approval of the [B]oard." 12 U.S.C. 1424(b).

In September 1981, the Board, as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), approved its first interstate acquisition and merger creating a single federal association with offices in three Federal Home Loan Bank districts. Since that time the number of interstate federal associations has increased, necessitating a reevaluation of the standards to be used by associations in determining their appropriate Federal Home Loan Bank membership. This is particularly true because the statutory term "principal place of business" is not defined in the Bank Act or by Board regulation.

The Board proposes to amend Part 523 of the Bank System Regulations to allow an institution to choose its principal place of business pursuant to certain acceptable standards and settled rules of law, when it does substantial business in more than one state. This choice in turn would often also result in the choice of a Bank district.

Since the term "principal place of business" is undefined, the Board has looked to other statutory and judicial interpretations to define the term. To determine where an entity is a citizen for purposes of court jurisdiction, interstate corporations look to Title 28 of the United States Code, Section 1332(c). This Section states, in relevant part, that "a corporation shall be deemed a citizen of any state by which it has been incorporated and of the state where it has its principal place of business * * *." 28 U.S.C. 1332(c). A review of the cases indicates that Section 1332(c) allows a determination of the principal place of business on a case-by-case basis through review of the institution's total activity. For example it has been held that the principal place of business of a corporation is the "nerve center" from which it radiates out to its constituent parts and from which its officers direct, control, and coordinate all activities without regard to locale, in the furtherance of the corporate objective. *Scot Typewriter Co.* v. *Underwood Corp.*, 170 F. Supp. 862 (S.D.N.Y. 1959). Similarly, a court in interpreting Section 1332(c) has found that the principal place of business is the headquarters of day-to-day corporate activity and management, rather than the occasional meeting place of policy-making directors. *Kelly* v. *United States Steel Corp.*, 284 F. 2d 850 (3d Cir. 1960); *Knee* v. *Chemical Leamen Tank Lines, Inc.*, 294 F. Supp. 1094 (E.D. Pa. 1968). The standard set forth in 28 U.S.C. 1332(c) has been proposed as a possible definition of principal place of business; however, the Board specifically solicits comments as to other possible appropriate definitional standards including the definition of principal place of business in a choice-of-law or conflict-of-law context.

The action proposed today would accomplish several beneficial objectives. It would clarify a phrase made ambiguous by the expansion of federal associations into more than one state and would allow such associations a choice, made on a rational basis, for determining membership in a Federal Home Loan Bank. The Board believes this matter should be a business decision of the institution.

Regulatory Flexibility Act Certification

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (September 19, 1980), the Board certifies that the proposed amendment, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 523

Savings and loan associations, Principal place of business, Bank membership.

Because the Board views this amendment as a technical change that would have no substantial substantive effect on regulatory requirements, and because there is a present need for clarification in order to provide for orderly processing of membership applications, the Board has limited the public comment period to 30 days.

Accordingly, the Board hereby proposes to amend Part 523 of Subchapter B, Chapter V of Title 12, Code of Federal Regulations, to read as set forth below.

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 523—MEMBERS OF BANKS

Add a new § 523.3-2, as follows:

§ 523.3–2 Membership at principal place of business.

(a) *Eligibility.* An institution eligible to become a member of a Federal Home Loan Bank under the Federal Home Loan Bank Act may become a member of, or secure advances from, the Federal Home Loan Bank of the district in which the institution's principal place of business is located, or of the Bank of a district adjoining such district if demanded by convenience and then only with the approval of the Board.

(b) *Principal place of business.* Where an institution is localized in one state, or primarily in one state, its principal place of business is that state. Where a Federally-chartered institution does substantial business in more than one state, that institution should designate its principal place of business in accordance with the provisions of 28 U.S.C. 1332(c).

(Sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1437. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1947 Supp.)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–28498 Filed 10–15–82; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Docket No. 23297; Petition Notice PR 82–12]

Balloon Federation of America; Exclusion of Balloons From Ultralight Rule

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Petition for rulemaking.

SUMMARY: This notice publishes for public comment the petitions of the Balloon Federation of America dated August 13 and September 12, 1982. The petitioner proposes to amend the applicability of Part 103 of the Federal Aviation Regulations to exclude small manned balloons from the definition of an "Ultralight Vehicle." This action would place these small manned balloons under the same aircraft, equipment, and pilot certification requirements and the operating rules now applicable to all other balloons. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Publication of this notice is not intended to affect the legal status of the petition or its final disposition.

DATE: Comments must be received on or before December 17, 1982.

ADDRESS: Send comments on this petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Docket No. 23297, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Gary Perkins, operations Branch (AFO–820), General Aviation and Commercial Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426–8194.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to submit such written data, views, or arguments on the petition as they may desire. Communications should identify the docket and petition notice number and be submitted in triplicate to the address indicated above. All communications received on or before the closing date will be considered before taking action on the petition. All comments submitted will be available for examination in the FAA docket. Persons wishing the FAA to acknowledge receipt of comments received in response to this notice should submit a self-addressed stamped postcard which states "Comments to Docket No. 23297." The postcard will be date/time stamped and returned to the commenter.

Normally, the FAA only summarizes petitions for rulemaking for publication in the **Federal Register**. Because the position taken in the petition of the Balloon Federation of America is opposed to that taken by the FAA in the promulgation of new Part 103 and is also unacceptable to some members of the ballooning community, the FAA has elected to publish the petition and its revision verbatim. This action precludes any loss of thought or meaning which might occur in a summarization of the petition.

Although this notice sets forth the contents of the petitions as received by the FAA without changes, it should be understood that its publication to receive public comment is in accordance with FAA procedures governing petitions for rulemaking. It does not propose a regulatory rule for adoption, represent an FAA position, or otherwise commit the agency on the merits of the petition. The FAA intends to proceed to consider the petition under the applicable procedures of Part 11 and reach a conclusion on the merits of the proposal after it has had an opportunity to evaluate it carefully in light of the comments received and other relevant matters presented. If the FAA concludes that it should initiate public rulemaking action on the petition, appropriate rulemaking action, including an evaluation of the proposal, will be published.

The Petition

Accordingly, the Federal Aviation Administration publishes verbatim for public comment the following petitions for rulemaking of the Balloon Federation of America dated August 13 and September 12, 1982.

Issued in Washington, D.C., on October 8, 1982.

John H. Cassady,

Assistant Chief Counsel, Regulations & Enforcement Division.

August 13, 1982.

Federal Aviation Administration,
Washington, D.C.

Gentlemen: The Balloon Federation of America is by this letter respectfully petitioning the Federal Aviation Administration to amend the proposed Federal Aviation Regulation Part 103 as per procedures set forth in Federal Aviation Regulation Part 11.25.

After discussing the impact on safety for the general public, safety for potential hang balloon operators who will be flying under Part 103, and the potential problems for airspace control and landowner relations, the Balloon Federation of America petitions the FAA to specifically exclude lighter-than-air vehicles from Part 103. A brief summary of our concerns follows:

Safety for Hang Balloon Operators: Because of the lack of compliance with FAR Part 31 (Airworthiness Standards: Manned Free Balloons) and the weight limitation of 155 lbs., constructors of hang balloons will substitute lightweight and unproven materials. Of special concern in a balloon system is the integrity of the fuel system. The balloon industry draws heavily from the huge propane industry, and the valves, fittings, hoses and containers are well proven both for flying use and for the abuse balloons take on landings, transporting, and even during storage, but the fittings are heavy. Lighter and unproven fittings will be used on hang balloons.

Another area of hazard for hang balloon operators is powerlines. The single most important lesson, taught throughout the Part 61 balloon student's training, is powerline avoidance, and how to survive a powerline contact. With a conventional balloon under Part 31, the occupant has a very good chance of survival (BFA survey results show that over 25% of all balloon pilots have at one time or another hit powerlines, while only about one pilot in 2000 is killed by powerlines).[1] Under the proposed Part 103,

[1] Survey dates back to the late 1970's.

the hang balloon operator is not required to get any instruction, and his aircraft will not provide much protection to him or his fuel system. One of the most likely innovations to come from Part 103 is an arrangement in which the pilot and fuel system are literally suspended and unprotected from powerlines and dangerous ground obstacles.

Danger to Persons on the Ground: FAR Part 61 does not in any way cover tether flights—balloons tied to an anchor. Tethering a balloon to attract crowds, as at shopping centers, amusement parks, grand opening events, etc. is a major industry for Part 61 pilots. While Part 101 covers tether operation and does not require either a Part 61 licensed pilot or an airworthy balloon, the reality has been that, since free-flying balloons require an airworthiness certificate, the balloons used in tether operations have for the most part been airworthy and the pilots have been licensed. Without the requirement for the airworthiness certificate or pilot license, and with easy access to cheap "hang" balloons, there will be a large increase in tether work with balloons having lightweight and non-rugged fuel systems and operated by pilots who have inadequate training or understanding of the forces generated by thermals and wind. While the current regulations do not prohibit unlicensed pilots and unairworthy balloons from tethering over large gatherings of people, the new Part 103 would actually encourage this type of commercial work with inadequate training and substandard equipment. The loser will be the general public, which will be endangered by uncontrolled tether flights that will expose them to the problems created should a compressed flammable gas rupture in a large crowd of people. Tether flight accidents already happen too frequently (one death and several serious injuries among spectators in the past two and a half years as a result of a balloon doing tether work). Most of the tether balloon injuries have been relatively minor because the balloon systems in use were designed and built for Part 31 and the operators were trained pilots.

The third area of impact of hang balloons is caused by their lack of steerability.

If an ultralight airplane approaches controlled airspace or a congested area, it can turn laterally to seek a landing site before being in violation of Part 103. Balloons, by definition unsteerable, cannot. It is the nature of ultralight and hang gliders to make flights in a very contained area, usually returning to a home base for landing. Balloons do not have this option, and every flight is "cross-country" because the pilot lands out, away from a known or predetermined landing field.

To illustrate this point, the recent flight of an unlicensed pilot using a Sears lawn chair with large helium balloons would be completely legal under Part 103, except his violation of controlled airspace. Since the operator had no control over his direction, and not too much control over his altitude, he entered controlled airspace and interfered with air traffic at Long Beach airport for several hours (the operator, by the way, became airborne inadvertently when his tether line broke).

The pilot of the Sears lawn chair is something of a folk hero who has demonstrated how much publicity can be obtained by hang balloons, and it is likely that the other persons wishing to attract attention will make similar attempts, once there is an industry already producing the equipment necessary to complete a media-interest flight.

Yet another confusion is already occurring among the Part 61 balloonists, who wonder why unlicensed operators of hang balloons are given access to recreational air space denied to the Part 61 pilot operating under Part 91.79. The intent of the regulations is to protect people on the ground from injury and abuse by aircraft. The nature of ballooning, in which the speed and direction are controlled by nature, means that the hang balloon will certainly cause no less damage than an airworthy balloon would cause in an accident.

The other confusion not clarified yet about Part 103 is the status of a Part 61 balloon pilot who operates in solo status in a balloon that meets the 155 pound limitation but also has an airworthiness certificate. Is the pilot able to select whether he is operating under Part 103 or under Part 61? Can a pilot operating under Part 103 log time towards a rating under Part 61? Can a Part 61 pilot put his pilot certificate in jeopardy by violating Part 103? What are the substantive differences in skill in piloting a hang balloon instead of a Part 91 balloon?

The hang glider and ultralight industry in the United States is well established, and its impetus came from experienced fixed-wing pilots who led the development of this type of recreational flying. The hang balloon has been available for more than 15 years, but has not been popular with balloonists, and these lightweight solo balloons have rarely been purchased because most pilots feel they are not as safe and require more skill to operate than the balloons available with Part 31 safety features. While several balloon companies do offer balloons which would meet Part 103 specifications, the feeling of nearly all the manufacturers is also that the advent of unlicensed pilots and uncontrolled manufacturing will be highly detrimental to the sport of ballooning.

The Balloon Federation of America also requests by this letter to appear in an informal hearing, per FAR 11.37. We are most anxious that the FAA, in its desire to become less regulatory, may inadvertently and unintentionally cause sport ballooning to suffer in prestige, in safety, and in commercial viability, as well as cause numerous incidents of landowner problems and controlled airspace problems that will make ballooning a nuisance sport.

Sincerely,

Alan Blount,

President.

CC: J. Lynn Helms, Administrator; Bernie Geier, Chief, General Aviation and Commercial Division (AFO–800); Craig Beard, Director, Aircraft Engineering Division (AWS–100); BFA Board of Directors

12 September 1982.

Federal Aviation Administration,

Washington, D.C.

Gentlemen: The Balloon Federation of America is by this letter amending our petition of August 13, 1982, to amend the proposed Federal Aviation Regulation Part 103 as per procedures set forth in Federal Aviation Regulation Part 11.25. This amendment is submitted after having seen the published FAR Part 103 and after discussion of interpretation thereof with responsible persons at the FAA offices in Washington on 9 September 1982. We wish this amendment to become a part of our petition. A copy of that petition is attached.

A. We specifically petition that the rule, Subpart A—General, para. 103.1, Applicability, be changed to exclude balloons. We suggest a subparagraph defining an ultralight vehicle as a vehicle that: "(f) Derives its lift from a moving or non-moving airfoil," All the rest of the definition would be left the same.

Such a change and such an exclusion of balloons from coverage by Part 103 would be in the public interest for the following reasons in addition to those stated in our original petition.

B. Ballons are inherently unable to comply with the requirements of 103.13. Because of their inability to turn or steer balloons, the "pilot" of a balloon is incapable of yielding the right-of-way to *any* aircraft.

C. Balloons will be unable to avoid violation of 103.15 at times for the same reason. Balloons in flight characteristically spend a great deal of time looking for a suitable landing place. When none is found, it becomes necessary to fly over congested areas and, possibly, open-air assemblies of persons. The weight restriction imposed by 103.1 leads us to believe that fuel will not be carried in adequate quantities to assure an adequate safe reserve, thus resulting in many unplanned landings in congested areas.

D. Balloons will be unable to avoid violations of 103.17 at times for the same reasons as stated above. They certainly will not normally carry the excess weight necessary to communicate with towers or ARTCCs.

E. Part 103 is inconsistent with the real world in that balloons have been defined by prior court decisions as "unpowered" aircraft (while being possessed of burners capable of the equivalent of thousands of horsepower in output). As such, balloons have *no* fuel capacity restriction while powered ultralights (103.1, ((e)),((2))) are limited to five gallons of fuel which is assumed to be gasoline. Balloons, in order to have a safe reserve, will certainly have to carry at least ten gallons of propane (*not* gasoline). Propane is quite a different substance than gasoline, being carried under pressure which is usually around 100 psi in the tanks. It is subject to BLEVE (Boiling Liquid Expanding Vapor Explosion) when the containment vessel ruptures due to heat, flames, or impact. In such an explosion, the sudden release of flammable and expanding vapor will produce a fireball of approximately 360 cubic feet with a ten gallon cylinder and about 3600 degrees F. Certified balloons utilize DOT-approved cylinders but the use of lightweight fuel tanks is anticipated if balloons are included in Part 103. Such tanks will be more subject to rupture and the subsequent explosion of their contents than those in

certified balloons. The probable mode of flight in Part 103 balloons will be in the "hang" mode where both the pilot and fuel tank are suspended in the open air below the balloon from a harness. This affords no protection for the tanks. Landings in congested areas are almost certain, as discussed in (C) above, and thus the safety of persons and property are certainly endangered.

F. On page 38773 of the **Federal Register**, Vol. 47, No. 171, it is stated that, "The FAA has observed ultralight operations during the twilight periods and has found the light available for such operations to be adequate in many instances. Operators were able to maneuver safely to avoid each other and also effect safe takeoffs and landings. Since most vehicles are operated at nearly the same altitude, they could be easily seen silhouetted against the lighted sky. Operations were conducted in relatively close proximity to each other, and each operator was readily aware of the others' presence. The mild weather conditions which generally prevailed during the twilight periods conbined with the controllability and maneuverability of these vehicles to enhance the safety factor for flight." We submit that this applies to winged ultralights only. Balloon pilots are totally unable to see another balloon or aircraft above them. They are unable to "maneuver" other than up and down. While the above quote refers to Section 103.11, it has applicability under Sections 103.9 and 103.13.

G. Balloons under Part 103 will obviously be used at times as advertising attractions operating under Part 101 rules. Presently, as mentioned earlier in our petition, most of the balloons used on tether are certified. Uncertified balloons (Part 103) flown by uncertified "pilots" (Part 103) will be used to advertise within the limitations imposed by Part 101. The use of lightweight, unprotected fuel cells will certainly present a clear danger to the public. While a pilot need not be certified to operate an advertising balloon under Part 101, most of them are at present. They have been trained in both flight and tethering operations and have an appreciation for crowd control and safety, assuming that their training and examinations have been properly conducted.

H. The weight restrictions imposed under 103.1 do not take into account the mass of a balloon. It needs to be pointed out that the contained air in a balloon far exceeds the weight restrictions. For example, we present in Figure 1 a theoretical ballon which is thought to be typical of the size balloon which might be operated under Part 103.

Figure 1.—Theoretical Part 103 Balloon Data

Envelope Volume=17,900 cubic feet
Envelope Weight=69 pounds
Harness & Rigging=21 pounds
Tank=25 pounds (assuming DOT Standard aluminum tank)
Fuel=40 pounds (roughly 10 gallons—one half hour flight, one half hour reserve)
Tare Weight 155 pounds
Gross Weight=325 pounds (assumes 170 pound occupant)
Suspended Weight=256 pounds
Air Weight (Mass)=964 pounds (assuming envelope internal temp=250°F)
System Weight=1289 pounds

Note.— If one used the mass of the unheated air, or the air at a temperature required for buoyancy on a very cold day, the mass would increase accordingly.

Assume the balloon is either landing or breaks loose when on tether (under Part 101 Rules) in a fair wind. The resultant drag forces are as follows:

Horizontal speed in knots	Drag force in pounds
0	0
5	68
10	272
15	613
20	1,090
25	1,700
30	2,450
35	3,300
40	4,400
45	5,500
50	6,800

These drag forces are the force exerted by a gust of wind on the surface of the envelop of the balloon. The horizontal speeds cited are not unheard of in balloon landings.

I. It is presently fairly easy to get Experimental Airworthiness Certification on homebuilt balloons. The cost is minimal and the design safety considerations inherent in such Certification are certainly worth it. We see no reason to discontinue this practice on the part of the FAA. Such balloons certainly present less danger to the public than those which we anticipate will be built under Part 103 with little or no regard to design safety, sacrificing that quality for weight. We consider there to be little or no economic impact on homebuilders or those who want to fly commercially manufactured "hang" balloons because of exclusion from coverage by Part 103.

Respectfully yours,

Nicholas M. Saum, Ph. D.,

Chairman, FAA Liaison Committee.

CC: J. Lynn Helms, Administrator; Bernie Geier, Chief, General Aviation and Commercial Division; Craig Beard, Director, Aircraft Engineering Division; BFA Board of Directors.

[FR Doc. 82-28492 Filed 10-15-82; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 82-NM-79-AD]

Airworthiness Directives; Gates Learjet 24, 25, 28, 29 and 35 Model/ Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an Airworthiness Directive (AD) that would require modification of the pilot and co-pilot seats in certain Gates Learjet 24, 25, 28, 29 and 35 Model/ Series airplanes. The proposed AD is needed to establish adequate strength in the crew seats and minimize the possibility for seat failure(s) during a minor crash landing.

DATE: Comments must be received on or before December 3, 1982.

ADDRESSES: Send comments on the proposal to: FAA, Northwest Mountain Region, Office of the Regional Council, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Attention: Airworthiness Rules Docket No. 82-NM-79-AD. The applicable Airplane Modification Kit (AMK) 82-8 may be obtained from Gates Learjet Corporation, P.O. Box 7707, Wichita, Kansas 67277; Telephone (316) 946-2000. A copy of the modification kit instructions in contained in the Rules Docket, Office of the Regional Council, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Marvin D. Beene, Airframe Branch, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269-7005.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the AD Docket Number and be submitted in duplicate to the addressee specified above. All comments received on or before the closing date for comments will be considered by the Administrator before action is taken on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of the proposed AD will be filed in the Rules Docket.

A crew seat, representative of the one used in the standard body Learjet Model 24, 25, 28, 29, and 35 series airplanes, failed during requalification static tests. These tests were conducted to structurally substantiate seat parts redesigned to achieve commonality in

the seats and seat rails installed in the standard body airplanes. Failure occurred significantly below the expected load level and that value required for certification of the production seat. Additional tests were conducted by Gates Learjet in an effort to explain the premature failure and assess the basis for qualification of the production seat. It was concluded from these investigations that the crew seats in certain Learjet airplanes can sustain a forward crash load of only 6g, 3g below the minimum design requirement. This strength deficiency is attributed to combined load qualification testing that improperly represented the discrete forward crash load component while qualifying seat and seat belt attachment changes incorporated subsequent to the originally certificated configuration. However, no incidences concerning crew seat failures of in-service airplanes have been reported.

Gates Learjet has developed a modification to the seat base assembly and back brace to effect a 12g load capability. This modification and the instructions for incorporation are provided in Gates Learjet Airplane Modification Kit (AMK) 82–8. Therefore, to prevent possible injury to the crew during a minor crash landing, the proposed AD would make compliance with AMK 82–8 mandatory on certain Gates Learjet Model 24, 25, 28, 29 and 35 series airplanes.

Approximately 250 airplanes are on the U.S. Registry and will be affected by this AD. It is estimated that it will take approximately eight manhours per airplane to accomplish the required actions and that the average labor cost will be $35 per manhour. Repair parts are estimated at $2400 per airplane. Based on these figures, the total cost impact of this AD is estimated to be $670,000. For these reasons, the proposed rule is not considered to be major under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the FAA proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Gates Learjet: Applies to the following model/series airplanes certificated in all categories.

Model/series	Serial numbers
24	325 thru 357.
25	205 thru 360.
28	001 thru 005.
29	001 thru 003.
35	245, 246, 251, 252, 258, 259, 261, 272 thru 274, 277, 278, 281, 287, 290 thru 294, 299, 301, 304 thru 310, 314, 315, 318, 320, 321, 327 thru 330, 332, 339, 340, 342, 343, 346, 348 thru 350, 352, 356, 359 thru 364, 371, 372, 377, 379, 380, 383, 384, 386, 389 thru 397, 399, 400, 403 thru 405, 407, 408, 413, 414, 418, 421, 422, 425, 427, 428, 431, 432, 437, 438, 445, 446, 448, 450, 457, 463, 471, 473 thru 479, 485, 488 and 491.

Compliance required as indicated unless already accomplished. To prevent possible crew injury due to failure of the pilot and/or co-pilot seats in a minor crash landing, accomplish the following:

A. Within the next 150 hours time-in-service, or six months, whichever comes first, modify the pilot and co-pilot seats in accordance with the instructions in Gates Learjet Corporation Airplane Modification Kit Number AMK 82–8.

B. Issuance of a Special Flight Permit in accordance with FAR 21.197 is permitted for the purpose of moving affected airplanes to a location where the modification required by this AD can be accomplished.

C. Alternate means of compliance with this AD which provide an equivalent level of safety must be approved by the Manager, Wichita Aircraft Certification Office, Federal Aviation Administration, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269–7000.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble. The FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291, and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington, on October 4, 1982.

Dated: September 24, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-28332 Filed 10-15-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ASW-66]

Designation of Federal Airways, Area; Low Routes, Controlled Airspace, and Reporting Points; Proposed Designation of Transition Area—Covington, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to designate a transition area at Covington, LA. The intended effect of the proposed action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Richard Privette Airport. This action is necessary since there is a proposed standard instrument approach procedure (SIAP) to the Richard Privette Airport using the Picayune VORTAC. Coincident with this proposed action, the airport is changed from visual flight rules (VFR) to instrument flight rules (IFR).

DATES: Comments must be received on or before November 17, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, 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: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW–535, 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, Subpart G § 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 Covington, LA, will necessitate an amendment to this subpart. This

amendment will be required at Covington, LA, since there is a proposed change in IFR procedures to the Richard Privette 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 should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-ASW-66." 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 Manager, 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.

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:

Covington, LA [New]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Richard Privette Airport (latitude 30°26'40" N., longitude 89°59'20" W.) and within 2 miles each side of the 243° radial of the Picayune VORTAC extending from the 5-mile radius area to 7 miles northeast 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 October 4, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-28546 Filed 10-15-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 54

[DOD Directive 1340.xx]

Involuntary Child and Spousal Support Allotments

AGENCY: Office of the Secretary of Defense, DOD.

ACTION: Proposed rule.

SUMMARY: This proposed rule will implement section 172 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248). The proposed rule provides specific guidance on processing involuntary child or child and spousal support allotments to states, courts, and the Military Departments. The issuance (a) establishes Department of Defense policy; (b) provides instructions on the service of notice; (c) defines the limitations on the amount of a support allotment; (d) prescribes procedures for member notification and consultation; and (e) lists the designated officials within each Military Service who will process involuntary support allotments.

DATES: Written comments must be received by November 30, 1982. Comments will be available for public inspection by request. Because of the anticipated number of comments, we do not plan to acknowledge or respond to individual comments. However, we will respond to the comments in the preamble of the final rule.

ADDRESS: Office of the Deputy Assistant Secretary of Defense (Management Systems), the Pentagon, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Mr. James T. Jasinski, 202-697-0536.

SUPPLEMENTARY INFORMATION: In order to effect prompt implementation beginning on October 1, 1982, the Department of Defense will follow the proposed rule until a final rule is issued.

List of Subjects in 32 CFR Part 54

Military allotments, Military personnel.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

October 13, 1982.

Accordingly, it is proposed to revise Chapter 1, 32 CFR, by adding a new Part 54, reading as follows:

PART 54—INVOLUNTARY CHILD AND SPOUSAL SUPPORT ALLOTMENTS

Sec.

Authority: 37 U.S.C. 101, 15 U.S.C. 1673, 42 U.S.C. 465.

§ 54.1 Purpose.

Under references 37 U.S.C 101, 15 U.S.C. 1673, and 42 U.S.C. 465, this Part provides implementing policies governing involuntary child or child and spousal support allotments, assigns responsibilities, and prescribes procedures.

§ 54.2 Applicability and Scope.

(a) This Part applies to the Office of the Secretary of Defense and the Military Departments. The term "Military Services," as used herein, refers to the Army, Navy, Air Force and Marine Corps.

(b) Its provisions pertain to members of the Military Services on extended active duty. This does not include a member under a call or order to active duty for a period of less than 30 days.

§ 54.3 Definitions.

(a) *Child support.* Periodic payments for the support and maintenance of a child or children, subject to and in accordance with state or local law. This includes, but is not limited to, payments to provide for health care, education, recreation, clothing, or to meet other specific needs of such a child or children.

(b) *Spousal support.* Periodic payments for the support and maintenance of a spouse or former spouses in accordance with state or local law. It includes, but is not limited to, separate maintenance, alimony pendente lite, and maintenance. Spousal support does not include any payment for transfer of property or its value by an individual to his or her spouse or former spouse in compliance with any community property settlement, equitable distribution of property, or other division of property between spouse or former spouses.

(c) *Notice.* A court order, letter, or similar documentation issued by an authorized person, which provides notification that a member has failed to make periodic support payments under a support order.

(d). *Support order.* Any order for the support of any person issued by a court of competent jurisdiction or by administrative procedures established under state law that affords substantial due process and is subject to judicial review. A court of competent jurisdiction includes (1) Indian tribal courts within any state, territory, or possession of the United States and the District of Columbia; and (2) a court in any foreign country with which the United States has entered into an agreement that requires the United States to honor the notice.

(e) *Authorized person.* (1) Any agent or attorney of any state having in effect a plan approved under part D of title IV of the Social Security Act (42 U.S.C. 651–664), who has the duty or authority to seek recovery of any amounts owed as child or child and spousal support (including, when authorized under a state plan, any official of a political subdivision); and (2) the court which has authority to issue an order against the member for the support and maintenance of a child, or any agent of such court.

(f) *Active duty.* Full-time duty in the Military Services, and includes full-time training duty, annual training duty, and attendance, while in the active service, at a school designated as a service school by law or by the Secretaries of the Military Departments, as defined in 37 U.S.C. 101.

§ 54.4 Policy.

(a) It is the policy of the Department of Defense to require Military Service members on active duty to make involuntary allotments from pay and allowances as payment of child, or child and spousal, support payments when the member has failed to make periodic payments under a support order in a total amount equal to the support payable for two months or longer. Failure to make such payments shall be established by notice from an authorized person to the designated official of the appropriate Miltary Service. Such notice shall specify the name and address of the person to whom the allotment is payable. The amount of the allotment shall be the amount necessary to comply with the support order. If requested, the allotment may include arrearages as well as amounts for current support, except that the amount of the allotment, together with any other amounts withheld for support from the member as a percentage of pay, shall not exceed the limits prescribed in section 303 (b) and (c) of the Consumer Credit Protection Act, 15 U.S.C. 1673. An allotment under this Part shall be adjusted or discontinued upon notice from an authorized person.

(b) Notwithstanding the above, no action shall be taken to require an allotment from the pay and allowances of any member until such member has had a consultation with a judge advocate or legal officer of the service involved, in person, to discuss the legal and other factors involved with respect to the member's support obligation and his or her failure to make payments. When it has not been possible, despite continuing good faith efforts to arrange such a consultation, the allotment shall start the first end of month pay day after 30 days have elapsed since the notice to the designated official of the Military Service.

§ 54.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Comptroller),* shall administer the provisions of this Directive, and provide guidance.

(b) The *Secretaries of the Military Departments* shall implement the provisions of this Directive for their active duty members.

§ 54.6 Procedures.

(a) *Service of notice.* (1) An authorized person shall serve on the designated official of the Military Service that pays the member who is identified in the support order the following:

(i) A written statement of delinquent support payments signed by the authorized person.

(ii) A certified copy of the underlying support order.

(iii) A statement of the amount of arrearages and the amount which is to be applied each month toward liquidation of the arrearages, if applicable.

(iv) The full name and address of the person to whom the allotment will be payable.

(v) Any limitations on the duration of the support allotment.

(2) The notice shall be accomplished by certified or registered mail, return receipt requested, or by personal service, upon the appropriate designated official of the Military Service. The designated official shall note the date and time of receipt on the notice.

(3) If the notice is not directed to the appropriate designated official or is otherwise incorrectly addressed, the recipient within the Department of Defense shall forward the notice to the designated official. However, valid service is not accomplished until the notice is received in the office of the designated official.

(4) If applicable, the notice must state that the support allotment qualifies for the additional 5 percent in excess of the maximum percentage limitations found in 15 U.S.C. section 1673. Supporting evidence must be submitted to the Military Service establishing that the support order is twelve or more weeks in arrears.

(5) The notice must contain sufficient identifying information about the member to enable processing by the Military Service. The following member information is requested:

(i) Full name.

(ii) Social security number.

(iii) Date of birth.

(iv) Military service (Army, Navy, Air Force, or Marine Corps).

(v) Duty station location.

(6) When the information submitted is not sufficient to identify the member the notice shall be returned directly to the authorized person with an explanation of the deficiency. However, before returning the notice, if there is enough time, an attempt should be made to inform the authorized person who caused the notice to be served that it will not be honored unless adequate information is supplied.

(7) Upon proper service of notice of delinquent support payments and together with all required supplementary documents and information, the Military Service shall identify the member from whom moneys are due and payable. The

pay of the member shall be reduced by the amount necessary to comply with the support order and liquidate arrearages, provided the maximum amount to be allotted under this provision together with any other moneys withheld for support from the member does not exceed:

(i) 50 percent of the member's aggregate disposable earnings for any month when the member asserts by affidavit or other acceptable evidence that he or she is supporting a spouse or dependent child or both, other than a party in the support order. The member must provide over half of the support for a spouse or dependent child or both to qualify for the 50 percent ceiling. When the member submits evidence, copies shall be sent to the authorized person, together with notification that the member's support claim will be honored. If the support claim is contested by the authorized person, the matter shall be referred to the appropriate court or other authority immediately for resolution.

(ii) 60 percent of the member's aggregate disposable earnings for any month when the member fails to assert by affidavit or other acceptable evidence, that he or she is supporting a spouse or dependent child or both.

(iii) Regardless of the limitations above, an additional 5 percent of the member's aggregate disposable earnings shall be withheld when it is stated in the notice that the member is in arrears in an amount equivalent to 12 or more weeks' support.

(b) *Aggregate Disposable Earnings.* (1) The following moneys are subject to inclusion in computation of the member's aggregate disposable earnings for members assigned within the contiguous United States [These items are defined in DOD 5000.12–M]:

(i) Basic pay (including service academy cadet and midshipment pay).

(ii) Basic allowances for quarters for members with dependents and members without dependents in the grade E–7 or higher.

(iii) Basic allowance for subsistence for commissioned and warrant officers.

(iv) Special pay for physicians, dentists, optometrists, and veterinarians.

(v) Submarine pay.

(vi) Flying pay (all crew members).

(vii) Diving pay.

(viii) Proficiency pay.

(ix) Career sea pay.

(2) The following moneys are subject to inclusion in computation of the member's aggregate disposable earnings for members assigned outside of the contiguous United States:

(i) Basic pay.

(ii) Basic allowance for quarters for members with depenents and members without dependents in the grade E–7 or higher.

(iii) Basic allowance for subsistence for commissioned and warrant officers.

(iv) Special pay for physicians, dentists, optometrists, and veterinarians.

(v) Flying pay (all crew members).

(vi) Foreign duty pay.

(vii) Special pay for duty subject to hostile fire (applies only to members permanently assigned in a designated area).

(viii) Proficiency pay.

(ix) Family separation allowances (only under certain type II conditions).

(x) Submarine pay.

(xi) Diving pay.

(xii) Special pay for overseas extensions.

(xiii) Career sea pay.

(c) *Exclusions.* In determining the amount of any moneys due from or payable by the United States to any individual, there shall be excluded amounts which are:

(1) Owed by the military member to the United States.

(2) Required by law to be deducted from the remuneration or other payment involved, including, but not limited to:

(i) Amounts withheld from benefits payable under Title II of the Social Security Act when the withholding is required by law.

(ii) Federal employment taxes.

(iii) Amounts mandatorily withheld for the U.S. Soldiers' and Airmen's Home.

(iv) Fines and forfeitures ordered by a court-martial or by a commanding officer.

(3) Properly withheld for federal and state income tax purposes if the withholding of the amounts is authorized or required by law and if amounts withheld are not greater than would be the case if the individual claimed all dependents to which he or she were entitled. The withholding of additional amounts pursuant to 26 U.S.C., section 3402(i) may be permitted only when the member presents evidence of a tax obligation which supports the additional withholding.

(4) Deducted for the Servicemen's Group Life Insurance coverage.

(5) Advances of pay that may be due and payable by the member in the future.

(d) *Member notification.* (1) As soon as possible, but not later than 15 calendar days after the date of receipt of notice, the designated official shall send to the member, at his or her duty station or last known address, written notice:

(i) That notice has been served, including a copy of the documents submitted;

(ii) Of the maximum limitations set forth, with a request that the member submit supporting affidavits or other documentation necessary for determining the applicable percentage limitation;

(iii) That by submitting supporting affidavits or other necessary documentation, the member consents to the disclosure of such information to the party requesting the support allotment;

(iv) Of the amount or percentage that will be deducted if the member fails to submit the documentation necessary to enable the designated official of the Military Service to respond to the legal process within the time limits set forth; and

(v) That legal counsel will be provided by the Military Service and the member should contact the nearest legal services office.

(vi) Of the date that the allotment is scheduled to begin.

(2) The designated official of the Military Service shall inform the legal services office at the member's duty station of the need for consultation with the member and shall provide the office with a copy of the notice and other legal documentation served on the designated official.

(3) The Military Services shall provide the member with the following:

(i) A consultation in person with a judge advocate or legal officer of the Military Service involved, to discuss the legal and other factors involved with the member's support obligation and his/her failures to make payment.

(ii) Copies of any other documents submitted with the notice.

(4) The legal services office will confirm in writing to be designated official within 30 days of notice that the member received a consultation concerning the member's support obligation and the consequences of failure to make payments. The legal services office must advise the designated official of the inability to arrange such consultation and the status of continuing efforts to contact the member.

(e) *Lack of money.* (1) When notice is served and the identified member is found not to be entitled to moneys due from or payable by the Military Service, the designated official shall return the notice to the authorized person, and advise that no moneys are due from or payable by the Military Service to the named individual.

(2) Where it appears that moneys are only temporarily exhausted or otherwise

unavailable, the authorized person shall be fully advised as to why, and for how long, the money will unavailable.

(3) In instances when the member separates from active military service, the authorized person shall be informed that the allotment is discontinued.

(f) *Effective Date of Allotment.* The allotment shall start with the first end-of-month payday after the designated official is notified that the member has had a consultation with a judge advocate or legal officer, but not later than the first end-of-month payday after 30 days have elapsed since notice to the designated official. The Military Services shall not be required to vary their normal military allotment payment cycle to comply with the notice.

(g). *List of Designated Officials:*

Army—Commander, Army Finance and Accounting Center, ATTN: FINCL–G, Indianapolis, IN 46249, (317) 542–2155

Navy—Director, Navy Family Allowance Activity, Anthony J. Celebrezze Federal Building, Cleveland, OH 44199, (216) 522–5301

Air Force—Commander, Air Force Accounting and Finance Center, ATTN: JA, Denver, CO 80279, (303) 370–7524

Marine Corps—Commanding Officer, Marine Corps Finance Center (Code AA), Kansas City, MO 64197, (816) 926–7103

[FR Doc. 82–28495 Filed 10–15–82; 8:45 am]

BILLING CODE 3810–01–M

VETERANS ADMINISTRATION

38 CFR Part 6

United States Government Life Insurance

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The Veterans Administration is rescinding certain regulations and amending other regulations to reflect that United States Government Life Insurance (USGLI) policies are fully paid-up and is further rescinding all regulations relating to War Risk Insurance. Additionally, certain regulations are being amended to reflect current Veterans Administration organization, procedure or practice. The current reserves held in the USGLI fund are adequate to meet the future liabilities of this program. As a result of mortality savings and excess interest earned on policy reserves, the amount paid annually in dividends far exceeds the annual premium income. The Veterans Administration is collecting premiums and then returning such premiums in the form of dividends. The purpose of the amendments and rescissions is to cease payment of premiums by policyholders and collection of premiums by the Veterans Administration. The policyholders will benefit from not having their policies lapse from nonpayment of premiums and also from the requirement of being in good health to reinstate their policies in case of lapse. The convenience of not remitting premiums should be welcomed by the policyholders. The Veterans Administration will experience cost savings in the areas of premium billing, remittance processing and responding to correspondence associated with premiums.

Regulations relating to War Risk Insurance (Yearly Renewable Term) are being rescinded to reflect that such insurance is no longer in force.

DATES: Comments must be received on or before November 17, 1982. Effective date of the amendments and rescissions relating to USGLI premium payment is proposed to be January 1, 1983. Effective date of rescinding War Risk Insurance regulations and other changes is proposed to be the date of final approval.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this proposed regulation to: Administrator of Veterans Affairs (271A), 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132, of the above address, between the hours of 8:00 am and 4:30 pm Monday through Friday (except holidays) until December 2, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. Carey, Assistant Director for Insurance, Veterans Administration Regional Office and Insurance Center, P.O. Box 8079 Philadelphia, PA 19101 (215–951–5360).

SUPPLEMENTARY INFORMATION: For USGLI, premiums are based on the American Experience Mortality Table at 3½ percent interest. This mortality table was published in 1868 and was calculated from the mortality experience of a single insurance company. At almost all ages, but especially at the younger ages, this table overestimates mortality. The table is no longer an accurate measure of mortality as life expectancy has greatly increased since its publication. As a result, the mortality savings in the USGLI program have been significant. The guaranteed interest value of 3½ percent is likewise antiquated when compared with current interest earned from investments in United States securities. The net effect of the mortality savings and excess interest earnings is that premiums are no longer required to safely run the USGLI program.

Amendments updating agency procedure are made to sections 6.190 and 6.191. These changes reflect that jurisdiction to make determinations as to extra hazards of services currently lies with the Insurance Claims Sections.

No additional funding will be required to support this proposal.

The Administrator hereby certifies that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this proposed rule is therefore, exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that this rule will affect only USGLI policyholders. It will, therefore, have no significant direct impact on small entities in terms of compliance costs, paperwork requirements or effects on competition.

The agency has also determined that these regulations are nonmajor in accordance with Executive Order 12291, Federal Regulation. These regulations will not have a large effect on the economy, will not cause an increase of costs or prices, and will not otherwise have any significant adverse economic affects.

List of Subjects in 38 CFR Part 6

Life insurance, Veterans.

(Catalog of Federal Domestic Assistance Program number 64.103)

Approved: October 1, 1982.

Robert P. Nimmo,

Administrator.

PART 6—[AMENDED]

Title 38, CFR, Part 6—United States Government Life Insurance, is amended as follows:

1. In § 6.2, paragraphs (a) and (b) are revised to remove references to premium payments to read as follows:

§ 6.2 Applications for insurance under section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code.

(a) Any person who, while in the active service on or after April 25, 1951, and prior to January 1, 1957, surrendered a permanent plan of United States Government Life Insurance which was in force other than as extended term insurance, for its cash value under the

provisions of § 6.115, or under 6.186 if the policy had no cash value, shall be granted a new policy of United States Government Life Insurance in accordance with § 6.3(a) provided a written application signed by the applicant is made on or after January 1, 1959, within the period set forth in paragraph (c) of this section and the other conditions of that paragraph are met. Such insurance shall be granted without medical examination. If the applicant is mentally incompetent, the application for insurance under this paragraph may be made only by the guardian (committee or conservator), and, if required under the State laws, after the court shall have authorized the fiduciary to make such application. (38 U.S.C. 744)

(b) Any person having United States Government Life Insurance on the 5-year level premium term plan, the term of which expired while such person was in the active service after April 25, 1951, or within 120 days after separation from such active service, and in either case prior to January 1, 1957, shall be granted United States Life Insurance on the 5-year level premium term plan in accordance with § 6.3(b) provided a written application signed by the applicant and evidence of good health, satisfactory to the Administrator, are submitted on or after January 1, 1959, within the period set forth in paragraph (c) of this section and the other conditions of that paragraph are met. (38 U.S.C. 744)

* * * * *

2. Section 6.7 is revised to read as follows:

§ 6.7 Effective date of United States Government Life Insurance applied for pursuant to the provisions of section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code.

(a) The effective date of United States Government Life Insurance issued pursuant to the provisions of section 623 of the National Service Life Insurance Act and section 781 of title 38, United States Code may be established upon written request of the applicant as follows:

(1) As of the date on which valid application is made.

(2) As of the first day of the month in which valid application is made.

(3) As of the first day of the month following the month in which valid application is made.

(4) As of the first day of the month, but not more than 6 months prior to the month in which valid application is made: Provided, That there be paid an amount equal to the full reserve on the insurance at the end of the month prior to the month in which application is made.

(b) Unless otherwise specified by the applicant, the effective date of such United States Government Life Insurance shall be established as of the date on which valid application is made. (38 U.S.C. 744)

3. Section 6.13 is revised to read as follows:

§ 6.13 Premium rate.

United States Government Life Insurance is granted at the premium rate for the age nearest birthday anniversary of the applicant at the time the policy becomes effective in accordance with the premium rates published in VA Pamphlet 90–2 entitled "Premium Rates and Policy Values for United States Government Life Insurance" and VA Pamphlet 90–2A for the Special Endowment at Age 96 plan policy. Effective January 1, 1983, United States Government Life Insurance policies, and total disability income provisions, on a premium paying status are paid-up and no premiums are required to maintain such policies and provisions in force.

§§ 6.14, 6.15, 6.17, 6.17a, 6.18, 6.19, 6.20, 6.21, 6.22, 6.23, 6.24, 6.25, 6.26, 6.27, 6.28, 6.29 and 6.30 [Removed]

4. Sections 6.14, 6.15, 6.17, 6.17a, 6.18, 6.19, 6.20, 6.21, 6.22, 6.23, 6.24, 6.25, 6.26, 6.27, 6.28, 6.29 and 6.30 are removed.

5. Section 6.31 is revised to read as follows:

§ 6.31 Calculation of time period.

If the last day of a time period for filing an application for United States Government Life Insurance or for applying for reinstatement thereof falls on a Saturday, Sunday or legal holiday, the time period will be extended to include the following workday. (38 U.S.C. 744)

§§ 6.35 and 6.36 [Removed]

6. Sections 6.35 and 6.36 are removed.

7. Section 6.48 is revised to read as follows:

§ 6.48 To a policy at a lower rate of premium as of original effective date.

A United States Government Life Insurance policy other than the special endowment at age 96 plan policy may be exchanged within 5 years from the effective date for a policy of the same amount, bearing the same date and based on the same age, on any plan of insurance issued by the Veterans Administration at a lower rate of premium, except the 5-year level premium term policy and the special endowment at age 96 plan policy. If the exchange is made within 1 year from the effective date or, in instances where less than 90 days of such year remain after the promulgation of this section (August 1, 1969), within 90 days of such promulgation, the applicant must be in as good health on the date of application as he or she was on the effective date. If the exchange is made after 1 year of the effective date, the applicant must be in good health and furnish satisfactory evidence of such. The old insurance must be in force and must be surrendered with all rights and claims thereunder. The difference between the reserve on the old policy and the reserve on the new policy, less any indebtedness, will be paid in cash. (38 U.S.C. 744)

8. Section 6.51 is revised to read as follows:

§ 6.51 To a policy at a higher rate of premium as of a current effective date.

A United States Government Life Insurance policy on the 5-year level premium term plan may be exchanged for a policy of the same amount on any plan of insurance, except the special endowment at age 96 plan policy, issued by the Veterans Administration at a higher rate of premium. Such exchange will be made without medical examination upon complete surrender of the insurance while in force and within 5 years from the effective date of the policy. (38 U.S.C. 744)

9. Section 6.52 is revised to read as follows:

§ 6.52 Exchange of 5-year level premium term insurance for special endowment at age 96 plan policy.

(a) Effective July 25, 1962, an insured who on or after his or her 65th birthday has a 5-year level premium term policy of United States Government Life Insurance may exchange such policy for a special endowment at age 96 plan policy issued pursuant to § 6.53. The exchange may be for insurance of the same amount and will be effective as of a current effective date but in no event shall the exchange be made effective prior to July 25, 1962. The insured will be required to file written application. Such exchange will be made without medical examination upon surrender of the term policy and any total disability provision attached thereto with all rights, title and interest in the life insurance and the provision.

(b) Where it is found by the Administrator subsequent to the exchange of term insurance for the special endowment at age 96 plan policy as provided in paragraph (a) of this section, that prior to such exchange: (1) The term policy matured because of total permanent disability of the insured

in accordance with §§ 6.120, 6.121, or 6.122, whichever is applicable, or (2) the insured was entitled to total disability benefits in accordance with § 6.160 or § 6.164, whichever is applicable, under the total disability provision attached to the term policy, the insured, upon surrender of the special endowment plan policy and any total permanent disability provision which may be attached thereto, with all rights, title and interest in such life and disability insurance, will be entitled to the benefits which are payable under the prior term policy and total disability provision. In such case, the cash value less any indebtedness on the endowment policy shall be refunded. (38 U.S.C. 744)

§ 6.53 [Amended]

10. Section 6.53 is amended by removing paragraph (e) and adding the authority cite (38 U.S.C. 744) following paragraph (d).

§§ 6.71, 6.72, 6.73 and 6.74 [Removed]

11. Sections 6.71, 6.72, 6.73, and 6.74 are removed.

12. Section 6.78 is revised to read as follows:

§ 6.78 Provisions for reinstatement.

(a) Subject to the United States Government Life Insurance provisions of title 38, United States Code, and regulations issued thereunder, any insurance which has lapsed or may hereafter lapse and which has not been surrendered for a cash value or for paid-up insurance may be reinstated upon written application signed by the applicant, and, except as hereinafter provided in this paragraph, upon payment of all premiums in arrears, with interest from their several due dates, provided such applicant at the time of application and tender or premiums is in the required state of health as shown in § 6.79, and submits satisfactory evidence thereof at the time of application and tender premiums. Interest on premiums in arrears shall be at the rate of 5 per centum per annum, compounded annually, to the first monthly premium due date after July 31, 1946; at the rate of 4 per centum per annum, compounded annually, to the first monthly premium due date after August 31, 1971, and thereafter at the rate of 5 per centum per annum, compounded annually. The payment or reinstatement of any indebtedness against any policy must be made, with interest, and if such indebtedness with interest exceeds the reserve of the policy at the time of application for reinstatement thereof, then the amount of such excess shall, except as provided in § 6.81, be paid by the applicant as a condition of the reinstatement of the indebtedness and of the policy. A lapsed United States Government Life Insurance policy which is in force under extended term insurance may be reinstated without health statement or other medical evidence, if application and tender of premiums with the required interest are made not less than 5 years prior to the date such extended insurance would expire. In any case in which the extended insurance under an endowment policy provides protection to the end of the endowment period, such policy may be reinstated upon application and payment of the premiums with the required interest and health statement or other medical evidence will not be required. United States Government Life Insurance on the 5-year level premium term plan may be reinstated upon application by the insured within 5 years after the date of lapse with satisfactory evidence of the insurability of the insured subject to the conditions of § 6.170(b) if reinstated after expiration of the 5-year term period. Any indebtedness against the policy must be paid or reinstated with interest. The provisions of the "Reinstatement" clause in United States Government Life Insurance policies are hereby amended accordingly.

(b) Reinstatement is effected when an acceptable application and the required premiums are delivered to the Veterans Administration. If application for reinstatement is submitted by mail, properly addressed to the Veterans Administration, the postmark date shall be the date of delivery. The effective date of reinstatement of the insurance shall be the postmark date of the application for reinstatement. (38 U.S.C. 744)

13. Section 6.79 is revised to read as follows:

§ 6.79 Health requirements.

United States Government Life Insurance may be reinstated provided the applicant is in good health on the date of application and tender of premiums, if necessary, and furnishes satisfactory evidence thereof. (38 U.S.C. 744)

14. Section 6.80 is revised to read as follows:

§ 6.80 Application and medical evidence.

The applicant for reinstatement of United States Government Life Insurance during his or her lifetime and before becoming totally and permanently disabled, must submit a written application signed by the applicant and furnish evidence of health as required in § 6.79 at the time of application. If the insurance becomes a claim after the tender of the amount necessary to meet reinstatement requirements but before full compliance with the requirements of this section, and the applicant was in the required state of health at the date that he or she made the tender of the amount necessary to meet reinstatement requirements, and that there is satisfactory reason for his or her noncompliance the Assistant Director for Insurance, VA Center, Philadelphia, Pennsylvania may, if the applicant be dead, waive any or all of the requirements of this section (except payment of the necessary premiums), or if the applicant be living, allow compliance with this section as of the date the required amount necessary to reinstate was received by Veterans Administration. (38 U.S.C. 744, 759)

15. Section 6.81 is revised to read as follows:

§ 6.81 Indebtedness at time of reinstatement.

The United States Government Life Insurance shall not be deemed to be reinstated until satisfactory evidence of good health has been furnished and approved as required, and, except as provided in § 6.78, until all premiums in arrears have been paid with the required interest, and any indebtedness existing at the time of default has been paid or reinstated as set forth in the policy: Provided, That any indebtedness on account of unpaid service premiums and premiums waived under authority of section 306 of the World War Veterans' Act, 1924, as amended, or section 760 of title 38, United States Code, may be reinstated, even though the amount of such indebtedness exceeds the reserve of the policy; and such indebtedness unless otherwise paid shall be deducted from the proceeds of insurance in any settlement thereof, or from the cash value when such value is taken in cash or used for the purpose of purchasing paid-up insurance or making a loan: Provided further, That the amount of such unpaid premiums with interest shall not be considered an indebtedness as is set forth in paragraph 5(D) of the contract of Government life insurance or paragraph 8 of the special endowment at age 96 plan policy to cause the policy to cease and become void if the amount (premiums with interest) is greater than the cash surrender value of an insurance without indebtedness. (38 U.S.C. 744)

16. In § 6.86, paragraphs (a) and (c) are revised to read as follows:

§ 6.86 Applications for reinstatement of United States Government Life Insurance pursuant to section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code.

(a) Any person who, while in the active service on or after April 25, 1951, and prior to January 1, 1957, surrendered a permanent plan policy of United States Government Life Insurance which was in force other than as extended term insurance for its cash value under the provisions of § 6.115 or under § 6.186 if the Policy had no cash value, upon written application made by any such person on or after January 1, 1959, within the period set forth in paragraph (b) of this section and upon meeting the other conditions of that paragraph, may reinstate such surrendered United States Government Life Insurance (or any portion thereof in multiples of $500, not less than $1,000) without medical examination upon payment of an amount required to provide the full reserve of the insurance at the end of the month prior to the month in which application is made. If the applicant is mentally incompetent the application for reinstatement under this section may be made only by the guardian (committee or conservator), and, if required under the State law, after the court shall have authorized the fiduciary to make such application. (38 U.S.C. 744)

* * * * *

(c) Reinstatement is effected when an acceptable application and the required premiums, if any, are delivered to the Veterans Administration. If application for reinstatement is submitted by mail, properly addressed to the Veterans Administration, the postmark date shall be the date of delivery. The effective date of reinstatement of the insurance shall be the postmark date of the application for reinstatement. (38 U.S.C. 744)

17. In § 6.95, paragraph (b) is revised; paragraph (d) is removed; paragraphs (e), (f) and (g) are redesignated as paragraphs (d), (e) and (f) respectively; and subsequently the reference to paragraph (g) in the former paragraph (f) is changed to refer to paragraph (f) in the redesignated paragraph (e); and the redesignated paragraph (f) is revised. Revised paragraphs (b) and (f) read as follows:

§ 6.95 How paid.

* * * * *

(b) Unless and until the Veterans Administration receives a written request from the insured that United States Government Life Insurance regular annual dividends be paid in cash, or that they be used to pay an insurance indebtedness, or that they be placed on deposit, any such dividends shall be held to the credit of the insured to be applied to pay monthly premiums becoming due and unpaid after the date such dividends are payable on any National Service Life Insurance policy or policies held by the insured. Effective January 1, 1983, (1) permanent plan dividends used to pay premiums in advance will be placed on deposit and (2) term plan dividends used to pay premiums in advance will be paid in cash: Provided, That if either permanent or term plan dividends are used to pay premiums in advance and the insured has a National Service Life Insurance policy or policies in force, dividends will be held to the credit of the insured.

* * * * *

(f) At the written request of the insured, United States Government Life Insurance regular annual dividends may be left to accumulate on deposit at interest which will be credited in such manner and at such rate as the Administrator may determine, but a rate never less than 3½ percent: Provided, That the policy is in force on a basis other than extended term insurance or 5-year level premium term insurance. Dividend credit of the insured held for payment of premiums or dividends left to accumulate on deposit may be applied to the payment of premiums in advance upon written request of the insured made before default in payment of premium. Dividends on deposit under the provisions of this paragraph will be used in addition to the reserve on the policy for the purpose of computing the period of extended term insurance or the amount of paid-up insurance. Any dividend credit of a person who no longer has insurance in force by payment or waiver of premiums will be paid in cash to such person. If a person has a dividend credit option on a lapsed 5-year level premium term policy or a permanent plan policy on which extended term insurance has expired and such person has another policy in force by payment or waiver of premiums, any dividend credit or unpaid dividends on the lapsed policy, in the absence of instructions from the insured to the contrary, will be transferred to the policy which is in force and will be held on such policy as a dividend credit. Such dividend credit will be deemed to have accrued on the policy which is in force. Upon maturity of the policy, any dividend on deposit, any unpaid dividend payable in cash, and any dividend credit accruing from such policy which cannot be used to pay premiums as provided in 38 U.S.C. 746, will be paid to the person currently entitled to receive payments under the policy. If the policy is not in force at death, any such unpaid dividends and dividend credits will be paid to the insured's estate. (38 U.S.C. 744)

§ 6.96 [Amended]

18. Section 6.96 is amended by removing the third line and inserting the authority cite (38 U.S.C. 744) in its place.

19. Section 6.100 is revised to read as follows:

§ 6.100 Policy loan; other than 5-year convertible term policy.

At any time after the first policy year and upon the execution of a loan agreement satisfactory to the Administrator the United States will lend to the insured on the sole security of his/her United States Government Life Insurance policy any amount which shall not exceed 94 percent of the cash value, and any indebtedness shall be deducted from the amount advanced on such loan. The loan shall bear interest at a rate not to exceed 5 percent per annum, payable annually, and the loan may be repaid in full or in amounts of $5 or more. Failure to pay either the amount of the loan or the interest thereon shall not void the policy unless the total indebtedness shall equal or exceed the cash value thereof. When the amount of the indebtedness equals or exceeds the cash value, the policy shall cease and become void. (38 U.S.C. 744)

20. Section 6.101 is revised to read as follows:

§ 6.101 Policy loan; 5-year convertible term policy.

At any time after the expiration of the sixth policy year and upon execution of a loan agreement satisfactory to the Administrator, the United States will lend to the insured on the sole security of his/her United States Government Life Insurance policy on the 5-year convertible term plan any amount which shall not exceed 94 percent of the cash value, and any indebtedness shall be deducted from the amount advanced on such loan. The loan shall bear interest at a rate not to exceed 5 percent per annum annually, and the loan may be repaid in full or in the amount of $5 or more. Failure to pay either the amount of the loan or the interest thereon shall not void the policy unless the total indebtedness shall equal or exceed the cash value thereof. When the amount of the indebtedness equals or exceeds the cash value, the policy shall cease and become void. (38 U.S.C. 744)

§ 6.105 [Removed]

21. Section 6.105 is removed.

§ 6.110 [Removed]

22. Section 6.110 is removed.

23. Section 6.115 is revised to read as follows:

§ 6.115 Cash value, other than 5-year level premium term policy and special endowment at age 96 plan policy.

Provisions for cash value shall become effective at the completion of the first policy year on any plan of United States Government Life Insurance other than the 5-year level premium term plan or the special endowment at age 96 plan policy; all values, reserves, and net single premiums being based on the American Experience Table of Mortality, with interest at the rate of 3½ percent per annum. The cash value at the end of the first policy year and at the end of any policy year thereafter, shall be the reserve together with any dividend accumulations. For each month after the first policy year the reserve at the end of the preceding policy year shall be increased by one-twelfth of the increase in reserve for the current policy year. Upon written request therefor and upon complete surrender of the insurance with all claims thereunder made by the insured the United States will pay to the insured the cash value of the policy less any indebtedness, provided the policy has been in force for at least 1 year. Unless otherwise requested by the insured, a surrender will be deemed completed as of the end of the month in which the application for cash surrender is delivered to the Veterans Administration, or as of the date of the check for the cash value, whichever is later. If the application is forwarded by mail, properly addressed, the postmark date will be taken as the date of delivery. If it is forwarded through military channels, the date the application is placed in military channels will be taken as the date of delivery. The provisions of the "Cash Value" clause in United States Government Life Insurance policies are hereby amended accordingly. (38 U.S.C. 744)

24. Section 6.116 is revised to read as follows:

§ 6.116 Cash value; 5-year convertible term policy.

The cash value and policy loan provisions under a United States Government Life Insurance policy on the 5-year convertible term plan shall be effective at any time after the completion of the sixth policy year, all values, reserves, and net single premiums being based on the American Experience Table of Mortality, with interest at the rate of 3½ percent per annum. The cash value at the end of the sixth policy year and at the end of any policy year thereafter shall be the reserve together with any dividend accumulations. For each month after the sixth policy year the reserve at the end of the preceding year shall be increased by one-twelfth of the increase in reserve for the current policy year. Upon written request therefor and upon complete surrender of the insurance with all claims thereunder made by the insured while the policy is in force, the United States will pay to the insured the cash value of the policy less any indebtedness. Unless otherwise requested by the insured, a surrender will be deemed completed as of the end of the month in which the application for cash surrender is delivered to the Veterans Administration, or as of the date of the check for the cash value, whichever is later. If the application is forwarded by mail, properly addressed, the postmark date will be taken as the date of delivery. If it is forwarded through military channels, the date the application is placed in military channels will be taken as the date of delivery. The provisions of the "Cash Value" clause in 5-year convertible term policies are hereby amended accordingly. (38 U.S.C. 744)

25. Section 6.117 is revised to read as follows:

§ 6.117 Cash value; special endowment at age 96 plan policy.

Provisions for cash value shall become effective at the completion of the first policy year; all values and net single premiums are as prescribed by the Administrator and published in VA Pamphlet 90–2A. The cash value at the end of the first policy year and at the end of any policy year thereafter shall be the reserve as set forth in the policy together with any dividend accumulations. For each month after the first policy year the reserve at the end of the preceding policy year shall be increased by one-twelfth of the increase in reserve for the current policy year. Upon written request therefor and upon complete surrender of the insurance with all claims thereunder made by the insured, the United States will pay to the insured the cash value of the policy less any indebtedness, provided the policy has been in force for at least 1 year. Unless otherwise requested by the insured, a surrender will be deemed completed as of the end of the month in which the application for cash surrender is delivered to the Veterans Administration, or as of the date of the check for the cash value, whichever is later. If the application is forwarded by mail, properly addressed, the postmark date will be taken as the date of delivery. If it is forwarded through military channels, the date the application is placed in military channels will be taken as the date of delivery. (38 U.S.C. 744)

§ 6.118 [Removed]

26. Section 6.118 is removed.

§ 6.120 [Amended]

27. Section 6.120 is amended by adding the words "or she" after the word "he" where it appears in that section.

28. Section 6.123 is revised to read as follows:

§ 6.123 Recovery from total permanent disability other than the special endowment at age 96 plan policy.

Notwithstanding proof of total permanent disability may have been accepted as satisfactory, the insured shall at any time, on demand, furnish proof satisfactory to the Administrator of Veterans Affairs of the continuance of such total permanent disability, and, if the insured shall fail to furnish such proof, all payments of monthly installments on account of such total permanent disability under a United States Government Life Insurance policy shall cease. Thereafter, the cash values and loan values shall be reduced so that the resulting values shall bear the same proportion to the values, respectively specified on the policy, that the commuted values of the remaining installments (240 installments less the number paid) bears to the commuted value of 240 installments. (See also § 6.124.) (38 U.S.C. 744)

29. Section 6.123a is revised to read as follows:

§ 6.123a Recovery from disability; 5-year level premium term policy.

Notwithstanding proof of total permanent disability may have been accepted as satisfactory, the insured under a United States Government Life Insurance policy on the 5-year level premium term plan shall at any time, on demand, furnish proof satisfactory to the Administrator of Veterans Affairs of the continuance of such total permanent disability. If the insured shall fail to furnish such proof, all payments of monthly installments on account of such total permanent disability shall cease. If recovery from total permanent disability takes place after the expiration of the term period, the insurance may be continued in accordance with § 6.123b. (38 U.S.C. 744)

30. Section 6.123b is amended by removing the phrase "at the premium rate" in the introductory paragraph,

removing the first sentence of paragraph (a), revising paragraph (b), and removing paragraph (c) so that the revised section reads as follows:

§ 6.123b Continuance of insurance after termination of total and permanent rating and award, where such termination is effective after the expiration of the term period.

If United States Government Life Insurance on the 5-year level premium term plan (or on the 5-year convertible term plan) matures or has matured by reason of total and permanent disability and the insured recovers from such disability after expiration of the term period, the reduced amount of insurance (commuted value of remaining unpaid installments) shall be automatically renewed for the attained age of the insured on the policy anniversary renewal date of the current 5-year period. The reduced amount of insurance or any part thereof in multiples of $500 and not less than $1,000 may be continued without medical examination on the level premium term plan or on any permanent plan, as the insured may elect, except the special endowment at age 96 plan policy, and subject to the following provisions:

(a) A certificate of renewal will be issued effective on the policy anniversary renewal date.

(b) Such insurance may be converted to any of the permanent plans, except the special endowment at age 96 plan policy, upon application therefore and a policy will be issued to the insured. (38 U.S.C. 744)

§ 6.123c [Amended]

31. In § 6.123c, paragraph (a) is amended by removing the reference to § 6.124 that appears in the third sentence and adding the authority cite (38 U.S.C. 844) to the end of that paragraph; and paragraph (b) is amended by removing the phrase "paid-up insurance and extended insurance" where it appears in the third sentence, and adding the authority cite (38 U.S.C. 744) to the end of that paragraph.

§ 6.124 [Removed]

32. Section 6.124 is removed.

§§ 6.130, 6.131, 6.132, 6.133, 6.134, 6.135, 6.136, 6.137, 6.138, 6.139, 6.140, 6.141, 6.142, 6.143, 6.144 and 6.145 [Removed]

33. Sections 6.130, 6.131, 6.132, 6.133, 6.134, 6.135, 6.136, 6.137, 6.138, 6.139, 6.140, 6.141, 6.142, 6.143, 6.144, and 6.145 are removed.

§ 6.150 [Amended]

34. Section 6.150 is amended by removing the titles "Director, Insurance Service, or Deputy Director for Underwriting, Accounts, and Insurance Claims" whre it appears in the sixth line and inserting the title "Assistant Director for Insurance"; and by adding the authority cite (38 U.S.C. 210) to the end of that section.

§ 6.161 [Amended]

35. Section 6.161 is amended by removing the phrase "tender of premium", and by adding the authority cite (38 U.S.C. 744) at the end of that section.

§ 6.162 [Amended]

36. Section 6.162 is amended by removing the phrase "and remittance sufficient to cover the first monthly premium" and adding the authority cite (38 U.S.C. 744) at the end of that section.

§ 6.162a [Amended]

37. In § 6.162a, paragraph (a)(3) is removed; paragraph (b) is amended by removing the phrase "and payment of the required premium"; and paragraph (c) is amended by removing the phrase "under premium paying conditions" and adding the authority cite (38 U.S.C. 744) after that paragraph.

§ 6.166 [Amended]

38. Section 6.166 is amended by removing the phrase "tender of premiums" and adding the authority cite (38 U.S.C. 744) after that section.

39. In § 6.167, paragraph (a) is revised to read as follows:

§ 6.167 Application for total permanent disability provision for the special endowment at age 96 plan United States Government Life Insurance and the effective date of such provision.

(a) Application for the total permanent disability provision authorized by section 742(c) of title 38, United States Code, must be made by the insured at the same time as he/she makes application for exchange of his/her 5-year level premium term policy for the special endowment at age 96 plan policy. The application for the total permanent disability provision should be on such forms as may be prescribed by the Veterans Administration, but any statement in writing sufficient to identify the applicant and that such provision is desired will be sufficient as an application for the total permanent disability provision. The total permanent disability provision will be granted for the same amount as the special endowment at age 96 plan policy which is placed in force. (38 U.S.C. 744)

* * * * *

40. Section 6.170 is revised to read as follows:

§ 6.170 Renewal of United States Government Life Insurance on the 5-year level premium term plan.

(a) Effective January 1, 1983, all or any part of United States Government Life Insurance on the 5-year level premium term plan, in any multiple of $500 and no less than $1,000 shall be automatically renewed without application or medical examination for a successive 5-year period. The renewal of insurance for any successive 5-year period will become effective as of the day following the expiration of the preceding 5-year period: *Provided*, That no insurance is subject to renewal if the policyholder has exercised his/her optional right to change to another plan of insurance.

(b) Effective June 25, 1970, a 5-year level premium term policy which lapsed for nonpayment of the premium due and subsequently expired may be renewed subsequent to the expiration of the told term period provided the insured within 5 years of the date of lapse:

(1) Submits written application for reinstatement of the insurance;

(2) Is in good health (§ 6.155) on the date of application and furnishes satisfactory evidence thereof. (38 U.S.C. 744)

§ 6.185 [Removed]

41. Section 6.185 is removed.

§ 6.190 [Removed]

42. Section 6.190 is removed.

§ 6.191 [Amended]

43. Section 6.191 is amended by removing the phrase "Extra Hazard Committees" and inserting the phrase "Insurance Claims Sections" and by adding the authority cite (38 U.S.C. 744) to the end of that section.

§ 6.210 [Amended]

44. In § 6.210 paragraphs (b) and (c) are removed; the first paragraph designation "(a)" is removed; and the cite (38 U.S.C. 744) is added to the end of that paragraph.

[FR Doc. 82-28568 Filed 10-15-82; 8:45 am]
BILLING CODE 8320-01-M

---

38 CFR Part 21

Education Benefits; Implementing Legislation

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The following regulatory provisions implement those provisions of the Veterans' Rehabilitation and Education Amendments of 1980 which affect people receiving educational assistance under chapters 34, 35 and 36,

title 38, United States Code; revise the method of making charges against the entitlement of a veteran or eligible person; define independent study; and make other technical changes.

The amendments implementing the Veterans' Rehabilitation and Education Amendments of 1980 provide for increases in monthly rates and other significant changes in the Veterans Administration educational assistance programs. Some of the changes are liberalizing. Some are more restrictive. Others are minor or technical.

DATES: 1. Comments must be received on or before December 14, 1982.

2. In keeping with Pub. L. 96–466, it is proposed that the amendments to the following sections be made effective October 1, 1980: Sections 21.1032(d), 21.1041(a), 21.1045(a), (b), (d) and (e), 21.3032, 21.3300(a) and (b), 21.3301(a), (c) and (d), 21.3302, 21.3303, 21.3304, 21.3305, 21.3306, 21.3307, 21.3333(a)(1), (b)(3) and (c), 21.4009(a), 21.4020, 21.4022, 21.4025, 21.4102, 21.4105(b), 21.4130(a) and (c), 21.4131(b), (h) and (i), 21.4135, 21.4136(a)(1), (h), (j), (l), (m), (n), (o), (p), (q), (r), (s) and (t), 21.4137(i), (j), (k), (l), (m), (n) and (o), 21.4138, 21.4140, 21.4200(g), (h), (n), (o), (p) (q) and (r), 21.4201(a), (c), (d), (e), (f) and (g), 21.4203(a), 21.4206, 21.4231, 21.4233, 21.4235, 21.4236(b), 21.4237(b) and (d), 21.4250, 21.4251(a), 21.4252(g), 21.4260, 21.4263, 21.4270, 21.4272, 21.4277, 21.4280, 21.4501, 21.4503(b)(3), (4) and (5) and 21.4504(a).

3. The portions of the following regulations pertaining to the first rate increase are also effective October 1, 1980: Section 21.1041(d)(2), 21.1045(g), 21.3046(c), 21.3300(c), 21.3333(b)(1), 21.4136(c), 21.4137(a), 21.4153(c)(3), 21.4236(c) and (d), 21.4279 and 21.4503(b)(2).

4. The cancellation of §§ 21.4235(j) and 21.4251(g) also is effective October 1, 1980.

5. It is proposed that the amendment to § 21.3333(a)(2) be made effective January 1, 1981. Furthermore, it is proposed that the portions of the following regulations which pertain to the second rate increase also be made effective January 1, 1981: Sections 21.1041(d)(2), 21.1045(g), 21.3046(c), 21.3300(c), 21.3333(b)(2), 21.4136(a)(2) and (c) 21.4137(a), 21.4153(c)(3), 21.4236(c) and (d), 21.4279 and 21.4503(b)(2).

6. It is proposed that amendments which are not based upon Pub. L. 96–466, be made effective the date of final approval. These include amendments to §§ 21.1030, 21.1031, 21.1032(b), 21.1041(b) and (c), 21.1043, 21.1045(c), (f), (h), (i), (j) and (k), 21.3300(d), 21.3301(b), 21.4001, 21.4006, 21.4008, 21.4009(b), 21.4105(a), 21.4130(b), (d), (e), and (f), 21.4131(g), 21.4139, 21.4145, 21.4153(a), (b), (c)(1), (2) and (4), (d), (e), (f) and (g), 21.4154, 21.4200(s), (t) and (u), 21.4201(h), 21.4202, 21.4203(b), 21.4205, 21.4207, 21.4208, 21.4209, 21.4232, 21.4236(a) 21.4237(e), 21.4251(c), (d), (f) and (g), 21.4252(h), 21.4253(c), 21.4500(d), (e), (f) and (h), 21.4502, 21.4503(b)(6), 21.4504(b) and 21.4506.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271 A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until December 27, 1982. Any persons visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202–389–2092).

SUPPLEMENTARY INFORMATION: The proposed regulations implementing portions of the Veterans' Rehabilitation and Education Amendments of 1980 contain provisions for increasing rates of educational assistance and tutorial assistance; increasing the rate of reimbursement for State approving agencies; prohibiting tutorial assistance to students who have been tutored by their immediate family; increasing the maximum amount of an education loan and allowing students in flight training to apply for the loans; extending the time limit to file for an extension of eligibility due to a disability; modifying the 50 percent employment reporting requirement; modifying the 85–15 percent veteran-nonveteran ratio computations; modifying the standard of progress requirements; amending the requirements concerning education outside the United States; changing the method of measuring and paying for independent study; liberalizing the restrictions on paying for courses taken through open-circuit television; modifying requirements for secondary education programs; rescinding most mandatory counseling for childern receiving dependents' educational assistance; restricting special restorative training to children eligible for dependents' educational assistance; extending the period of eligibility for some children receiving dependents' educational assistance; clarifying the period of payment for some students; changing absence accounting for courses not leading to a standard college degree; requiring reports from veterans and eligible persons; modifying the criteria for holding a school liable for overpayments of educational assistance; defining a standard class session; limiting payments of educational assistance to incarcerated veterans and eligible persons; and reducing the rate of reimbursement for flight and correspondence training.

The proposed regulations also detail a new method of calculating the charge against the entitlement of a veteran or eligible person who is receiving educational assistance allowance under Chapter 34 or 35, Title 38, United States Code. At present entitlement is charged in quarter months. This can result in situations where a veteran who attends school 2 days more than another veteran may have an additional half-month charged against his or her entitlement. The proposal eliminates this inequity.

Recently, the Department of Veterans Benefits was reorganized. The Education and Rehabilitation Service no longer exists. The proposed regulations replace references to that service with references to the Education Service and the Vocational Rehabilitation and Counseling Service, as appropriate. Similarly, references to the Department of Health, Education and Welfare and the Office of Education are replaced with references to the Department of Health and Human Services and the Department of Education.

On pages 21653–21655 of the **Federal Register** of April 2, 1980 there was published a notice of intent to amend part 21 to make the criteria used for measuring independent study courses clearer and more uniform. Interested persons were given 60 days in which to submit comments, suggestions or objections regarding the proposal.

The VA (Veterans Administration) received 14 letters containing comments and suggestions. The writers represented a veterans organization, educational organizations, universities, colleges and a broadcasters' organization as well as concerned individuals.

While the VA was considering these comments, the Veterans' Rehabilitation

and Education Amendments of 1980 was enacted. This law contains provisions dealing with independent study. Rather than make the April 2 proposal final, it was revised to meet the requirements of the law and included in this proposal.

On pages 65996–65997 of the **Federal Register** of November 16, 1979, there was published a proposal to amend part 21 to prohibit payment of tutorial assistance to veterans who are tutored by family members. Interested persons were given 30 days to submit comments, suggestions or objections regarding the proposal.

The VA received no comment concerning the proposal. However, this law contains a provision dealing with tutorial assistance. Rather than make the November 16, 1979 proposal final, it was revised to meet the requirements of the law and included in this proposal.

The agency has determined that these proposed, amended regulations contain no major rules as defined in Executive Order 12291.

The regulations will not of themselves have an effect on the economy of $100 million or more annually. They contain an increase in the monthly rates of educational assistance allowance which has an effect of this magnitude. This increase, however, merely restates what is already stated in the law. (Pub. L. 96–466) There is no additional effect on the economy caused by the regulations.

These amended regulations should not cause a major increase in costs for anyone. There may be an increase in costs for some high schools which will have to keep additional records if they admit a serviceperson, but this increase should be minor.

These amended regulations will not have any 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.

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the paperwork and recordkeeping provisions that are included in these regulations have been or will be submitted for approval to the Office of Management and Budget (OMB). These paperwork and recordkeeping provisions will not be effective until OMB approval has been obtained and the public notified to that effect through a notice published in the **Federal Register.**

Regulatory Flexibility Analysis. A few of these amended regulations would have a significant economic impact on small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. In some cases, as is discussed later in this analysis, the economic impact would be positive. That is, the amended regulations may reduce costs for some entities. This analysis includes only amended regulations which would subject small entities to reporting, recordkeeping, or compliance requirements. No special professional skills are needed to meet any of these requirements.

There are four classes of small entities which would be affected by some of the amended regulations. Some schools are small organizations as defined in the Act because they are not-for-profit enterprises which are independently owned and operated and are not dominant in their field. There are 245 proprietary, nonprofit schools that offer vocational courses which are approved for veterans' training. Most of these are independently owned, and none are dominant in the field of education.

There are also 2,491 proprietary nonprofit institutions of higher learning that offer training under the GI Bill. Most of these are small organizations within the meaning of the Act.

Over 700 publicly-supported schools offer courses (other than high school courses) which do not lead to a standard college degree. Some of these schools are supported by governmental jurisdictions with a population of less than 50,000. Hence regulations which affect these schools will affect some small governmental jurisdictions as they are defined in the Act.

Finally, there are 619 high schools providing a high school education to individuals under the GI Bill. A substantial portion are supported by school districts with less than 50,000 population. Regulations which affect these high schools will also affect small governmental jurisdictions.

Since the enactment of the Veterans' Rehabilitation and Education Amendments of 1980, the regulations included in this analysis have been either contrary to or not supported by law. Consequently, the Veterans Administration is proposing amendments to them.

This proposal includes amendments to 38 CFR 21. 4130 and 21.4277. At present these regulations require schools to report to the VA that a veteran or eligible person is making unsatisfactory progress for VA purposes even though his or her program is not unsatisfactory according to the school's own standards. The circumstances which require these reports include accumulation of unsatisfactory punitive grades in the equivalent of more credit hours than the minimum full-time training load for VA purposes, or the school's requiring the student to extend his or her enrollment for the equivalent of more than one term based on the minimum full-time requirement at the school; or the school's determining that the student will require an extension of the student's enrollment beyond 10 percent of the approved length of the course.

The objective of this proposal is to take advantage of a change in the underlying law and relieve all schools (including all four classes of those which meet the definition of a small organization or are supported by small governmental jurisdictions) from this reporting requirement. Schools will have to report unsatisfactory progress only when the student's progress is unsatisfactory according to the school's own stantards.

These proposed amendments to §§ 21.4130 and 21.4277 are based upon section 1674 and 1724, title 38, United States Code.

The proposed amendments will not require new reporting, recordkeeping or other compliance requirements. They are designed to reduce the number of required reports, not increase them.

When the Veterans' Rehabilitation and Education Amendments of 1980 amended sections 1674 and 1724, title 38, United States Code the VA considered leaving the reporting requirements unchanged and the alternative contained in this proposal. The agency in the course of developing this proposal, decided that it was the intent of Congress in enacting this legislation to relieve schools, including small schools, of some of their reporting burden. The VA believes that this proposal carries out the intent of Congress and lowers schools' reporting burden regarding unsatisfactory progress to the minimum consistent with the law.

Considering the agency's responsibilities as stated in section 1674 and 1724, title 38, United States Code, the VA does not believe that a further reduction in reporting requirements can be made which would apply to small schools only.

The VA is unaware of any other Federal rule which duplicates, overlaps, or conflicts with the proposed amendments to §§ 21.4130 and 21.4277.

Amendments to § 21.4201 would also affect small organizations which are not-for-profit schools independently owned and operated.

The regulation currently contains the so-called 85–15 percent ratio requirement. Specifically, it now states that the VA may not pay educational assistance allowance to a veteran who enrolls in a course when more than 85

percent of the students enrolled in the course are Federally supported. There are some exceptions to this general rule.

The regulation is based on section 1673(d), title 38, United States Code. The objective of both the law and the regulation is to permit the free-market mechanism to operate by making the course attract a reasonable number of nonsupported students.

The VA must consider changes to the regulation, because the underlying law was changed by the Veterans' Rehabilitation and Education Amendments of 1980.

The law was amended to change the restriction from forbidding payment to new students enrolled in a course where more than 85 percent of the students are Federally supported to forbidding payment when more than 85 percent of the students in the course are VA-supported. The VA does not think it has any alternative but to change the regulation accordingly.

This change will not require any new recordkeeping, reporting or compliance requirements. However, the current requirements will remain in effect with a slight modification to reflect the type of supported student who must now be counted.

This law also allows servicepersons to receive benefits while enrolled in high school. It states that, when a serviceperson enrolls in high school, the 85–15 percent ratio requirement should be applied. Since this would cause a high school a minor amount of increased recordkeeping, and would thereby affect small school districts, the VA considered alternate methods of implementing this law.

Several alternatives were considered. All involved use of the VA's existing authority to waive the 85–15 percent ratio requirement. One would have applied the 85–15 percent ratio requirement without any opportunity for a waiver. One would have provided a blanket waiver for all these enrollments. One would have provided a waiver for small schools only. One would apply the 85–15 percent ratio to all of these new enrollments while providing the opportunity for a waiver on a case-by-case basis. The VA adopted the last alternative.

In making this decision the VA wanted to implement the law in accordance with the intent of the Congress. The purpose of allowing servicepersons to receive benefits for high school enrollments without charge to their entitlement is to provide a substitute for PREP (Predischarge Education Program) which was discontinued in 1976 by law for those eligible for benefits under chapter 34, title 38, United States Code, and in 1980 for those eligible under chapter 32, title 38, United States Code.

The Veterans Administration and the General Accounting Office had discovered a considerable number of discrepancies in these programs, which were open only to servicepersons. These discrepancies included the improper costing of the courses which resulted in overpayments of millions of dollars. The VA believes that the proposal it has chosen is necessary to prevent the recurrence of this problem at small schools and at large schools.

The VA has not proposed a blanket waiver of the 85–15 percent ratio requirement for servicepersons who enroll in high school, because the agency is concerned that this would encourage the establishment of PREP (with all its attendant problems) under another name. Since the agency did not experience fewer problems with PREP when offered by small schools, it does not think it would be appropriate to provide a special waiver for small schools.

On the other hand, circumstances may occur when the computation of this ratio should be waived for an individual course. Therefore, the VA did not decide to prohibit waivers. The proposed regulation allows for waiver on a course-by-course basis.

The VA is not aware of any Federal rule which may duplicate, overlap or conflict with the proposed regulation.

This proposal also would amend § 21.4206 to require an educational institution to certify as to its compliance with chapters 34, 35, and 36, title 38, United States Code, before it can receive a reporting fee.

The agency is making this proposal because such a report now is required by section 1784(b), title 38, United States Code. The objective of the proposal is to bring educational institutions into compliance with the new law. The proposal will affect all educational institutions offering courses approved for veterans' training including courses offered by public schools located in school districts with less than 50,000 population, and not-for-profit educational institutions which are independently owned and operated.

Since the law contains no provisions for allowing exceptions to this reporting requirement, the VA does not think it has the authority to provide different rules for small school districts. Therefore, the VA could not consider alternatives to the proposed amended regulation.

The VA is not aware of any Federal rules which may duplicate, overlap or conflict with the proposed regulation.

This proposal also would amend § 21.4252. That section forbids the VA's approving a veteran's or eligible person's enrollment in a course with a vocational objective unless the veteran or eligible person or educational institution shows that generally one-half or more of the people completing the course over the preceding 2 years have found employment in the occupational category for which the course is designed to provide training. This requirement is found in section 1673(a), title 38, United States Code.

Since veterans do not know who has graduated from a course over the preceding 2 years, this requirement of law has had the effect of requiring schools offering vocational courses to survey their recent graduates to determine if they had found the necessary employment.

The VA proposes to change this regulation, because the underlying law now has been amended. The law provides an exemption for those courses where veterans and eligible persons enrolled in the institution did not exceed 35 percent of the total enrollment in the institution and the course met the requirement during any 2-year period ending after October 16, 1980. The law gives the VA further authority to waive this requirement entirely if it would cause an undue administrative hardship on an educational institution because of the small proportion of veterans and eligible persons enrolled in the institution.

One of the purposes of the GI Bill is to help veterans readjust vocationally. The 50 percent employment requirement is designed to ensure that the veteran has a reasonable chance of finding employment if he or she completes a course with a vocational objective. This requirement also establishes a measure of accountability for schools that offer vocational programs. The objective of the amendment to the regulation is to implement the exemption and waiver provisions of the law while making sure that the original purpose of the 50 percent employment requirement is not lost.

The statutory exemption to the requirement is incorporated into the regulation without change. The VA does not believe that the law permits alternatives.

In considering how to implement the waiver provision which would allow special treatment of small schools, the VA considered several alternatives, since the 50 percent employment requirement may apply to not-for-profit schools which are independently owned and operated as well as to school

districts with less than 50,000 population.

One of the alternatives was to allow a waiver if a course met the requirements for a waiver of the 2-year operation provision (38 CFR 21.4251). This would have had a minimal economic impact, because some courses that need a waiver of the 2-year operation requirement also need a waiver of the 50 percent employment requirement. If the criteria for a waiver of both provisions were the same, the school would need to gather and present only one set of evidence.

The VA decided not to propose this, however. The criteria to be met to waive the 2-year operation provision are not germane to waiving the 50 percent employment requirement. These criteria would favor public vocational schools even though they typically have a larger veteran enrollment than private schools. Consequently, small schools would not benefit from these criteria. Hence, to adopt the criteria would be inconsistent with the objectives of the statute which authorized the waiver.

Accordingly, the VA decided to propose the criteria found in § 21.4252(g)(3). The requirement that the number of veterans and eligible persons enrolled in the school during the previous 2 years must never have exceeded 35 percent of total enrollment of the school is taken from the criteria for obtaining an exemption. It should not be easier to obtain a waiver than it is to obtain an exemption.

The requirement that the number of veterans and eligible persons enrolled in the course never exceed 20 percent of the total enrollment in the course during the 2-year period was chosen because it ensures that a substantial number of nonveterans believe that there is a good chance they will be employed if they successfully complete the course. The VA considered several percentages, but finally chose 20 percent because that figure was suggested by the National Association of State approving agencies. A lower percentage for a small school would be inappropriate, since that would be inconsistent with the purpose of the statutory requirement.

The additional waiver criterion that requires the cost to the school of compliance to exceed $22 times the number of eligible veterans and other eligible persons enrolled in the program is derived from related provisions of the VA law. The maximum reporting fee the VA may pay to a school is $11 per student per year. Since the 50 percent employment requirement covers a 2-year period, the VA believes that it would be reasonable not to require a 50 percent employment survey if the cost of the survey exceeds the money the VA pays to the school. Since in many instances there are economies of scale in verifying the employment of graduates, this criterion should help small schools.

The VA also has included a criterion that the State approving agency and the VA must consider whether a school would have to collect data on employment of graduates solely to satisfy the 50 percent employment criterion. The VA considered prohibiting a waiver if the school had to collect data for another Federal, State or local agency, but did not do so. Since this is not a criterion which by itself would form the basis for a denial of a waiver, the VA does not think it necessary to make different criteria for small schools and school districts.

The proposed regulation will not impose any new reporting or compliance requirements. It may eventually result in an exemption or a waiver for most courses with vocational objectives due to declining VA enrollments. This is designed to reduce reports, not increase them.

The surveys necessary to meet the 50 percent employment requirement overlap, in part, survey conducted for the Vocational Education Data System (VEDS) developed by the Department of Education and surveys conducted for Programs and Enrollments in Noncollegiate Postsecondary Schools by the Department of Education. The overlap is not complete because VEDS includes surveys of graduates of degree programs, and neither survey identifies people excludable from the 50 percent employment survey, such as people on active duty. Although this partial overlap exists, the VA does not know of any Federal rules which duplicate, overlap or conflict with the exemption and waiver provisions of the proposal.

The Administrator of Veterans' Affairs hereby certifies that the remainder of these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The remainder of the regulations are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. This certification is based on the fact that the remainder of these regulations either make mere editorial and internal technical changes, or primarily will affect individual benefit recipients. While the latter may have some indirect economic effect on some small entities, it will not be significant in magnitude.

The Catalog of Federal Domestic Assistance number for the programs affected by this proposal are 64.111 and 64.117.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: September 1, 1982.

By direction of the Administration.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—[AMENDED]

The Veterans Administration proposes to amend 38 CFR Part 21 as set forth below:

1. Section 21.1030 is revised as follows:

§ 21.1030 Claims.

The veteran must file a specific claim for educational assistance allowance in the form prescribed by the Administrator. Servicepersons must consult with their service education officer before applying for educational assistance. (38 U.S.C. 1671)

2. In § 21.1031, paragraph (a) is revised as follows:

§ 21.1031 Informal claims.

(a) The Veterans Administration will consider any communication from a veteran, an authorized representative or a Member of Congress to be an informal claim, if it indicates an intent to apply for educational assistance. If the veteran has not filed a formal claim, the Veterans Administration will send him or her an application form when it receives an informal claim. If the Veterans Administration receives the application form within 1 year after the date it was sent to the veteran, the Veterans Administration will consider it filed on the date of receipt of the informal claim. (38 U.S.C. 1671)

* * * * *

3. In § 21.1032, the introductory portion preceding paragraph (a) and paragraphs (b) and (d)(1) are revised.

§ 21.1032 Time limits.

The provisions of this section are applicable to original applications, formal or informal, and to applications for increased educational assistance allowance because of a dependent. (38 U.S.C. 1671)

* * * * *

(b) *New claim.* After the claim is abandoned, any subsequent communication which is an informal

claim is a new application. The date of receipt of the communication is the date of application. (38 U.S.C. 1671)

* * * * *

(d) *Time limit for filing a claim for an extended period of eligibility.* * * *

(1) October 17, 1981, (38 U.S.C. 1662(a))

* * * * *

4. In § 21.1041, paragraphs (a)(4), (b), (c), and (d)(2) are revised as follows:

§ 21.1041 Periods of entitlement.

(a) *General.* * * *

(4) The 45 months limitation may be exceeded when the Veterans Administration authorizes an extension under paragraph (d) of this section or when the Veterans Administration makes no charge against entitlement, as provided in § 21.1045(a) because the veteran, serviceperson or eligible person is pursuing a course at a secondary level under the Program of Special Assistance for the Educationally Disadvantaged. (38 U.S.C. 1662)

(b) *Prior Veterans Administration training.* The period of entitlement for educational assistance when added to education or training received under any laws cited in § 21.4020 will not exceed 48 months of full-time educational assistance, except as provided in paragraph (a)(4) of this section. The Veterans Administration will compute a reduction in the period of entitlement because of prior training as provided in paragraph (c) of this section. (38 U.S.C. 1662)

(c) *Reduction for prior Veterans Administration training.* Where the period of entitlement is subject to reduction by reason of prior training, the Veterans Administration will convert the period remaining to months and days after subtracting the period of prior training. (38 U.S.C. 1795)

(d) *Extension.* * * *

(2) When the period of entitlement ends after more than half the course has been completed the veteran's or eligible person's period of entitlement will be extended—

(i) In a course consisting exclusively of flight training—

(A) To the end of the course or

(B) The additional amount of instruction that $846 will provide effective October 1, 1980 and $888 will provide effective January 1, 1981, whichever is less;

(ii) In a course pursued exclusively by correspondence—

(A) To the end of the course or

(B) The additional amount of instruction that $916 will provide effective October 1, 1980 and $958 will provide effective January 1, 1981, whichever is less;

(iii) In all other schools—

(A) To the end of the course or

(B) For 12 weeks, whichever is less. (38 U.S.C. 1661, 1677(b) 1786(a))

* * * * *

5. In § 21.1043, paragraph (d) is revised as follows:

§ 21.1043 Extended period of eligibility.

* * * * *

(d) *Discontinuance.* If the veteran is pursuing a course on the date an extended period of eligibility expires (as determined under this section), the Veterans Administration will discontinue the educational assistance allowance effective the day before the end of the extended period of eligibility. (38 U.S.C. 1662)

6. Section 21.1045 is revised as follows:

§ 21.1045 Entitlement charges.

The Veterans Administration will make charges against entitlement only when required by this section. Charges will be based upon the principle that a veteran or eligible person who trains full time for 1 day should be charged 1 day of entitlement. The provisions of this section apply to veterans, eligible persons training under chapter 35, title 38, United States Code, as well as to veterans training under chapter 31, title 38, United States Code who make a valid election under § 21.21 to receive educational assistance allowance equivalent to that paid to veterans training under chapter 34.

(a) *Courses resulting in no entitlement charge.* The Veterans Administration will make no charge against the entitlement of—

(1) An eligible serviceperson who is pursuing a course leading to a secondary school diploma or an equivalency certificate as described in § 21.4235;

(2) A veteran, eligible spouse or surviving spouse who—

(i) On October 1, 1980 was pursuing a course leading to a secondary school diploma or an equivalency certificate as described in § 21.4235; and

(ii) Has remained continuously enrolled since October 1, 1980, in a course leading to a secondary school diploma or an equivalency certificate.

(3) A veteran, eligible spouse or surviving spouse who—

(i) Is pursuing a course leading to a secondary school diploma or an equivalency certificate as described in § 21.4235; and

(ii) Received educational assistance allowance based upon the tuition and fees charged for the course; or

(4) A veteran, not on active duty, eligible spouse or surviving spouse who is pursuing refresher, remedial or deficiency courses. (38 U.S.C. 1691, 1733)

(b) *Course for which entitlement will be charged.* The Veterans Administration will make a charge against the period of entitlement of—

(1) A veteran or serviceperson for a program consisting of flight training under chapter 34;

(2) A veteran or eligible person for a program of apprenticeship or other on-the-job training under chapter 34 or 35;

(3) A veteran or serviceperson under chapter 34 or a spouse or surviving spouse under chapter 35 who is pursuing a correspondence course; or

(4) A veteran, not on active duty, eligible spouse or surviving spouse who—

(i) Is pursuing a course leading to a secondary school diploma or an equivalency certificate as described in § 21.4235,

(ii) Elects to receive educational assistance allowance at the rate described in § 21.4136(a) or § 21.4137(a), as appropriate, and

(iii) Either was not pursuing a course leading to a secondary school diploma or equivalency certificate on October 1, 1980, or has not remained continuously enrolled in such a course since October 1, 1980; or

(5) A serviceperson under chapter 34 or an eligible child under chapter 35 who is pursuing a refresher, remedial or deficiency course; or

(6) A veteran, serviceperson or eligible person under either chapter 34 or 35 for the pursuit of any course not described in paragraph (a) of this section. (38 U.S.C. 1661, 1677(b), 1691)

(c) *Determining entitlement charge.* The provisions of this paragraph do not apply to those courses listed in paragraph (a) of this section or to flight training, apprenticeship or other on-job training, correspondence courses, or to courses offered through independent study.

(1) For all other courses the Veterans Administration will make a charge against entitlement—

(i) On the basis of total elapsed time (1 day for each day of pursuit) if the veteran or eligible person is pursuing the program of education on a full-time basis,

(ii) On the basis of a proportionate rate of elapsed time, if the veteran or eligible person is pursuing the program of education on a three-quarter, one-half or less than one-half time basis. For the purpose of this computation, training time which is less than one-half, but more than one-quarter time, will be treated as though it were one-quarter time training.

(2) The Veterans Administration will compute elapsed time from the commencing date of enrollment to date of discontinuance. If the veteran or eligible person changes his or her training time after the commencing date of enrollment, the Veterans Administration will—

(i) Divide the enrollment period into separate periods of time during which the veteran's eligible person's training time remains constant; and

(ii) Compute the elapsed time separately for each time period. (38 U.S.C. 1661)

(d) *Entitlement charge—independent study.* The Veterans Administration will make charges against the entitlement of a veteran or eligible person in the manner described in paragraph (c) of this section, if he or she is pursuing a program of education solely by independent study. However, the computation will always be made as though the veteran's or eligible person's training were one-quarter time. (38 U.S.C. 1682(e))

(e) *Entitlement charge—flight training.* The charge against entitlement for pursuit of a program consisting of flight training shall be 1 month for each—

(1) $302 which is paid to the veteran as an educational assistance allowance after September 30, 1980 and before January 1, 1981 for flight training, and

(2) $317 which is paid to the veteran as an educational assistance allowance after December 31, 1980 for flight training. (38 U.S.C. 1677(b))

(f) *Entitlement charge—apprenticeship or other on-job training.* The charge against entitlement for pursuit of apprenticeship or other on-the-job training program shall be 1 month for each month educational assistance allowance is paid to the veteran or eligible person for the program. If there are deductions from the veteran's or eligible person's educational assistance allowance due to his or her excessive absences, the Veterans Administration will combine the portions of a month for which deductions were made. The Veterans Administration will make no charge against the entitlement for the period of combined deductions. (38 U.S.C. 1787)

(g) *Entitlement charge—correspondence course.* (1) For contracts entered into before January 1, 1973 the charge against entitlement for pursuit of a course exclusively by correspondence will be 1 month for each $175 paid as educational assistance allowance;

(2) For contracts entered into after December 31, 1972 the charge against entitlement for pursuit of a course exclusively by correspondence will be 1 month for each—

(i) $220 paid after December 31, 1972 and before September 1, 1974 to a veteran or surviving spouse as an educational assistance allowance.

(ii) $260 paid after August 31, 1974 and before January 1, 1975,

(iii) $270 paid after December 31, 1974 and before October 1, 1976,

(iv) $292 paid after September 30, 1976 and before October 1, 1977,

(v) $311 paid after September 30, 1977 and before October 1, 1980,

(vi) $327 paid after September 30, 1980 and before January 1, 1981, and

(vii) $342 paid after December 31, 1980. (38 U.S.C. 1786(a))

(h) *Overpayment cases.* The Veterans Administration will make a charge against entitlement for an overpayment only if the overpayment is discharged in bankruptcy, is waived, and is not recovered, or is compromised. (38 U.S.C. 1661)

(1) The charge against entitlement if the overpayment is discharged in bankruptcy or is waived and is not recovered will be at the appropriate rate for the elapsed period covered by the overpayment.

(2) The charge against entitlement if the overpayment is compromised will be determined by:

(i) Subtracting the accepted compromise offer from the total amount of the overpayment,

(ii) Dividing the result obtained in paragraph (h)(2)(i) of this section by the total amount of the overpayment, and

(iii) Multiplying the percentage figure obtained in paragraph (h)(2)(ii) of this section by the amount of the entitlement which represents the whole overpaid period. (38 U.S.C. 1661)

(i) *Interruption to conserve entitlement.* A veteran may not interrupt a certified period of enrollment for the purpose of conserving entitlement. An educational institution may not certify a period of enrollment for a fractional part of the normal term, quarter or semester, if the veteran is enrolled for the term, quarter or semester. The Veterans Administration will make a charge against entitlement for the entire period of certified enrollment, if the veteran is otherwise eligible for benefits, except when benefits are interrupted under any of the following conditions: (38 U.S.C. 1661)

(1) Enrollment is actually terminated;

(2) The veteran cancels his or her enrollment, and does not negotiate an educational benefits check for any part of the certified period of enrollment;

(3) The veteran interrupts his or her enrollment at the end of any term, quarter, or semester within the certified period of enrollment, and does not negotiate a check for educational benefits for the succeeding term, quarter, or semester;

(4) The veteran requests interruption or cancellation for any break when a school was closed during a certified period of enrollment, and the Veterans Administration continued payments under an established policy based upon an Executive order of the President or an emergency situation. Whether the veteran negotiated a check for educational benefits for the certified period is immaterial. (38 U.S.C. 1661)

(j) *Accelerated payment—chapters 34 and 35.* The Veterans Administration will make a charge against the entitlement of a veteran or eligible person who receives an accelerated payment at the rate of 1 month for each amount of accelerated payment (exclusive of the matching payment from the State and/or local governmental unit) equal to the full-time monthly rate payable to the veteran or eligible person under § 21.4136(a) at the time he or she applied for an accelerated payment. (38 U.S.C. 1682A, 1738)

(k) *Education loan after otherwise applicable delimiting date—chapter 34 or 35 spouse or surviving spouse.* The Veterans Administration will make a charge against the entitlement of a veteran, spouse or surviving spouse who receives an educational loan pursuant to § 21.4501(c) at the rate of 1 day for each day of entitlement that would have been used had the veteran, spouse or surviving spouse been in receipt of educational assistance allowance for the period for which the loan was granted. (38 U.S.C. 1662, 1712)

7. In § 21.3032, paragraph (c) is revised as follows:

§ 21.3032 Time limits.

* * * * *

(c) *Time limit for filing a claim for an extended period of eligibility.* A claim for an extended period of eligibility provided by § 21.3046(d) must be received by the Veterans Administration by the latest of the following dates:

(1) One year from the date on which the spouse's or surviving spouse's original period of eligibility ended.

(2) One year from the date on which the spouse's or surviving spouse's physical or mental disability no longer prevented him or her from beginning or resuming a chosen program of education.

(3) October 17, 1981. (38 U.S.C. 1712)

8. In § 21.3046, paragraph (c) is revised as follows:

§ 21.3046 Periods of eligibility; spouses and surviving spouses.

* * * * *

(c) *Extension to ending date.* (1) The ending date of a spouse's period of eligibility may be extended when the spouse is enrolled and eligibility ceases for one of the following reasons:

(i) The veteran is no longer rated permanently and totally disabled;

(ii) The spouse is divorced from the veteran without fault on the spouse's part; or

(iii) The spouse no longer is listed in any of the categories of § 21.3021(a)(3)(ii).

(2) If the spouse is enrolled in a school operating on a quarter or semester system, the Veterans Administration will extend the period of eligibility to the end of the quarter or semester, regardless of whether the spouse has reached the midpoint of the quarter, semester or term.

(3) If the spouse is enrolled in a school not operating on a quarter or semester system, the Veterans Administration will extend the period of eligibililty to the earlier of the following:

(i) The end of the course, or

(ii) 12 weeks.

(4) If the spouse is enrolled in a course pursued exclusively by correspondence, the Veterans Administration will extend the period of eligibility to whichever of the following will result in the lesser expenditure:

(i) The end of course, or

(ii) The total additional amount of instruction that $916 will provide effective October 1, 1980, or that $958 will provide effective January 1, 1981.

(5) The Veterans Administration will not extend the period of eligibility when the spouse is pursuing training in a training establishment as defined in § 21.4200(c)

(6) An extension may not—

(i) Exceed maximum entitlement, or

(ii) Extend beyond the delimiting date specified in paragraph (a) or (d) of this section, as appropriate. (38 U.S.C. 1711(b), 1712(b), 1732, 1786)

* * * * *

9. Sections 21.3300, 21.3301, 21.3302, 21.3303, 21.3304, 21.3305 and 21.3306 are revised as follows:

§ 21.3300 Special restorative training.

(a) *Purpose of special restorative training.* The Veterans Administration may prescribe special restorative training where needed to overcome or lessen the effects of a physical or mental disability for the purpose of enabling an eligible child to pursue a program of education, special vocational program or other appropriate goal. Medical care and treatment or psychiatric treatment are not included. (38 U.S.C. 1740)

(b) *Special restorative training courses.* The Vocational Rehabilitation Board may prescribe for special restorative training purposes courses such as—

(1) Speech and voice correction or retention,

(2) Language retraining,

(3) Speech (lip) reading,

(4) Auditory training,

(5) Braille reading and writing,

(6) Training in ambulation,

(7) One-hand typewriting,

(8) Nondominant handwriting,

(9) Personal, social and work adjustment training,

(10) Remedial reading, and

(11) Courses at special schools for mentally and physically disabled or

(12) Courses provided at facilities which are adapted or modified to meet special needs of disabled students. (38 U.S.C. 1740)

(c) *Duration of special restorative training.* The Veterans Administration may provide special restorative training in excess of 45 months where an additional period of time is needed to complete the training. Entitlement, including any authorized in excess of 45 months, may be expended through an accelerated program requiring a rate of payment for tuition and fees in excess of $103 per calendar month, effective October 1, 1980, and a monthly payment in excess of $108 per calendar month, effective January 1, 1981. See §§ 21.3303 and 21.3333(b). (38 U.S.C. 1741(b), 1742)

(d) *Special restorative training precluded in Veterans Administration facilities.* Special restorative training will not be provided in Veterans Administration facilities. (38 U.S.C. 1743(b))

§ 21.3301 Need.

(a) *Determination of need.* When the case of a handicapped child is referred to the Vocational Rehabilitation Board, because of a request by a parent or guardian or upon recommendation of a counselor, the board will consider whether—

(1) There exists a handicap which will interfere with pursuit of a program of education;

(2) It is in the best interests of an eligible child to begin special restorative training after his or her 14th birthday;

(3) The period of special restorative training materially will improve the eligible child's ability to—

(i) Pursue a program of education,

(ii) Pursue a program of specialized vocational training,

(iii) Obtain continuing employment in a sheltered workshop, or

(iv) Adjust in his or her family or community; (38 U.S.C. 1741(a))

(4) The special restorative training may be pursued concurrently with a program of education; and

(5) Training will affect adversely the child's mental or physical condition;

(6) The Veterans Administration—

(i) Has considered assistance available under provisions of State-Federal programs for education of handicapped children, and

(ii) Has determined that it is in the child's interest to receive benefits under chapter 35, (38 U.S.C. 1741(a))

(b) *Development and implementation.* When the board decides that special restorative training is needed, a Veterans Administration counseling psychologist in the Vocational Rehabilitation and Counseling Division will prepare an individualized, written rehabilitation plan. The plan will be prepared jointly with the eligible child and parent or guardian. (38 U.S.C. 1741(a))

(c) *Notification of disallowance.* When a parent or guardian has requested special restorative training on behalf of an eligible child, and the board finds that this training is not needed or will not materially improve the child's condition the Veterans Administration will inform the parent or guardian of the finding. (38 U.S.C. 1713)

(d) *Reentrance after interruption.* When the case of an eligible child is referred for consideration of reentrance into special restorative training following an interruption, the board will recommend approval if there is reasonable expectation that the purpose of special restorative training will be accomplished. See § 21.3306. (38 U.S.C. 1740)

§ 21.3302 Agreements.

(a) *Agreements to provide training.* The Veterans Administration may make agreements with public or private educational institutions or others to provide suitable and necessary special restorative training for an eligible child. (38 U.S.C. 1743)

(b) *Tuition charge.* When a customary tuition charge is not applicable, the agreement will include the fair and reasonable amounts which may be charged the parent or guardian for the training provided an eligible child. (38 U.S.C. 1743)

(c) *Content of agreement.* Each agreement will include the same type of information required for special restorative training for disabled veterans under 38 U.S.C. ch. 31, including the requirement that the educational institutions, or others with

whom arrangements have been made, report to the Veterans Administration promptly the eligible child's enrollment in, interruption or termination of the course of special restorative training. (38 U.S.C. 1743)

§ 21.3303 Extent of training.

(a) *Length of special restorative training.* Ordinarily, special restorative training may not exceed 12 months. When the Vocational Rehabilitation Board determines that more than 12 months is necessary, it will refer the program to the Director, Vocational Rehabilitation and Counseling Service for prior approval. Where the plan for a program of special restorative training itself (not in combination with the program of education) or special vocational training will require more than 45 months (or its equivalent in accelerated payments) the plan will be included in the recommendation to the Director, Vocational Rehabilitation and Counseling Service for approval. (38 U.S.C. 1743(b))

(b) *Age limitation.* No eligible child may receive special restorative training after reaching age 31. (38 U.S.C. 1712)

(c) *Full-time training.* An eligible child will pursue special restorative training on a full-time basis.

(1) Full-time training requires training for—

(i) That amount of time per week which commonly is required for a full-time course at the educational institution when, based on medical findings, the Veterans Administration determines that the eligible child's physical or mental condition permits training for that amount of time, or

(ii) The maximum time per week permitted by the child's disability, as determined by the Veterans Administration, based on medical findings, if the disability precludes the weekly training time stated in paragraph (c)(1)(i) of this section.

(2) If the hours per week that can reasonably be devoted to restorative training will not of themselves equal the time required by paragraph (c)(1) of this section, the course will be supplemented with subject matter which will contribute toward the objective of the program of education. (38 U.S.C. 1742(c))

§ 21.3304 Assistance during training.

(a) *General.* A vocational rehabilitation specialist will provide the professional and technical assistance needed by the eligible child in pursuing special restorative training. The assistance will be timely, sustained and personal. (38 U.S.C. 1741)

(b) *Adjustments in the training situation.* The vocational rehabilitation specialist must be continually aware of the eligible child's progress. At frequent intervals he or she will determine whether the eligible child is progressing satisfactorily. When the vocational rehabilitation specialist determines that adjustments are needed in the course or in the training situation, he or she will act immediately to bring about the adjustments in accordance with the following:

(1) When the eligible child or his or her instructor indicates dissatisfaction with elements of the program, the vocational rehabilitation specialist, through personal discussion with the eligible child or his or her instructor or both, will, if possible, correct the difficulty through such means as making minor adjustments in the course or by persuading the eligible child to give more attention to performance.

(2) When major difficulties cannot be corrected, the vocational rehabilitation specialist will prepare a report of pertinent facts and recommendations for action by the Vocational Rehabilitation Board.

(3) Action will be taken to terminate the eligible child's course at the proper time so that his or her entitlement may be conserved when the vocational rehabilitation specialist determines that—

(i) The eligible child is progressing much faster than anticipated, and

(ii) The eligible child's course may be terminated with satisfactory results before the time originally planned. (38 U.S.C. 1741)

§ 21.3305 "Interrupted" status.

(a) *Special restorative training should be uninterrupted.* An eligible child once entered into special restorative training should pursue his or her course to completion without interruption. Wherever possible, continuous training shall be provided for each eligible child, including training during the summer, except where, because of his or her physical condition or other good reason, it would not be to his or her best interest to pursue training. As long as the eligible child is progressing satisfactorily toward overcoming his or her handicap, the eligible child will be continued in his or her course of training without accounting for days of nonattendance within the authorized enrollment. (38 U.S.C. 1741)

(b) *Interrupting special restorative training.* Special restorative training will be interrupted as necessary under the following conditions:

(1) During summer vacations or periods when no instruction is given before and after summer sessions.

(2) During a prolonged period of illness or medical infeasibility.

(3) When the eligible child voluntarily abandons special restorative training.

(4) When the eligible child fails to make satisfactory progress in the special restorative training course.

(5) When the eligible child is no longer acceptable to the institution because of failure to maintain satisfactory conduct or progress in accordance with the rules of the institution.

(6) When the eligible child's progress is materially retarded because of his or her negligence, lack of application or misconduct. (38 U.S.C. 1741, 1743(b))

§ 21.3306 Reentrance after interruption.

When a course of special restorative training has been interrupted and the eligible child presents himself or herself for reentrance, the Veterans Administration will act as follows:

(a) *Action by a vocational rehabilitation specialist.* A vocational rehabilitation specialist will approve reentrance when special restorative training was interrupted—

(1) For a scheduled vacation period, such as a summer break,

(2) For a short period of illness, or

(3) For other reasons which permit reentrance in the same course of special restorative training without corrective action. (38 U.S.C. 1743(b))

(b) *Referral to the Vocational Rehabilitation Board.* (1) The vocational rehabilitation specialist will refer the eligible child's case to the Vocational Rehabilitation Board when special restorative training was interrupted—

(i) By reason of failure to maintain satisfactory conduct or progress, or

(ii) For any other reason which requires corrective action, such as change of place of training, change of course, personal adjustment, etc.

(2) If the Vocational Rehabilitation Board determines that the conditions which caused the interruption can be overcome, it will recommend the necessary adjustment.

(3) The Vocational Rehabilitation Board will deny reentrance when—

(i) All efforts by the board to effect proper adjustment in the case fail, and

(ii) The board determines that adjustment cannot be made. (38 U.S.C. 1741, 1743(b))

10. Section 21.3307 is added to read as follows:

§ 21.3307 "Discontinued" status.

(a) *Placement in "discontinued" status.* The Veterans Administration will place an eligible child in "discontinued" status when the Vocational Rehabilitation Board denies

reentrance of the eligible child into special restorative training. (38 U.S.C. 1743(b))

(b) *Notification.* In any case of discontinuance the Veterans Administration will:

(1) Notify the eligible child's parent or guardian of the action taken, and

(2) Inform him or her of the eligible child's potential right to a program of education (38 U.S.C. 1743(b)).

(c) *Effect of discontinuance.* An eligible child who has been placed in "discontinued" status is precluded from any further pursuit of special restorative training until a Veterans Administration counseling psychologist in the Vocational Rehabilitation and Counseling Division determines that the cause of the discontinuance has been removed (38 U.S.C. 1743(b)).

11. In § 21.3333, paragraphs (a), (b) and (c)(2) are revised as follows:

§ 21.3333 Rates.

(a) *Rates.* (1) Special training allowance is payable at the following monthly rate effective October 1, 1980 except as provided in paragraph (c) of this section.

Course	Monthly rate	Accelerated charges
Special restorative training.	$327	If costs for tuition and fees average in excess of $103 per month, rate may be increased by such amount in excess of $103. (38 U.S.C. 1742)

(2) Special training allowance is payable at the following monthly rate effective January 1, 1981 except as provided in paragraph (c) of this section.

Course	Monthly rate	Accelerated charges
Special restorative training.	$342	If costs for tuition and fees average in excess of $108 per month, rate may be increased by such amount in excess of $108. (38 U.S.C. 1742)

(b) *Accelerated charges.* (1) Effective October 1, 1980 the Veterans Administration may pay the additional monthly rate if the parent or guardian concurs in having the eligible child's period of entitlement reduced by 1 day for each $10.92 that the special training allowance exceeds the basic monthly rate of $327.

(2) Effective January 1, 1981 the Veterans Administration may pay the additional monthly rate if the parent or guardian concurs in having the eligible child's period of entitlement reduced by 1 day for each $11.44 that the special training allowance exceeds the basic monthly rate of $342.

(3) The Veterans Administration will:

(i) Charge fractions of more than one-half day as 1 day;

(ii) Disregard fractions of one-half or less; and

(iii) Record charges when the eligible child is entered into training (38 U.S.C. 1742).

(c) *Payments in Philippine pesos.*

* * *

(2) The eligible child is pursuing training at an institution located in the Republic of the Philippines (38 U.S.C. 1732, 1742, 1765).

12. In § 21.4001, paragraphs (a), (b), and (c) are revised as follows:

§ 21.4001 Delegations of authority.

(a) Except as otherwise provided, authority is delegated to the Chief Benefits Director and to supervisory or adjudicative personnel within the jurisdiction of the Education Service designated by him or her to make findings and decisions under 38 U.S.C. chs. 34, 35, and 36 and the applicable regulations, precedents and instructions, as to programs authorized by these paragraphs (38 U.S.C. 212(a)).

(b) Authority is delegated to the Chief, Benefits Director and the Director, Education Service to enter into agreements for the reimbursement of State approving agencies under § 21.4153 (38 U.S.C. 212(a)).

(c) Authority is delegated to the Director, Education Service, to exercise the functions required of the Administrator for:

(1) Waiver of penalties for conflicting interests as provided by § 21.4005;

(2) Actions otherwise required of State approving agencies under § 21.4150(c);

(3) Approval of courses under § 21.4250(c). (38 U.S.C. 212(a))

* * * * *

13. In § 21.4006, paragraphs (a)(2), (b) and (c) are revised and a title is added to paragraph (a) as follows:

§ 21.4006 False or misleading statements.

(a) *Payments may not be based on false statements.* * * *

(2) When the Veterans Administration discovers that a certification or claim is false after it has released payment, the Veterans Administration will establish an overpayment for only that portion of the claim to which the claimant was not entitled (38 U.S.C. 1780).

(b) *Effect of false statements on subsequent payments.* A claimant's false or misleading statements are not a bar to payments based on further training (38 U.S.C. 1780).

(c) *Forfeiture.* The provisions of this section do not apply when forfeiture of all rights has been or may be declared under the provisions of § 21.4007 (38 U.S.C. 3503).

14. Section 21.4008 is revised to read as follows:

§ 21.4008 Prevention of overpayments.

When approval of a course may be withdrawn, and overpayments may exist or be created, the Veterans Administration may suspend further payments to veterans or eligible persons enrolled in the school until the question of withdrawing approval is resolved. See § 21.4134 (38 U.S.C. 1790(b)).

15. In § 21.4009, paragraphs (a) and (b) are revised as follows:

§ 21.4009 Overpayments—waiver or recovery.

(a) *General.* (1) The amount of the overpayment of educational assistance allowance or special training allowance paid to a veteran or eligible person constitutes a liability of that veteran or eligible person.

(2) The amount of the overpayment of educational assistance allowance or special training allowance paid to a veteran or eligible person constitutes a liability of the education institution if the Veterans Administration determines that the overpayment was made as the result of willful or neligent:

(i) Failure of the educational institution to report, as required by §§ 21.4203 and 21.4204, excessive absences from a course or discontinuance or interruption of a course by a veteran or eligible person, or

(ii) False certification by the educational institution.

(3) If it appears that the falsity or misrepresentation was deliberate, the Veterans Administration may not pursue administrative collection pending a determination whether the matter should be referred to the Department of Justice for possible civil or criminal action. However, the Veterans Administration may recover the amount of the overpayment from the educational institution by administrative collection procedure when the Veterans Administration determines the false certification or misrepresentation resulted from an administrative error or a misstatement of fact and that no criminal or civil action is warranted.

(4) If the Veterans Administration recovers any part of the overpayment from the education institution, it may reimburse the educational institution if the Veterans Administration subsequently collects the overpayment from a veteran or eligible person. The

reimbursement will be made when the total amount of the overpayment collected from the veterans, eligible persons and the educational institution exceeds the total amount of which the educational institution is liable and will be equal to the excess.

(5) This paragraph does not preclude the imposition of any civil or criminal liability under this or any other law. (38 U.S.C. 1785)

(b) *Reporting.* (1) If a school is required to make periodic or other certifications, the Veterans Administration may consider the following in determining whether a school in potentially liable for an overpayment:

(i) The school's failure to report, or to report timely facts which resulted in an overpayment, or

(ii) The school's submission of an incorrect certification as to fact.

(2) In either instance the Veterans Administration will consider other pertinent factors such as:

(i) Allowing for occasional clerical error or occasional administrative error:

(ii) The school's past reliability in reporting;

(iii) The adequacy of the school's reporting system; and

(iv) The extent of noncompliance with reporting requirements: 38 U.S.C. 1785)

* * * * *

16. Section 21.4020 is revised as follows:

§ 21.4020 Two or more programs.

(a) *Limit on training under two or more programs.* The aggregate period for which any person may receive assistance under two or more of the following laws may not exceed 48 months (or the part-time equivalent):

(1) Part VII or VIII, Veterans Regulations numbered 1(a), as amended:

(2) Title II of the Veterans' Readjustment Assistance Act of 1952;

(3) The War Orphans' Educational Assistance Act of 1956;

(4) 39 U.S.C. chs. 32, 34, 35 and 36 and the former chapter 33 (38 U.S.C. 1795(a)).

(b) *Limit on combining assistance received under Chapter 31 with assistance under another program.* No person may receive assistance under chapter 31, title 38, United States Code in combination with any provisions of law listed in paragraph (a) of this section in excess of 48 months (or the part-time equivalent) unless the Veterans Administration determines that additional months of benefits under chapter 31 are necessary to accomplish the purpose of the veteran's rehabilitation program (38 U.S.C. 1795(b)).

17. Section 21.4022 is amended as follows:

A. By removing the words "his" and "he" and inserting the words "his or her" and "he or she" respectively in the first sentence of paragraph (a).

B. By revising paragraph (b) as set forth below:

§ 21.4022 Nonduplication—38 U.S.C. Chs. 31, 34, and 35.

* * * * *

(b) *Prior training.* If a veteran, who is also an eligible person, has received educational assistance under chapter 34 and 35, the program previously pursued will be utilized to the fullest extent practicable in determining the character and duration for which enrollment may be approved under the other chapter (38 U.S.C. 1671, 1721).

18. Section 21.4025 is amended as follows:

A. By removing the word "him" and inserting the words "him or her" in paragraphs (a)(2) and (b)(3).

B. By removing the word "he" and inserting the words "he or she" in paragraph (b)(1).

C. By revising paragraph (b)(2) as follows:

§ 21.4025 Nonduplication—Federal programs.

* * * * *

(b) *Chapter 34.* Payment of educational assistance allowance is prohibited to an otherwise eligible veteran:

* * * * *

(2) For a unit course or courses which are being paid for in whole or in part by the Department of Health and Human Services during any period that he or she is on active duty with the Public Health Service; or (38 U.S.C. 1781)

* * * * *

19. In § 21.4102, paragraph (a) is revised as follows:

§ 21.4102 Requirement—38 U.S.C. Chapter 35.

(a) *Child.* Counseling is required for an eligible child if:

(i) The eligible child may require specialized vocational or special restorative training, or

(ii) the eligible child has reached the compulsory school attendance age under State law, but has neither reached his or her 18th birthday nor completed secondary schooling (See § 21.3040(a)).

(2) In all other cases the counseling psychologist will assist in preparing an educational plan only of the eligible child, or his or her parent or guardian requests assistance (38 U.S.C. 1720, 1736, 1741, 1761).

* * * * *

20. Section 21.4105 is revised as follows:

§ 21.4105 Special training—38 U.S.C. Chapter 35.

(a) *Initial counseling.* A counseling psychologist in the Vocational Rehabilitation and Counseling Divison will counsel a handicapped person before a case is considered by the Vocational Rehabilitation Board (established under § 21.715 to determine need for a course of specialized vocational training or special restorative training (38 U.S.C. 1736).

(b) *Counseling after special restorative training.* When an eligible child completes or discontinues a course of special restorative training without having selected an objective and a program of education, a counseling psychologist in the Vocational Rehabilitation and Counseling Division will provide additional counseling to assist the child in selecting a program of education (38 U.S.C. 1761).

21. Section 21.4130 is revised as follows:

§ 21.4130 Educational assistance allowance.

(a) *Payments of educational assistance allowance.* The Veterans Administration will pay educational assistance allowance at the rate specified in §§ 21.4136 or 21.4137 while the veteran or eligible person is pursuing a program of education or training (38 U.S.C. 1682, 1691, 1732, 1780(a)).

(b) *Excessive absences cause reduced payments.* Except for apprenticeship and other on-the-job training programs, the Veteran Administration will make no payment for excessive absences (as determined under § 21.4205(b) from a course not leading to a standard college degree. (See § 21.4136(i) and § 21.4137(f) for proportionate reduction where less than 120 hours are completed during a month in apprenticeship and other on-job training programs.) (38 U.S.C. 1780(a)).

(c) *No payment for excessive training.* (1) The Veterans Administration will make no payment for:

(i) Training in an apprenticeship or other on-job training program in excess of the number of hours approved by the State approving agency or Veterans Administration; or

(ii) Lessons completed in a correspondence course in excess of the number approved by the State approving agency;

(2) A school's standards of progress may permit a student to repeat a course or portion of a course in which he or she has done poorly. The Veterans

Administration considers the repeated courses to be part of the program of education. The Veterans Administration will make no payment for:

(i) Flight training beyond the approved length of the course or beyond repeated portions of the approved course permitted by the flight school's approved standards of progress; or

(ii) Training in any course if the training is not part of the veteran's or eligible person's program of education (38 U.S.C. 1652).

(d) *Commencing date.* The commencing date will be the date of entrance or reentrance into a course as determined under § 21.4132 (38 U.S.C. 1681(a), 1780(a)).

(e) *Ending date.* The ending date will be the earliest of the following dates:

(1) The ending date of the course or period of enrollment as certified by the school.

(2) The ending date of:

(i) The veteran's eligibility as determined by §§ 21.1041, 21.1042, and 21.1043, or

(ii) The ending date of the eligible person's eligibility as determined under §§ 21.3041, 21.3042, and 21.3046.

(3) The ending date specified in § 21.4135 (38 U.S.C. 1662(a), 1681(a), 1780(a)).

(f) *Final payment.* The Veterans Administration may withhold final payment until the Veterans Administration receives proof of continued enrollment and adjusts the veteran's or eligible person's account (38 U.S.C. 1780).

22. In § 21.4131, paragraphs (b) and (g) are revised and paragraphs (h) and (i) are added so that the added and revised material reads as follows:

§ 21.4131 Commencing dates.

The commencing date of an award or increased award of educational assistance allowance will be determined under this section.

* * * * *

(b) *Certification by school; course leads to standard college degree.* (1) When the student enrolls in any course or subject other than one described in paragraph (b) (2) and (3) of this section, the commencing date of the award or increased award of educational assistance allowance will be:

(i) The date of registration in the term, quarter or semester.

(ii) The date of reporting when the student is required by published standards to report in advance of registration.

(2) When the student enrolls in a resident course or subject and the first day of classes does not occur before the end of the first regularly scheduled calendar week of classes during a term, quarter or semester, the commencing date of the award or increased award of educational assistance allowance will be the first day of classes.

(3) When the student enrolls in a resident course or subject and the first day of classes is more than 14 days after the date of registration, the commencing date of the award or increased award of educational assistance allowance will be the first day of classes (38 U.S.C. 1681(a), 1780(a)).

* * * * *

(g) *Correction of military records (§§ 21.1042(b), 21.3042(b)).* Eligibility of a veteran may arise as the result of correction or modification of military records under 10 U.S.C. 1552, or change, correction or modification of a discharge or dismissal under 10 U.S.C. 1553, or other competent military authority. In these cases the commencing date of educational assistance allowance will be in accordance with the facts found, but not earlier than the date the change, correction or modification was made by the service department (38 U.S.C. 1662(b)).

(h) *Individuals in a penal institution.* (1) If a veteran or eligible person is paid a reduced rate of educational assistance allowance under § 21.4136 (p) or (q) or § 21.4137(k), because he or she is incarcerated in a prison or jail, the rate will be increased to the monthly rate otherwise applicable effective the earlier of the following dates:

(i) The date the tuition and fees are no longer being paid under another Federal program, or a State or local program, or

(ii) The date of the release from prison or jail.

(2) If a veteran or eligible person must be paid a reduced rate of educational assistance allowance under §§ 21.4136(r) or 21.4137(l) because he or she is incarcerated in a penal institution following a felony conviction, the rate will be increased to the monthly rate otherwise applicable effective the date of release from a penal institution (38 U.S.C. 1682(g), 1732, 1780(a)).

(i) *Individuals in a work-release program or halfway house.* If a veteran or eligible person is being paid a reduced rate of educational assistance allowance under §§ 21.4136(r) or 21.4137(l) because he or she is in a work-release program or halfway house because of a conviction for a felony, the rate will be increased to the monthly rate otherwise applicable effective the earlier of the following dates:

(1) The date on which the Federal Government or a State or local government stops paying all of his or her living expenses, or

(2) The date of the release or parole of the veteran or eligible person from the halfway house or work-release program (38 U.S.C. 1682(g), 1732, 1780(a)).

§ 21.4131 [Amended]

23. Immediately following § 21.4131 the cross reference "Special restorative training. See § 21.3331" is removed.

24. In § 21.4135, paragraphs (m), (s)(3), and (x) are added to read as follows:

§ 21.4135 Discontinuance dates.

* * * * *

(m) *Incarceration in prison or jail.* If a veteran or eligible person becomes restricted to payment of a reduced rate of educational assistance allowance under § 21.4136 (p) or (q) or § 21.4137(k), the reduced rate will be effective:

(1) The date the veteran or eligible person is incarcerated in prison or jail, or

(2) The commencing date of the award as determined by § 21.4131, whichever occurs later. (38 U.S.C. 168.2(g), 1732, 1780(a))

* * * * *

(s) *Reduction in rate of pursuit of course (§ 21.4270).* * * *

(3) An individual, who enrolls in several subjects and reduces his or her rate of pursuit by completing one or more of them while continuing training in the others, may receive an interval payment based on the subjects completed, if the requirements of § 21.4138(f) are met. If those requirements are not met, the Veterans Administration will reduce the individual's benefits effective the date the subject or subjects were completed (38 U.S.C. 1780).

* * * * *

(x) *Individuals in a work-release program or halfway house.* If a veteran or eligible person becomes restricted to payment at a reduced rate of educational assistance under § 21.4136(r) or § 21.4137(l), because he or she is in a work-release program or halfway house following a felony conviction, the reduced rate will be effective the latest of the following dates:

(1) The date on which he or she was placed in the work-release program or halfway house,

(2) The date the Federal Government or State or local government began defraying all of his or her living expenses, or

(3) The commencing date of his or her award as determined by § 21.4131 (38 U.S.C. 1682(g), 1732, 1780(g)).

25. In § 21.4136, paragraphs (a), (c), (h), and (j)(1) are revised, paragraphs (l), (m), (n), (o), (p), (q), (r), (s), and (t) are

added and paragraph (j)(4) is removed. The added and revised material reads as follows:

§ 21.4136 Rates; educational assistance allowance; 38 U.S.C. Chapter 34.

(a) *Rates.* (1) Educational assistance allowance is payable at the following monthly rates effective October 1, 1980:

Type of courses	Monthly rate			
	No dependents	1 dependent	2 dependents	Additional for each additional dependent
Institutional:				
Full time	$327	$389	$443	$27
¾ time	245	292	332	20
½ time	164	195	222	14
Less than ½ but more than ¼ time [1]	[2] 164			
¼ time or less	[2] 82			
Cooperative, other than farm cooperative (full time only)	264	309	351	21
Apprentice or on-job (full time only but see footnote [3] below.)				
Payment designated training assistance allowance:				
First 6 months	237	267	291	13
Second 6 months	177	207	232	13
Third 6 months	119	148	172	13
Fourth 6 months and succeeding periods	59	88	113	13
Correspondence	(4)	(4)	(4)	(4)
Flight training	(5)	(5)	(5)	(5)
Farm Cooperative:				
Full time	264	309	351	20
¾ time	198	232	263	15
½	132	155	176	10

[1] If a veteran under chapter 34 receiving benefits under § 21.4280(b)(2) completes his or her program before the designated completion time, his or her award will be recomputed to permit payment of tuition and fees not to exceed $164 or $82, as appropriate, per month if the maximum allowance is not initially authorized.

[2] See paragraph (b) of this section.

[3] See footnote 5 of § 21.4270(b) for measurement of full time and paragraph (i) of this section for proportionate reduction in award for completion of less than 120 hours per month.

[4] 70 percent of the established charge for number of lessons completed by the veteran and serviced by the school. Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan approving agency or the actual cost for the eligible veteran, whichever is the lesser. Enrollments before January 1, 1973, will receive 100 percent of the established charges. Enrollments after December 31, 1972 and before September 2, 1980 will receive 90 percent of the established charges provided the student remains continuously enrolled in his or her program. The Veterans Administration considers the continuity of an enrollment broken when there are more than 6 months between the servicing of lessons—Allowance paid quarterly. See § 21.1045(g).

[5] 60 percent of the established charges for tuition and fees which similarly circumstanced nonveterans enrolled in the same flight course are required to pay. If a veteran or serviceperson enrolls in a flight course before September 2, 1980, he or she will receive 90 percent of the established charge for the course, provided he or she remains continuously enrolled in his or her program. The Veterans Administration will consider the continuity of enrollment broken when the veteran or serviceperson receives no flight training for a period of 6 or more consecutive months. Allowance paid monthly based on actual flight training received. See § 21.1045(e).

(38 U.S.C. 1677, 1682, 1786, 1787)

(2) Educational assistance allowance is payable at the following monthly rates effective January 1, 1981:

Type of courses	Monthly rate			
	No dependents	1 dependent	2 dependents	Additional for each additional dependent
Institutional:				
Full time	$342	$407	$464	$29
¾ time	257	305	348	22
½ time	171	204	232	15
Less than ½ but more than ¼ time [1]	[2] 171			
¼ time or less [1]	[3] 86			
Cooperative, other than farm cooperative (full time only)	276	323	367	21
Apprentice or on-job (full time only but see footnote [3] below.)				
Payment designated training assistance allowance:				
First 6 months	249	279	305	13
Second 6 months	186	217	243	13
Third 6 months	124	155	180	13
Fourth 6 months and succeeding periods	62	92	119	13
Correspondence	(4)	(4)	(4)	(4)
Flight training	(5)	(5)	(5)	(5)
Farm Cooperative:				
Full time	276	323	367	21
¾ time	207	242	275	16
½ time	138	162	184	11

[1] If a veteran under chapter 34 receiving benefits under § 21.4280(b)(2) completes his or her program before the designated completion time, his or her award will be recomputed to permit payment of tuition and fees not to exceed $171 or $86, as appropriate, per month if the maximum allowance is not initially authorized.

[2] See paragraph (b) of this section.

[3] See footnote 5 of § 21.4270(b) for measurement of full time and paragraph (i) of this section for proportionate reduction in award for completion of less than 120 hours per month.

[4] 70 percent of the established charge for number of lessons completed by the veteran and serviced by the school. Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost for the eligible veteran, whichever is the lesser. Enrollments before January 1, 1973 will receive 100 percent of the established charges. Enrollments after December 31, 1972 and before September 2, 1980 will receive 90 percent of the established charges provided the student remains continuously enrolled in his or her program. The Veterans Administration considers the continuity of an enrollment broken when there are more than 6 months between the servicing of lessons—Allowance paid quarterly. See § 21.1045(g).

[5] 60 percent of the established charges for tuition and fees which similarly circumstanced nonveterans enrolled in the same flight course are required to pay. If a veteran or serviceperson enrolls in a flight course before September 2, 1980, he or she will receive 90 percent of the established charge for the course, provided he or she remains continuously enrolled in his or her program. The Veterans Administration will consider the continuity of enrollment broken when the veteran or serviceperson receives no flight training for a period of 6 or more consecutive months. Allowance paid monthly based on actual flight training received. See § 21.1045(e). (38 U.S.C. 1677, 1682, 1786, 1787)

* * * * *

(c) *Active duty.* The monthly rate for an individual who is pursuing a program of education while on active duty may not exceed the lesser of the following rates:

(1) The monthly rate of the cost of the course as specified in paragraph (b) of this section, or

(2) The appropriate rate from this table:

Measurement	Rates effective Oct. 1, 1980	Rates effective Jan. 1, 1981
Full time	$327	$342
¾ time	245	257
½ time	164	171
Lesss than ½ but more than ¼ time	164	171
¼ time or less	82	86

(38 U.S.C.1682)

* * * * *

(h) *Payment.* (1) The Veterans Administration will pay educational assistance allowance in a lump sum for an entire term, quarter or semester at the rates specified in paragraphs (b) and (c) of this section to or on behalf of a serviceperson who—

(i) Is training on a less than half-time basis, and

(ii) Is enrolled in an institution operating on a term, quarter or semester basis.

(2) The Veterans Administration will make these payments during the month immediately following the month in which Veterans Administration receives certification from the educational institution that the serviceperson has enrolled in and is pursuing a program at the institution. (38 U.S.C. 1780(d)

* * * * *

(j) *Advance payment.* (1) *Eligibility.* The Veterans Administration shall pay educational assistance allowance at the rates specified in paragraph (a) of this section to an eligible veteran, or serviceperson on active duty enrolled in an approved educational institution on a half-time or more basis. (38 U.S.C. 1780)

* * * * *

(l) *Courses leading to a secondary school diploma or equivalency certificate.* (1) The monthly rate of educational assistance allowance payable to a serviceperson enrolled in a course leading to a secondary school diploma or an equivalency certificate

shall be the rate specified in paragraph (c) of this section.

(2) The monthly rate of educational assistance allowance payable to a veteran, not on active duty, who is enrolled in a course leading to a secondary school diploma or equivalency certificate shall be determined as follows:

(i) The monthly rate shall be the rate for institutional training stated in paragraph (a) of this section if—

(A) The veteran was enrolled in the course on October 1, 1980, and

(B) The veteran has remained continuously enrolled after October 1, 1980 in courses leading to a secondary school diploma or an equivalency certificate.

(ii) If the veteran's enrollment does not meet the requirements of paragraph (1)(2)(i) of this section, the veteran may elect to receive either of the following sets of monthly rates:

(A) The first set is either the monthly rate of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same program, or the monthly rate for institutional training found in paragraph (a) of this section, whichever is less.

(B) The second set of monthly rates is the monthly rate for institutional training found in paragraph (a) of this section. See § 21.1045 for the way in which this election will affect the charge against the veteran's entitlement. (38 U.S.C. 1691)

(m) *Incarcerated veterans—general.* Notwithstanding the provisions of paragraphs (a) and (c) of this section, some incarcerated veterans and servicepersons may have their educational assistance allowance terminated or reduced. (38 U.S.C. 1682(g), 1780(a))

(n) *No educational assistance allowance for some incarcerated servicepersons.* As with servicepersons who are not incarcerated, the Veterans Administration will not pay educational assistance allowance to an incarcerated serviceperson enrolled in a course for which there are no tuition and fees. Furthermore, effective October 1, 1980, the Veterans Administration will not pay educational assistance allowance to a serviceperson who—

(1) Is incarcerated in a Federal, State or local prison or jail, and

(2) Is enrolled in a course where his or her tuition and fees are being paid for by a Federal program (other than one administered by the Veterans Administration) or by a State or local program. (38 U.S.C. 1780(a))

(o) *No educational assistance allowance for some incarcerated veterans.* (1) *Other than conviction of a felony.* The Veterans Administration will pay no educational assistance allowance to a veteran who—

(i) Is incarcerated in a Federal, State or local prison or jail for a reason other than conviction of a felony, and

(ii) Is enrolled in a course—

(A) For which there are no tuition or fees, or

(B) For which tuition and fees are being paid by a Federal program (other than one administered by the Veterans Administration) or by a State or local program.

(2) *Conviction of a felony.* The Veterans Administration will pay no educational assistance allowance to a veteran who—

(i) Either—

(A) Is incarcerated in a Federal, State or local penal institution for conviction of a felony, or

(B) Is in a halfway house or work-release program for conviction of a felony and is having all of his or her living expenses defrayed by a Federal, State or local government, and

(ii) Is enrolled in a course—

(A) For which there are no tuition or fees, or

(B) For which tuition and fees are being paid by a Federal program (other than one administered by the Veterans Administration) or by a State or local program, and

(iii) Either—

(A) Is pursuing the course on a less than half-time basis, or

(B) Is incurring no charge for the books, supplies and equipment necessary for the course. (38 U.S.C. 1682(g), 1780(a))

(p) *Reduced educational assistance allowance for some incarcerated servicepersons.* (1) Effective October 1, 1980, the Veterans Administration will pay reduced educational assistance allowance to a serviceperson who—

(i) Is incarcerated in a Federal, State or local prison or jail, and

(ii) Is enrolled in a course where his or her tuition and fees are being paid for in part by a Federal program (other than one administered by the Veterans Administration) or by a State or local program.

(2) The monthly rate of educational assistance allowance payable to such a serviceperson shall equal the lesser of the following:

(i) The monthly rate of the tuition and fees being charged for the course less the monthly rate of the portion of the tuition and fees being paid for by the Federal, State or local program, or

(ii) The monthly rate found in paragraph (c)(2) of this section. (38 U.S.C. 1780(a))

(q) *Reduced educational assistance allowance for some incarcerated veterans—no felony conviction.* (1) The Veterans Administration will pay reduced educational assistance allowance to a veteran who—

(i) Is incarcerated in a Federal, State or local prison or jail for a reason other than conviction of a felony, and

(ii) Is enrolled in a course where the tuition and fees are being paid for in part by a Federal program (other than one administered by the Veterans Administration) or by a State or local program.

(2) The monthly rate of educational assistance allowance payable to such a veteran shall be determined as follows:

(i) If the monthly rate of the cost of the tuition and fees does not exceed the monthly rate found in paragraph (a) of this section, then the monthly rate of educational assistance allowance payable is the monthly rate found in paragraph (a) of this section less the monthly rate of that portion of the tuition and fees paid for by the Federal, State or local government program.

(ii) In all other cases the monthly rate of educational assistance allowance shall be the lesser of the following:

(A) The monthly rate found in paragraph (a) of this section, or

(B) The monthly rate of the tuition and fees being charged for the course less the monthly rate of the portion of the tuition and fees being paid for by the Federal, State or local government program. (38 U.S.C. 1780(a))

(r) *Reduced educational assistance allowance for some incarcerated veterans—felony conviction.* (1) The Veterans Administration will pay a reduced educational assistance allowance to a veteran who—

(i) Either—(A) Is incarcerated in a Federal, State or local penal institution for conviction of a felony, or

(B) Is in a halfway house or work-release program for conviction of a felony and all living expenses are defrayed by a Federal, State or local government, and

(ii) Is enrolled in a course—

(A) For which there are some charges for tuition and fees which the veteran must pay, or

(B) That requires supplies, books or equipment for which the veteran must pay, or

(C) Both, and

(iii) Is pursuing the course on a half-time or greater basis.

(2) The monthly rate of educational assistance allowance payable to such a veteran shall equal the lesser of the following:

(i) The monthly rate of tuition and fees charged for the course plus the monthly rate of the cost of necessary supplies, books and equipment, or

(ii) The monthly rate stated in paragraph (a) of this section for a veteran with no dependents. (38 U.S.C. 1682(g))

(s) *Payment for independent study.* The Veterans Administration shall pay to a veteran who is pursuing only independent study under chapter 34, title 38, United States Code, an educational assistance allowance based on the training time determined in § 21.4272(h) at the rate prescribed in paragraphs (a) and (b) of this section. (38 U.S.C. 1682)

(t) *Payment for independent study-resident training.* A veteran who is pursuing independent study-resident training under chapter 34, title 38, United States Code, shall be paid an educational assistance allowance based on the training time determined in § 21.4272(i) at the institutional rate prescribed in paragraph (a) of this section. (38 U.S.C. 1682)

26. In § 21.4137, paragraphs (a) is revised and paragraphs (i), (j), (k), (l), (m), (n) and (o) are added so that the added and revised material reads as follows:

§ 21.4137 Rates; educational assistance allowance—38 U.S.C. Chapter 35.

(a) *Rates.* Educational assistance allowance is payable at the following monthly rates:

Type of courses	Monthly rate effective October 1, 1980	Monthly rate effective January 1, 1981
Institutional:		
Full time	$327	$342
¾ time	245	257
½ time	164	171
Less than ½ but more than ¼ time[3]	164	171
¼ time or less[3]	82	86
Cooperative (other than farm cooperative) full time only)	264	276
Apprentice or on-job (full time only but see footnote[1] below) payment designated training assistance allowance:		
First 6 months	237	249
Second 6 months	177	186
Third 6 months	119	124
Fourth 6 months and succeeding periods	59	62
Farm Cooperative:		
Full time	264	276
¾ time	198	207
½ time	132	138
Correspondence	[2]	[2]

[1] See footnote [5] of § 21.4270(b) for measurement of full time and paragraph (f) of this section for proportionate reduction in award for completion of less than 120 hours per month.

[2] 70 percent of established charge for number of lessons completed by eligible spouse or surviving spouse and serviced by the school. Established charges means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost for the eligible spouse or surviving spouse, whichever is the lesser. Eligible spouses or surviving spouses who enroll before September 2, 1980 will receive 90 percent of the established charges, provided the student remains continuously enrolled in his or her program. The Veterans Administration considers the continuity of an enrollment broken when there are more than 6 months between the servicing of lessons. Allowance paid quarterly. (38 U.S.C. 1734, 1786)

[3] If an eligible person under chapter 35 receiving benefits under paragraph (n) of this section completes his or her program before the designated completion time, his or her award will be recomputed to permit payment of tuition and fees not to exceed $164 or $82 as appropriate per month, effective October 1, 1980, and $171 or $86 as appropriate per month, effective January, 1, 1981 if the maximum allowance is not initially authorized. (38 U.S.C. 1732(c)(3).

* * * * *

(i) *Incarcerated eligible persons—general.* Notwithstanding the provisions of paragraph (a) of this section, some incarcerated eligible persons may have their educational assistance allowance eliminated or reduced. (38 U.S.C. 1732(e), 1780(a))

(j) *No educational assistance allowance for some incarcerated eligible persons*—(1) *Other than conviction of a felony.* The Veterans Administration will pay no educational assistance allowance to an eligible person who—

(i) Is incarcerated in a Federal, State or local prison or jail for a reason other than for conviction of a felony, and

(ii) Is enrolled in a course—

(A) For which there are no tuition or fees, or

(B) Which has tuition and fees that are being paid for by a Federal program (other than one administered by the Veterans Administration) or by a State or local program.

(2) *Conviction of a felony.* The Veterans Administration will pay no educational assistance allowance to an eligible person who—

(i) Either—

(A) Is incarcerated in a Federal, State or local penal institution for conviction of a felony, or

(B) Is in a halfway house or work-release program for conviction of a felony and is having all of his or her living expenses are defrayed by a Federal, State or local government, and

(ii) Is enrolled in a course—

(A) For which there are no tuition or fees, or

(B) For which tuition and fees are being paid by a Federal program (other than one administered by the Veterans Administration) or by a State or local program, and

(iii) Either—

(A) Is pursuing the course on a less than half-time basis, or

(B) Is incurring no charge for the books, supplies and equipment necessary for the course. (38 U.S.C. 1732(e), 1780(a))

(k) *Reduced educational assistance allowance for some incarcerated eligible persons—no felony conviction.* (1) The Veterans Administration will pay reduced educational assistance allowance to an eligible person who—

(i) Is incarcerated in a Federal, State or local prison or jail for a reason other than conviction of a felony, and

(ii) Is enrolled in a course where the tuition and fees are being paid in part by a Federal program (other than one administered by the Veterans Administration) or by a State or local program.

(2) The monthly rate of educational assistance allowance payable to such an eligible person shall be determined as follows:

(i) If the monthly rate of the cost of the tuition and fees does not exceed the monthly rate found in paragraph (a) of this section, then the monthly rate of educational assistance allowance payable is the monthly rate found in paragraph (a) of this section less the monthly rate of that portion of the tuition and fees paid by the Federal, State or local government program.

(ii) In all other cases the monthly rate of educational assistance allowance shall be the lesser of the following:

(A) The monthly rate found in paragraph (a) of this section, or

(B) The monthly rate of the tuition and fees being charged for the course less the monthly rate of the portion of the tuition and fees being paid by the Federal, State or local government program. (38 U.S.C. 1780(a))

(l) *Reduced educational assistance allowance for some incarcerated eligible persons—felony conviction.* (1) The Veterans Administration will pay a reduced educational assistance allowance to an eligible person who—

(i) Either—

(A) Is incarcerated in a Federal, State or local penal institution for conviction of a felony, or

(B) Is in a halfway house or work-release program for conviction of a felony and all living expenses paid by a Federal, State or local government, and

(ii) Is enrolled in a course—

(A) For which there are some charges for tuition or fees which the eligible person must pay, or

(B) That requires supplies, books or equipment for which the eligible person must pay, or

(C) Both, and

(iii) Is pursuing the course on a half-time or greater basis.

(2) The monthly rate of educational assistance allowance payable to such an eligible person shall equal the lesser of the following:

(i) The monthly rate of tuition and fees charged for the course plus the monthly rate of the cost of necessary supplies, books and equipment, or

(ii) The monthly rate stated in paragraph (a) of this section. (38 U.S.C. 1732(e))

(m) *Courses leading to a secondary school diploma or equivalency certificate.* The monthly rate of educational assistance allowance payable to an eligible spouse or surviving spouse enrolled in a course leading to a secondary school diploma or equivalency certificate shall be as follows:

(1) The monthly rate shall be the rate for institutional training stated in paragraph (a) of this section if—

(i) The eligible spouse or surviving spouse was enrolled in the course on October 1, 1980, and

(ii) The eligible spouse or surviving spouse has remained continuously enrolled after October 1, 1980 in courses leading to a secondary school diploma or an equivalency certificate.

(2) If the eligible spouse's enrollment does not meet the requirements of paragraph (m)(1) of this section, the eligible spouse may elect to receive either of the following sets of monthly rates:

(i) The first set is either—

(A) The monthly rate of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same program, or

(B) The monthly rate for institutional training found in paragraph (a) of this section, whichever is less.

(ii) The second set of monthly rates is the monthly rate for institutional training found in paragraph (a) of this section. See § 21.1045 for the way in which this election will affect the charge against the eligible spouse's or surviving spouse's entitlement. (38 U.S.C. 1691, 1733)

(n) *Payment for independent study.* The Veterans Administration shall pay to an eligible person pursuing only independent study under chapter 35, title 38, United States Code, an educational assistance allowance based on the training time determined in § 21.4272(h) at the rate prescribed in paragraphs (a) and (b) of this section. (38 U.S.C. 1732)

(o) *Payment for independent study-resident training.* An eligible person pursuing independent study-resident training under chapter 35, title 38, United States Code, shall be paid an educational assistance allowance based on the training time determined in § 21.4272(i) at the rate prescribed in paragraph (a) of this section. (38 U.S.C. 1732)

27. In § 21.4138, paragraphs (a) and (b) are revised as follows:

§ 21.4138 Certifications and release of payments.

* * * * *

(a) *Lump sum—in advance.* (1) A certification by an institution that the eligible individual has enrolled will be sufficient to release an advance lump-sum payment to or on behalf of the individual for the entire quarter, semester or term if—

(i) The individual is a serviceperson on active duty training on a half-time or greater basis, and

(ii) The individual has requested an advance payment.

(2) The Veterans Administration will make an advance lump-sum payment no earlier than 30 days prior to the date the individual's program of training is to begin. (38 U.S.C. 1780(d))

(b) *Lump-sum—in month following.* Such a certification by an institution will be sufficient to release the payment of a lump sum to or on behalf of the individual for the entire quarter, semester or term in the month following receipt of the certification by the Veterans Administration provided the individual is:

(1) A serviceperson on active duty training on a less than half-time basis,

(2) A veteran or other eligible person not on active duty and training on a less than half-time basis,

(3) A serviceperson on active duty and training on a half-time or greater basis, who has not requested an advance payment. (38 U.S.C. 1691, 1780)

* * * * *

28. Section 21.4139 is revised as follows:

§ 21.4139 Payee.

(a) *Educational assistance allowance—Chapter 34.* The Veterans Administration will make payment to the veteran or to a duly appointed fiduciary. The Veterans Administration may make direct payment to the veteran even if he or she is a minor. (38 U.S.C. 1780)

(b) *Educational assistance—Chapter 35.* (1) The Veterans Administration will make payment to the eligible person if—

(i) He or she has attained majority and has no known legal disability, or

(ii) It is in his or her best interests, and there is no reason not to designate the eligible person as payee. The Veterans Administration may pay minors under this provision.

(2) When the eligible person is not designated as payee, the Veterans Administration will make payments to—

(i) The eligible person's parent or guardian,

(ii) A fiduciary, or

(iii) Some other suitable person. (38 U.S.C. 1780)

29. In § 21.4140, paragraphs (c), (d) and (e) are added as follows:

§ 21.4140 Apportionment.

* * * * *

(c) *Effects of veteran's incarceration on apportionment.* Whether a veteran's incarceration affects an apportionment of his or her educational assistance allowance depends upon the circumstances surrounding the incarceration and the date the Veterans Administration made the apportionment. (38 U.S.C. 3107(c))

(d) *Apportionment—incarceration due to a felony conviction.* (1) The provisions of this paragraph apply to a veteran whose educational assistance allowance is terminated or reduced because—

(i) The veteran is incarcerated in a Federal, State or local penal institution for conviction of a felony, or

(ii) The veteran is in a halfway house or work-release program for conviction of a felony, and all of his or her living expenses are being defrayed by the Federal government or a State or local government.

(2) The Veterans Administration will terminate the apportionment of the veteran's educational assistance allowance if—

(i) The Veterans Administration made the apportionment after October 16, 1980, or

(ii) The Veterans Administration made the apportionment before October 17, 1980, but it did not continue through all subsequent apportionable periods.

(3) The Veterans Administration will continue the apportionment of the veteran's educational assistance allowance if—

(i) The Veterans Administration made the apportionment before October 17, 1980, and

(ii) The veteran remains enrolled in training at a rate which would otherwise suppot the apportioned amount.

(4) The Veterans Administration may reduce the apportionment of the educational assistance allowance of a veteran described in paragraph (d)(3) of this section, as in the case of any apportionment, when circumstances change. (38 U.D.C. 3107(c))

(e) *Apportionment—incarceration for reasons other than felony conviction.* (1) The provisions of this paragraph apply to a veteran whose educational assistance allowance is terminated or reduced while he or she is incarcerated in a Federal, State or local prison or jail for reasons other than a felony conviction.

(2) The Veterans Administration will terminate the apportionment of the

veteran's educational assistance allowance if the educational assistance allowance is either—

(i) Terminated, or

(ii) Reduced below the amount that would otherwise be payable to a veteran with no dependents.

(3) The Veterans Administration may reduce the apportionment of the veteran's educational assistance allowance if the allowance is reduced below the amount which the veteran would have received had the veteran not beeen incarcerated but above the amount that would otherwise be payable to a veteran with no dependents. (38 U.S.C. 3107(c))

30. In § 21.4145, paragraphs (a), (b) and (d) are revised and paragraphs (e), (f), (g), (h) and (i) are added so that the added and revised material reads as follows:

§ 21.4145 Veteran-student services.

(a) *Eligibility.* Veterans pursuing full-time programs of education or training under chapter 34 are eligible to receive a work-study allowance. (38 U.S.C. 1685)

(b) *Selection criteria.* Whenever feasible, the Veterans Administration will give priority in selection for this allowance to veterans with service-connected disabilities rated at 30 percent or more. The Veterans Administration shall consider the following additional selection criteria:

(1) Need of the veteran to augment his or her educational assistance allowance;

(2) Availability to the veteran of transportation to the place where his or her services are to be performed;

(3) Motivation of the veteran; and

(4) Compatibility of the work assignment to the veteran's physical condition. (38 U.S.C. 1685)

* * * * *

(d) *Rate of payment.* (1) In return for the veteran's agreement to perform services for the Veterans Administration totaling 250 hours during an enrollment period, the Veterans Administration will pay an allowance in an amount equal to the higher of—

(i) The hourly minimum wage in effect under section (6)(a) of the Fair Labor Standards Act of 1938 times 250, or

(ii) $625.

(2) The Veterans Administration will pay proportionately less to veterans who agree to perform a lesser number of hours of services. (38 U.S.C. 1685)

(e) *Payment in advance.* The Veterans Administration will pay in advance an amount equal to 40 percent of the total amount payable under the contract. (38 U.S.C. 1685)

(f) *Veteran reduces rate of training.* In the event the veteran ceases to be a full-time student before completing an agreement, the veteran, with the approval of the Director of the Veterans Administration field station, or designee, may be permitted to complete the portions of an agreement in the same or immediately following term, quarter or semester in which the veteran ceases to be a full-time student. (38 U.S.C. 1685)

(g) *Veteran terminates training.* (1) If the veteran terminates all training before completing an agreement, the Director of the Veterans Administration field station or designee—

(i) May permit him or her to complete the portion of the agreement represented by the money the Veterans Administration has advanced to the veteran for which he or she has performed no services, but

(ii) Will not permit him or her to complete that portion of an agreement for which no advance has been made.

(2) The veteran must complete the portion of an agreement in the same or immediately following term, quarter or semester in which the veteran terminates training. (38 U.S.C. 1685)

(h) *Indebtedness for unperformed service.* (1) If the veteran has received an advance for hours of unperformed service, and the Veterans Administration has evidence that he or she does not intend to perform that service, the advance—

(i) Will be a debt due the United States, and

(ii) Will be subject to recovery the same as any other debt due the United States.

(2) The amount of indebtedness for each hour of unperformed service shall equal the hourly wage that formed the basis of the contract. (38 U.S.C. 1685)

(i) *Survey.* The Veterans Administration will conduct an annual survey of its regional offices to determine the number of veterans whose services can be utilized effectively. (38 U.S.C. 1685)

31. In § 21.4153, paragraphs (a), (b), (c) (1), (2), (3) and (4)(ii), the introductory text of paragraph (d) and (d)(6), (e) (1) and (2) and (f) are revised and paragraph (g) is added so that the added and revised material reads as follows:

§ 21.4153 Reimbursement of expenses.

(a) *Expenses will be reimbursed under contract*—(1) *Scope of contracts.* If a State or local agency requests payment for service contemplated by law, and submits information prescribed in paragraph (e) of this section, the Veterans Administration will negotiate a contract or agreement with the State or local agency to pay (subject to funding) reasonable and necessary expenses incurred by the State or local agency in—

(i) Determining the qualification of educational institutions and training establishments to furnish programs of education to veterans and eligible persons,

(ii) Supervising educational institutions and training establishments, and

(iii) Furnishing any other services the Veterans Administration may request in connection with the law governing Veterans Administration education benefits.

(2) *Reimbursable supervision.* Supervision will consist of the services required—

(i) To determine that the programs are furnished in accordance with the law and with any other reasonable criteria as may be imposed by the State, and

(ii) To disapprove any programs which fail to meet the law and the established criteria. (38 U.S.C. 1774)

(b) *Reimbursement.* The Chief Benefits Director and the Director, Education Service are authorized to enter into agreements necessary to fulfill the purpose of paragraph (a) of this section. See § 21.4001(b). (38 U.S.C. 212(a))

(c) *Reimbursable expenses.* * * *

(1) *Salaries.* Salaries for which reimbursement may be authorized under a contract—

(i) Will not be in excess of the established rate of pay for other employees of the State with comparable or equivalent duties and responsibilities,

(ii) Will be limited to the actual salary expense incurred by the State, and

(iii) Will include the basic salary rate plus fringe benefits, such as social security, retirement, and health, accident, or life insurance, that are payable to all similarly circumstanced State employees. (38 U.S.C. 1774)

(2) *Travel.* (i) Travel expenses for which reimbursement may be authorized under a contract will be limited to—

(A) Expenses allowable under applicable State laws or travel regulations of the State or agency;

(B) Expenses for travel actually performed by employees specified under the terms of the contract and;

(C) Either actual expenses for transportation, meals, lodging and local telephone calls, or the regular State or agency per diem allowance.

(ii) All claims for travel expenses payable under the terms of a contract must be supported by factual vouchers and all transportation allowances must be supported by detailed claims which can be checked against work assignments in the office of the State approving agency.

(iii) Reimbursement will be made for expenses of attending out-of-State meetings and conferences only if the Director, Education Service authorizes the travel. (38 U.S.C. 1774)

(3) *Administrative expenses.* The formulas contained in this sub-paragraph will determine the allowance for administrative expenses for which payment may be authorized. Salary cost is defined in paragraph (c)(1) of this section.

(i) This formula is effective Oct. 1, 1980:

Total salary cost reimbursable	Allowable for administrative expense
$5,000 or less	$662.
Over $5,000 but not exceeding $10,000.	$1,191.
Over $10,000 but not exceeding $35,000.	$1,191 for the first $10,000, plus $1,103 for each additional $5,000 or fraction thereof.
Over $35,000 but not exceeding $40,000.	$7,205.
Over $40,000 but not exceeding $75,000.	$7,205 for the first $40,000 plus $953 for each additional $5,000 or fraction thereof.
Over $75,000 but not exceeding $80,000.	$14,288.
Over $80,000	$14,288 for the first $80,000 plus $833 for each additional $5,000 or fraction thereof.

(ii) This formula is effective Jan. 1, 1981:

Total salary cost reimbursable	Allowable for administrative expense
$5,000 or less	$693.
Over $5,000 but not exceeding $10,000.	$1,247.
Over $10,000 but not exceeding $35,000.	$1,247 for the first $10,000 plus $1,155 for each additional $5,000 or fraction thereof.
Over $35,000 but not exceeding $40,000.	$7,548
Over $40,000 but not exceeding $75,000.	$7,548 for the first $40,000 plus $999 for each additional $5,000 or fraction thereof.
Over $75,000 but not exceeding $80,000.	$14,969.
Over $80,000	$14,969 for the first $80,000, plus $872 for each additional $5,000 or fraction thereof.

(38 U.S.C. 1774(b))

(4) *Subcontracts.* The State approving agency may also be reimbursed for work performed by a subcontractor provided:

* * * * *

(ii) The Director, Education Service has approved the subcontract in advance. (38 U.S.C. 1774)

(d) *Nonreimbursable expenses.* The Veterans Administration will not provide reimbursement under reimbursement contracts for:

* * * * *

(6) Expenses of a State approving agency for inspecting, approving or supervising courses when the agency is responsible for establishing, conducting or supervising those courses. (38 U.S.C. 1774)

* * * * *

(e) *Agency operating plan.* * * *

(1) The Veterans Administration will determine personnel requirements for which the Veterans Administration provides reimbursement on the basis of estimated workloads agreed upon between the Veterans Administration and the State agency. Agreements are subject to review and adjustment.

(2) Workloads will be determined upon three factors:

(i) Inspection and approval visits,

(ii) Supervisory visits, and

(iii) Special visits at the request of the Veterans Administration. (38 U.S.C. 1774)

(f) *Contract compliance.* Reimbursement under each contract or agreement is conditioned upon compliance with the standards and provisions of the contract and the law. If the Director of the VA field station of jurisdiction determines that the State has failed to comply with the standards or provisions of the law or with the terms of the reimbursement contract, he or she will withhold reimbursement for claimed expenses under the contract. If the State disagrees, the matter will be referred to the Director, Education Service (contracting officer), for review. (38 U.S.C. 1774)

(g) *Contract disputes.* The State approving agency reimbursement contract is subject to the Contract Disputes Act of 1978. Disputes arising under, or relating to, the contract will be resolved in accordance with the disputes article of the contract and with appropriate procurement regulations. (41 U.S.C. 602)

32. In § 21.4154, paragraph (a) is revised as follows:

§ 21.4154 Report of activities.

(a) *State approving agencies must report their activities.* Each State approving agency entering into a contract or agreement under § 21.4153 must submit a monthly report of its activities to the Veterans Administration. (38 U.S.C. 1774)

* * * * *

33. In § 21.4200, paragraphs (g) and (h) are revised and paragraphs (n), (o), (p), (q), (r), (s), (t) and (u) are added so that the added and revised material reads as follows:

§ 21.4200 Definitions.

* * * * *

(g) *Standard class session.* The term means the time an educational institution schedules for class each week in a regular quarter or semester for one quarter or one semester hour of credit. A standard class session is not less than 1 hour (or 50-minute period) of academic instruction, 2 hours of laboratory instruction, or 3 hours of workshop training. (38 U.S.C. 1788(c))

(h) *Institution of higher learning.* This term means—

(1) A college, university, or similar institution, including a technical or business school, offering postsecondary level academic instruction that leads to an associate or higher degree if the school is empowered by the appropriate State education authority under State law to grant an associate or higher degree.

(2) When there is no State law to authorize the granting of a degree, a school which—

(i) Is accredited for degree programs by a recognized accrediting agency, or

(ii) Is a recognized candidate for accreditation as a degree-granting school by one of the national or regional accrediting associations and has been licensed or chartered by the appropriate State authority as a degree-granting institution.

(3) A hospital offering medical-dental internships or residencies approved in accordance with § 21.4265(a) without regard to whether the hospital grants a post-secondary degree.

(4) An educational institution which—

(i) Is not located in a State,

(ii) Offers a course leading to a standard college degree or the equivalent, and

(iii) Is recognized as an institution of higher learning by the secretary of education (or comparable official) of the country in which the educational institution is located. (38 U.S.C. 1652)

* * * * *

(n) *Enrollment.* This term means the state of being on that roll, or file of a school which contains the names of active students. (38 U.S.C. 1780(g))

(o) *Pursuit of a program of education.* (1) This term means to work, while enrolled, toward the objective of a program of education. This work must be in accordance with approved institution policy and regulations and applicable criteria of title 38, United States Code; must be necessary to reach the program's objective; and must be accomplished through—

(i) Resident courses,

(ii) Independent study courses,

(iii) Correspondence courses,

(iv) An apprenticeship or other on-the-job training program,

(v) Flight courses,

(vi) A farm cooperative course,

(vii) A cooperative course, or

(viii) A graduate program of research in absentia.

(2) The Veterans Administration will consider a veteran or eligible person who qualifies under § 21.4138 for payment during an interval or school closing, or who qualifies under § 21.4205 for payment during a holiday vacation to be in pursuit of a program of education during the interval, school closing or holiday vacation. (38 U.S.C. 1780(g))

(p) *Enrollment period.* (1) This term means an interval of time during which a veteran or eligible person—

(i) Is enrolled in an educational institution; and

(ii) Is pursuing his or her program of education.

(2) This term applies to each unit course or subject in the veteran's or eligible person's program of education. (38 U.S.C. 1780(g))

(q) *Attendance.* This term means the presence of a veteran or eligible person—

(1) In the class where the approved course is being taught in which he or she is enrolled;

(2) At a training establishment; or

(3) Any other place of instruction, training or study designated by the educational institution or training establishment where the veteran or eligible person is enrolled and is pursuing a program of education. (38 U.S.C. 1780(g))

(r) *In residence on a standard quarter- or semester-hour basis.* This term means study at a site or campus of a college or university, or off-campus at an official resident center, requiring pursuit of regularly scheduled weekly class instruction at the rate of one standard class session per week throughout a standard quarter or semester for one quarter- or one semester-hour credit. (38 U.S.C. 1788(c))

(s) *Deficiency course.* This term means any secondary level course or subject not previously completed satisfactorily which is specifically required for pursuit of a post-secondary program of education. (38 U.S.C. 1691(a)(2))

(t) *Remedial course.* This term means a special course designed to overcome a deficiency at the elementary or secondary level in a particular area of study, or a handicap, such as in speech. (38 U.S.C. 1691(a)(2))

(u) *Refresher course.* This term means a course at the elementary or secondary level to review or update material previously covered in a course that has been satisfactorily completed. (38 U.S.C. 1691(a)(2))

34. In § 21.4201, paragraphs (a), (c), (d), (e)(1) (the introductory text preceding subdivision (i)), (e)(2), (f)(1) (the introductory text preceding subdivision (i)), (f)(2), (g), the introductory text of (h), (h)(1) and (h)(1)(ii) and (h)(2) are revised and paragraph (e)(4) is removed so that the revised material reads as follows:

§ 21.4201 Restrictions on enrollment; percentage of students receiving financial support.

(a) *General.* Except as otherwise provided in this section the Veterans Administration shall not approve an enrollment in any course for an eligible veteran, not already enrolled, for any period during which more than 85 percent of the students enrolled in the course are having all or part of their tuition, fees or other charges paid for them by the educational institution or by the Veterans Administration pursuant to title 38, United States Code. This restriction may be waived in whole or in part. (38 U.S.C. 1673(d))

* * * * *

(c) *Affected courses.* (1) The following courses or programs are exempt from the requirements of paragraph (a) of this section:

(i) Any farm cooperative course; and

(ii) Any course offered by a flying club established, organized and operated pursuant to regulations of a military department of the Armed Forces as "nonappropriated sundry fund activities" which are governmental instrumentalities.

(2) The provisions of paragraph (a) of this section apply to the enrollment of a serviceperson in a course leading to a high school diploma, equivalency cerificate, or a refresher, remedial or deficiency course, but they do not apply to the enrollment of a veteran in such a course.

(3) Except as provided in paragraph (c)(2) of this section, the provisions of paragraph (a) of this section do not apply to an approved course which—

(i) Is offered under contract with the Department of Defense,

(ii) Is on or immediately adjacent to a military base,

(iii) Has been approved by the State approving agency of the State—

(*a*) Where the base is located or

(*b*) Where the parent school is located if the course is oftered overseas, and

(iv) Is available only to—

(*a*) Military personnel and their dependents, or

(*b*) Military personnel, their dependents and civilian employees of a base located in a State, or

(*c*) Persons authorized by the base commander to attend the course provided the base is located outside the United States.

(4) The provisions of paragraph (a) of this section generally do not apply to a course when the total number of veterans and eligible persons receiving assistance under chapters 31, 32, 34, 35 and 36, title 38, United States Code, who are enrolled in the educational institution offering the course, equals 35 percent or less of the total student enrollment at the educational institution (computed separately for the main campus and any branch or extension of the institution. However, the provisions of paragraph (a) of this section will apply to such a course when—

(i) The course is a course of Special Assistance for the Educationally Disadvantaged and a serviceperson enrolls in it, or

(ii) The Director of the Veterans Administration field station of jurisdiction has reason to believe that the enrollment of veterans and eligible persons in the course may exceed 85 percent of the total student enrollment in the course. (38 U.S.C. 1673, 1691(c))

(d) *Applications for exemptions.* No applications are required for any exemptions except that found in paragraph (c)(4) of this section. To obtain an exemption as stated in paragraph (c)(4) of this section schools must submit reports as required in paragraph (f)(1) of this section. (38 U.S.C. 1673)

(e) *Computing the 85–15 percent ratio*—(1) *Determining when separate computations are required.* Except as provided in paragraph (c) of this section and in paragraph (e)(3) of this section, an 85–15 percent ratio must be computed for each course of study or curriculum leading to a separately approved educational or vocational objective. Computations will not be made for unit subjects, unless only one unit subject is approved by the State approving agency to be offered at a separate branch or extension of a school. Courses or curricula which are offered at separately approved branches or extensions, as well as courses or curricula leading to a secondary school diploma or equivalency certificate offered at any branch or extention, must have an 85–15 percent ratio computed separately from the same course offered at the parent institution. The count of students attending the branch may not be added to those attending the parent institution even for the same courses or curricula. However, the count of those attending courses or curricula offered at an additional facility, as opposed to a

branch or extension, must be added to those attending the same course at the parent institution. Pursuit of a course or curriculum that varies in any way from a similar course, although it may have the same designation as the other similar course or curriculum, will require a separate 85–15 percent computation. A course or curriculum will be considered to vary from another if there are different attendence requirements, required unit subjects are different, required completion length is different, etc. (38 U.S.C. 1673(d))

* * * * *

(2) *Assigning students to each part of the ratio.* Notwithstanding the provisions of paragraph (a) of this section the following students will be considererd to be nonsupported provided they are not receiving educational assistance from the Veterans Administration:

(i) Students who are not vetrerans, and are not in receipt of institutional aid.

(ii) All graduate students in receipt of institutional aid.

(iii) Students in receipt of any Federal aid (other than Veterans Administration benefits).

(iv) Undergraduates and non-college degree students receiving any assistance provided by an institution, if the institutional policy for determining the recipients of such aid is equal with respect to veterans and nonveterans alike. (38 U.S.C. 1673(d))

* * * * *

(4) [Removed]

(f) *Reports.* (1) Schools must submit to the Veterans Administration all calculations needed to support the exemption found in paragraph (c)(4) of this section. If the school is organized on a term, quarter, or semester basis, it shall make that submission no later than 30 days after the first term for which the school wants the exemption to apply. If the school is not organized on a term, quarter or semester basis, it shall make that submission no later than 30 days after the beginning of the first calendar quarter for which the school wishes the exemption to apply. A school having received an exemption found in paragraph (c)(4) of this section shall not be required to certify that 85 percent or less of the total student enrollment in any course is receiving Veterans Administration assistance: (38 U.S.C. 1673)

* * * * *

(2) The school must submit all calculations made under paragraph (e)(3) of this section to the Veterans Administration according to these time limits.

(i) If the school is organized on a term, quarter or semester basis, the calculations must be submitted no later than 30 days after the beginning of each regular school term (excluding summer sessions), or before the beginning date of the next term, whichever occurs first.

(ii) If a school is not organized on a term, quarter or semester basis, reports must be received by the Veterans Administration no later than 30 days after the end of each calendar quarter. (38 U.S.C. 1673)

(g) *Effect of the 85–15 percent ratio on processing new enrollments.* (1) The Veterans Administration will process new enrollments of eligible veterans (and servicepersons where this provision applies to them), in a course on the basis of the school's submission of the most recent computation showing that—

(i) The 85–15 percent ratio is satisfactory, or

(ii) The course is exempt under paragraph (c)(4) of this section.

(2) Except for those enrollments with a beginning date prior to or the same as the date the school completed the most recent computation, no benefits will be paid when that computation establishes that the course—

(i) Neither has a satisfactory 85–15 percent ratio, nor

(ii) Is exempt under paragraph (c)(4) of this section.

(3) If a school fails to submit a timely computation, no benefits will be paid for—

(i) The enrollment of a serviceperson in a course leading to a secondary school diploma or an equivalency certificate if the enrollment has beginning dates beyond the expiration of the allowable computation period, or

(ii) The enrollment of a veteran in any course to which the provisions of paragraph (a) of this section apply if the enrollment has beginning dates beyond the expiration of the allowable computation period.

(4) Enrollments with later beginning dates may be processed only after the school certifies that—

(i) The proper ratio has been reestablished for the course, or

(ii) The course is exempt from the requirement under paragraph (c)(4) of this section.

(5) When a school shows a reestablished 85–15 percent ratio, each new veteran enrollment or enrollment of a serviceperson in a course leading to a secondary school diploma or an equivalency certificate which is submitted after reestablishment must be individually computed into the ratio to ensure that the 85 percent limitation is not again immediately exceeded. The Veterans Administration will require individual computations until—

(i) The end of the term for which the ratio was reestablished, or

(ii) The end of the calendar quarter during which the ratio was reestablished if the school is not operated on a term, quarter or semester basis. (38 U.S.C. 1673, 1691(c))

(6) Once a student is properly enrolled in a course either before December 1, 1976 or after November 30, 1976, in a course which either meets the 85–15 percent requirement or which is exempt pursuant to paragraph (c) of this section, such a student may not have benefits for that course terminated because the 85–15 percent requirement subsequently is not met or because the course loses its exemption, as long as the student's enrollment remains continuous. A student enrolled in an institution organized on a term basis need not attend summer sessions in order to maintain continuous enrollment. An enrollment may also be considered continuous if a "break" in enrollment is wholly due to circumstances beyond the student's control such as serious illness.

(h) *Waivers.* Schools which desire a waiver of the provisions of paragraph (a) of this section for a course where the number of full-time equivalent students receiving Veterans Administration education benefits equals or exceeds 85 percent of the total full-time equivalent enrollment in the course may apply for a waiver to the Director, Education Service through the Director of the Veterans Administration field station of jurisdiction.

(1) When applying, a school must submit sufficient information to allow the Director, Education Service or the Director of the Veterans Administration field station of jurisdiction, as appropriate, to judge the merits of the request against the criteria shown in this subparagraph. This information and any other pertinent information available to the Veterans Administration shall be considered in relation to these criteria: (38 U.S.C. 1673)

* * * * *

(ii) Status of the school requesting a waiver as a developing institution primarily serving a disadvantaged population. The school should enclose a copy of the notification of developing status from the Department of Education, if applicable. Otherwise, the school should submit data sufficient to allow the Director, Education Service, or the Director of the VA field station of jurisdiction, as appropriate, to judge whether the school is similar to officially classified developing institutions according to the criteria and

data categories published in chapter VI, part 624, subpart B, Title 34, Code of Federal Regulations. The requirements of those criteria that a school be a "public or nonprofit" institution need not be met. (38 U.S.C. 1673(d))

* * * * *

(2) If a school disagrees with a field station Director's determination cencerning a waiver, it may request that the application along with the Director's recommendation be forwarded to the Director, Education Service for administrative review. (38 U.S.C. 1673(d))

35. In § 21.4202, paragraph (a) is revised as follows:

§ 21.4202 Overcharges; restrictions on enrollments.

(a) *Overcharges.* The Veterans Administration may disapprove a school for further enrollments, when the school charges or receives from a veteran or eligible person tuition and fees that exceed the established charges which the school requires from similarly circumstanced non-veterans enrolled in the same course. See § 21.4207. (38 U.S.C. 1790)

* * * * *

36. In § 21.4203, paragraphs (a) and (b)(1)(i) are revised as follows:

§ 21.4203 Reports—requirements.

(a) *General.* (1). Each educational institution, veteran and eligible person shall report without delay the entrance, reentrance, change in hours of credit or attendance, pursuit, interruption and termination of attendance of each veteran or eligible person enrolled in an approved course.

(2) In addition educationsl institutions must—

(i) Verify enrollment for each veteran and eligible person receiving an advance payment; and

(ii) Verify the delivery of advance payment check and education loan check for each veteran and eligible person receiving an advance payment or loan.

(3) Nothing in this section or in any section in Part 21 shall be construce as requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree.(38 U.S.C. 1780(d), 1784, 1785, 1798)

(b) *Entrance or reentrance.* * * *

(1) * * *

(i) The Director of the Veterans Administration field station of jurisdiction may authorize payment to be made for breaks, including intervals between terms, within a certified period of enrollment during which the school is closed under an established policy based upon an order of the President or due to an emergency situation.

(A) If the Director has authorized payment due to an emergency school closing resulting from a strike by the faculty or staff of the school, and the closing lasts more than 30 days, the Director, Education Service, will decide if payments may be continued. The decision will be based on a full assessment of the strike situation. Further payments will not be authorized if in his or her judgment the school closing will not be temporary.

(B) A school which disagrees with a desicion made under this paragraph by a Director of a Veterans Administration field station, has 1 year from the date of the letter notifying the school of the decision to request that the decision be reviewed. The request must be submitted in writing to the Director of the Veterans Administration field station where the decision was made. The Director, Education Service shall review the evidence of record and any other pertinent evidence the school may wish to submit. The Director, Education Service has the authority either to affirm or reverse a decision of the Director of a Veterans Administration field station. (38 U.S.C. 1780(a))

* * * * *

37. In § 21.4205, paragraph (c) is revised and paragraph (d) is added so that the added and revised material reads as follows:

§ 21.4205 Absences.

* * * * *

(c) *Reporting.* (1) Educational institutions, training establishments and veterans and eligible persons must report—(i) Each day of absence from scheduled attendance—including Saturday and Sunday if classes are normally scheduled for those days.

(ii) Days when the school is closed for local and school holidays.

(iii) If reported enrollment is on an ordinary school year basis, intervals between terms, quarters or semesters, and

(iv) Days of nonattendance in a farm cooperative course which occur during the prescheduled classroom instruction.

(2) Educational institutions, training establishments and veterans and eligible persons will not report—

(i) Days when the school is closed for a weekend provided classes are not normally scheduled for Saturday or Sunday.

(ii) Days when the school is closed for legal holidays or customary, reasonable vacation periods connected with them which are identified as a holiday vacation on the school approval literature. Generally, the Veterans Administration will interpret a reasonable period as not more than 1 calendar week at Christmas and 1 calendar week at New Years and shorter periods of time in connection with other legal holidays.

(iii) Days (not to exceed five in any 12-month period) when the institution is not in session because of teacher conferences or teacher training sessions, and

(iv) At the discretion of the Director of the Veterans Administration field station of jurisdiction, days of nonattendance within a certified period of enrollment during which the school is closed under an Executive Order of the President or due to an emergency situation.

(A) If the Director has authorized the nonreporting of days of absence as the result of an emergency school closing resulting from a strike by the faculty or staff of the school, and the closing lasts more than 30 days, the Director, Education Service will decide if absences will continue not to be reported. He or she will base the decision on a full assessment of the strike situation. The Veterans Administration will terminate payment of educational assistance if in the Director's judgment the school closing will not be temporary. (38 U.S.C. 1780(a))

(B) A school which disagrees with a decision made under this paragraph (c)(2)(iv) of this section by a Director of a Veterans Administration field station, has 1 year from the date of the letter notifying the school of the decision to request that the decision be reviewed. The request must be submitted in writing to the Director of the Veterans Administration field station where the decision was made. The Director, Education Service shall review the evidence of record and any other pertinent evidence the school may wish to submit. The Director, Education Service has the authority either to affirm or reverse a decision of the Director of a Veterans Administration field station. (38 U.S.C. 1780(a))

(3) The school will verify the full days of absence reported and endorse the report. In addition, the school will convert partial days of absence to full days in accordance with the following formula and report the accumulated total.

(i) Compute the average hours of daily attendance. (Divide the hours of required attendance per week by the days of required attendance per week.)

(ii) Total the absences of less than a full day which occurred during the

month. (See paragraph (c)(4) of this section.)

(iii) Divide the total hours of absence for the month (paragraph (c)(3)(ii) of this section) by the average hours of daily attendance (paragraph (c)(3)(i) of this section) to determine the full days of absence to be reported. A fractional day in the result will be dropped if it is one-half day or less and increased to the next whole day if more than one-half day.

(4) An occasional tardiness (not more than two per week) of one-half hour or less will not be counted if it is excused by the school. Tardiness which is not excused and tardiness of more than one-half hour, whether excused or not, will be counted as 1 or more hours of absence. Absences during any portion of the day will be counted, whether more or less than an hour. All early departures will be counted, even though excused. Except for an occasional tardiness of one-half hour or less which is excused by the school, any absence of less than an hour will be counted as a full hour of absence.

(5) For a farm cooperative course the absences to be reported by the veteran or eligible person and verified by the school will be those days of non-attendance which occur during a period of the prescheduled classroom instruction.

(d) *Absence accounting for transfer students.* (1) The Veterans Administration will count as absences for the purposes of this paragraph the days included in the interval between consecutive school terms within a school year when a veteran or eligible person, who is pursuing a course not leading to a standard college degree—

(i) Tranfers from one approved institution to another, and

(ii) Receives payment for the interval on the basis described in paragraph (d)(2) and (3) of this section.

(2) A veteran or eligible person remains eligible for payment for the interval if—

(i) He or she enrolls in and pursues at the second institution a course which is similar to the course he or she pursued at the first institution, and

(ii) The interval does not exceed 30 days from the termination date of the first institution's school term.

(3) For the purpose of entitlement to payment of the educational assistance allowance, the Veterans Administration considers the veteran or eligible person to be enrolled at the first institution during the interval. (38 U.S.C. 1780(a))

38. Section 21.4206 is amended as follows:

A. By removing the legal citation "38 U.S.C. 1784(b)" and inserting "38 U.S.C. 1784(c)" in paragraphs (a) and (b).

B. By adding paragraph (e) as follows:

§ 21.4206 Reporting fee.

* * * * *

(e) Before payment of a reporting fee the Veterans Administration will require an educational institution to certify that—

(1) It has exercised reasonable diligence in determining whether it or any course offered by it approved for the enrollment of veterans or eligible persons meets all of the applicable requirements of chapters 34, 35 and 36 of title 38, United States Code; and

(2) It will, without delay, report any failure to meet any requirement to the Veterans Administration. (38 U.S.C. 1784(b))

39. In § 21.4207, the introductory text of paragraph (c) is revised as follows:

§ 21.4207 Failure of school to meet requirements.

* * * * *

(c) *Referral to Central Office by the field station.* The decision will be made by Central Office if:

(38 U.S.C. 1772)

* * * * *

40. In § 21.4208, paragraphs (a) and (b) are revised as follows:

§ 21.4208 Central Office Education and Training Review Panel.

(a) *Purpose.* The panel will receive evidence and hear the testimony of witnesses and the arguments of interested parties regarding matters considered by the field station Committee on Educational Allowances and make recommendations to the Director, Education Service, on matters which are before him or her for final administrative determination under § 21.4201, § 21.4202 or § 21.4207. (38 U.S.C. 1772)

(b) *Composition of panel.* The panel will consist of one staff employee from the office of the Director, Education Service, and two persons who are not employees of the Veterans Administration chosen from a group of consultants selected for that purpose. (38 U.S.C. 1772)

* * * * *

41. In § 21.4209, paragraph (a) is revised as follows:

§ 21.4209 Examination of records.

(a) *Availability of records.* Notwithstanding any other provision of law, educational institutions must make the following records and accounts available to authorized Government representatives:

(1) Records and accounts pertaining to veterans or eligible persons who received educational assistance under chapter 31, 32, 34, 35 or 36, title 38, United States Code, and

(2) Other students' records necessary for the Veterans Administration to ascertain institutional compliance with the requirements of these chapters. (38 U.S.C. 1790)

* * * * *

42. Sections 21.4231 and 21.4232 are revised to read as follows:

§ 21.4231 Educational plan—38 U.S.C. Chapter 35—Child.

(a) *Preparation of an educational plan.* (1) An educational plan must be prepared in each case in which educational assistance is requested by or for a child.

(2) The Veterans Administration will provide the assistance of a counseling psychologist if the eligible child or a parent or guardian requests this assistance.

(3) The educational plan—

(i) Must be prepared on a prescribed Veterans Administration form,

(ii) May be submitted and signed by the eligible child if he or she is not a minor, and

(iii) Must be signed by a parent or guardian if the eligible child is a minor.

(4) The Veterans Administration will treat the plan as an integral part of the application. (38 U.S.C. 1720)

(b) *Content of the educational plan.* The educational plan will show—

(1) The objective and program selected,

(2) The school where the child will pursue the program, and

(3) The estimated cost for tuition and fees. (38 U.S.C. 1720)

(c) *Approval of the educational plan.* The Veterans Administration will finally approve the educational plan when the Veterans Administration determines that—

(1) The proposed program constitutes a program of educational as defined in § 21.4230;

(2) The eligible child is not already qualified, by reason of previous education, for the educational, professional, or vocational objective for which the program of education is offered;

(3) The eligible child's proposed educational institution or training establishment is in compliance with all the requirements of chapters 35 and 36, title 38, United States Code, and

(4) The enrollment in or pusuit of the program of education by the eligible child would not violate any provisions

of chapter 35 or 36, title 38, United States Code. (38 U.S.C. 1721)

§ 21.4232 Specialized vocational training—38 U.S.C. Chapter 35.

(a) *Eligibility requirements for specialized vocational training.* (1) The Veterans Administration may provide a program of a specialized course of vocational training to an eligible person who—

(i) Is not in need of special restorative training, and

(ii) Requires specialized vocational training because of a mental or physical handicap.

(2) The Vocational Rehabilitation Board will—

(i) Determine whether such a course is in the best interest of the eligible person;

(ii) Assist in developing the program and a suitable educational plan, if the course is in the eligible person's best interest; and

(iii) Deny the application for the program when the course is not in the eligible person's best interst.

(3) The Veterans Administration may authorize specialized vocational training for an eligible child only if the child has passed his or her 14th birthday. (38 U.S.C. 1736)

(b) *Program objective.* The objective of a program of specialized vocational training will be designated as a vocational objective.

(c) *Special assistance.* When needed, special assistance will be provided under § 21.4276.

43. In § 4233, paragraph (c)(1)(iii) is revised as follows:

§ 21.4233 Combination.

* * * * *

(c) *Televsion*—(1) *Open circuit telecast.* A program may be pursued in part by open circuit telecast when:

* * * * *

(iii) A portion of the credit hours for which the veteran or eligible person is enrolled during any semester or quarter is offered through conventional classroom or laboratory instruction or both. (38 U.S.C. 1673 (c))

* * * * *

44. In § 21.4235, paragraphs (a), (d) and (e) are revised and paragraph (j) is removed so that the revised material reads as follows:

§ 21.4235 Special assistance for the educationally disadvantaged—chapter 34.

(a) *Enrollment.* (1) The Veterans Administration may approve the enrollment of a veteran or eligible serviceperson in an elementary or secondary course of education if—

(i) The veteran or eligible serviceperson has not received a secondary school diploma or an equivalency certificate, and

(ii) The course is necessary in order for the veteran or eligible serviceperson to receive a secondary school diploma or an equivalency certificate.

(2) The Veterans Administration may approve the enrollment of a veteran or eligible serviceperson in a preparatory, refresher, remedial, deficiency or special educational assistance course when the veteran or eligible serviceperson needs the course in order to pursue a program of education for which he or she would otherwise be eligible. The eligible serviceperson may not take the course under chapter 34, subchapter V, title 38, United States Code, because the Veterans Administration must make a charge against the serviceperson's entitlement for this type of training. (38 U.S.C. 1691)

* * * * *

(d) *Entitlement charge.* The provisions of § 21.1045 will determine whether a charge will be made against the period of the veteran's entitlement because of enrollment in courses under the provisions of this section. (38 U.S.C. 1690, 1691, 1693)

(e) *Certifications.* (1) Certifications of the serviceperson's or veteran's need for deficiency or remedial courses in basic English language skills and mathematics skills may be made by either—

(i) The service education officer (in the case of a serviceperson),

(ii) A Veterans Administration counseling psychologist in the Vocational Rehabilitation and Counseling Division,

(iii) The educational institution administering the course, or

(iv) The educational institution where the individual has applied for admission.

(2) Certifications of need for other refresher, remedial or deficiency course requirements are to be made by the educational institution—

(i) Which is administering the course which the student is planning to enter, or

(ii) When the student has applied for admission. (38 U.S.C. 1691)

* * * * *

(j) [Removed]

45. Section 21.4236 is revised as follows:

§ 21.4236 Special supplemental assistance (tutorial).

(a) *Enrollment.* A veteran or eligible person may receive supplemental monetary assistance to provide tutorial services if he or she—

(1) Is pursuing a post-secondary educational program on a half-time or more basis at an educational institution, and

(2) Has a deficiency in a subject which is indispensable to the satisfactory pursuit of an approved program of education. (38 U.S.C. 1692)

(b) *Approval.* The Veterans Administration will grant approval when—

(1) The educational institution certifies that—

(i) Individualized tutorial assistance is essential to correct a deficiency in a specified subject or subjects required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of an approved program of education;

(ii) The tutor selected—

(A) Is qualified, and

(B) Is not the parent, spouse, child, brother or sister of the veteran or eligible person; and

(iii) The charges for this assistance do not exceed the customary charges for such tutorial assistance; and

(2) The assistance is furnished on an individual basis. (38 U.S.C. 1692)

(c) *Educational assistance allowance.* In addition to payment of educational assistance allowance at the monthly rates specified in § 21.4136 or 21.4137, the Veterans Administration will authorize the cost of the tutorial assistance in an amount not to exceed—

(1) $72 per month effective October 1, 1980, and

(2) $76 per month effective January 1, 1981. (38 U.S.C. 1692(b))

(d) *Entitlement charge.* The Veterans Administration will make no charge against the period of the veteran's entitlement as computed under § 21.1041 or the eligible person's entitlement as computed under § 21.3044. Special supplemental assistance provided under this section will not exceed a maximum of—

(1) $869 effective October 1, 1980, and

(2) $911 effective January 1, 1981. (38 U.S.C. 1690, 1692, 1693)

46. In §21.4237, paragraphs (b), (d) and (e) are revised as follows:

§ 21.4237 Special assistance for the educationally disadvantaged—Chapter 35 spouse or surviving spouse.

* * * * *

(b) *Measurement.* The Veterans Administration will measure remedial, deficiency or refresher courses offered at the secondary school level as provided in §§ 21.4271(c) and 21.4272(k). (38 U.S.C. 1733)

* * * * *

(d) *Entitlement charge.* The provisions of § 21.1045 will determine whether a charge will be made against the period of the entitlement of the spouse or surviving spouse because of enrollment

in courses under the provisions of this section. (38 U.S.C. 1733)

(e) *Certifications.* (1) Certifications of the eligible spouse's or surviving spouse's need for deficiency or remedial courses in basic English language skills and mathematic skills may be made by either—

(i) A Veterans Administration counseling psychologist, in the Vocational Rehabilitation and Counseling Division,

(ii) The educational institution administering the course, or

(iii) The educational institution where the student has applied for admission.

(2) Certification of need for other refresher, remedial or deficiency course requirements are to be made by the educational institution—

(i) Administering the course which the student is planning to enter, or

(ii) Where the student has applied for admission. (38 U.S.C. 1733)

* * * * *

47. In § 21.4250, paragraph (c) is revised as follows:

§ 21.4250 Approval of courses.

* * * * *

(c) *Veterans Administration approval.* (1) The Director Vocational Rehabilitation and Counseling Service may approve special restorative training in excess of 12 months to overcome or lessen the effects of a physical or mental disability to enable an eligible child to pursue a program of education under chapter 35.

(2) The Director, Education Service may approve—

(i) A course of education offered by any agency of the Federal Government authorized under other laws to offer such a course;

(ii) A course of education to be pursued under 38 U.S.C. ch. 32, 34 or 35 offered by a school located in the Canal Zone, Guam or Samoa;

(iii) Except as provided in § 21.4150(d) as to the Republic of the Philippines, a course of education to be pursued under 38 U.S.C. ch. 32, 34 or 35 offered by an institution of higher learning not located in a State;

(iv) Any course in any other school in accordance with the provisions of 38 U.S.C. ch. 36; and

(v) Any program of apprenticeship the standards for which have been approved by the Secretary of Labor pursuant to section 50a of title 29, United States Code as a national apprenticeship program for operation in more than one State and for which the training establishment is a carrier directly engaged in interstate commerce and providing training in more than one State. (38 U.S.C. 1641, 1676, 1723, 1772(b), 1772(c))

48. In § 21.4251, paragraphs (a) (1), (5) and (6), (c), (d) and (f) (1) and (2) are revised. In addition the present paragraph (g) is removed and paragraph (h) is redesignated (g) and the introductory text and subparagraph (3) (the introductory portion preceding subdivision (i)) and subparagraph (4) are revised as follows:

§ 21.4251 Period of operation of course.

(a) *General.* A course offered by a school other than a job training establishment will be appropriate for the enrollment of a veteran or eligible person only if it has been in operation for 2 years or more immediately prior to the date of enrollment of such person, except that this provision does not apply to:

(1) Any course to be pursued in a public or other tax-supported educational institution including the flying clubs which are the subject of § 21.4201(c)(1)(ii); (38 U.S.C. 1789(b))

* * *

(5) Any course for the educationally disadvantaged offered by a proprietary nonprofit educational institution, at the principal or branch location, when the institution offering the course has been in operation for more than 2 years; or

(6) Any course—

(i) Offered by an educational institution under a contract with the Department of Defense,

(ii) Given on, or immediately adjacent to, a military base,

(iii) Available only to active duty military personnel or their dependents or both, and

(iv) Approved by the State approving agency—

(A) of the State in which the base is located, or

(B) Of the State having jurisdiction over the educational institution offering the course when the course is a degree course being taught outside the United States. See paragraph (f) of this section for specific additional requirements as to branch location schools. A course is being given at a location immediately adjacent to a military base if the facilities are clearly neighboring to the base or are in close proximity to it and must be easily accessible to active duty personnel. The location must be under effective supervision of the base military authorities. The Director, Eduction Service or the Director of the Veterans Administration field station of jurisdiction pursuant to paragraph (g) of this section may waive the requirements of this subparagraph in whole or in part, when such a waiver is in the interest of the veteran and the Federal Government. (38 U.S.C. 1789(b))

* * * * *

(c) *Course similar in character.* A course is similar in character if it provides training for the same general objective and involves the same or related instructional processes, tools, and material as a course previously furnished by the school for at least 2 years. When the State approving agency approves a course which has not been in operation for at least 2 years, as similar in character to a course which has been in operation for at least 2 years, the State approving agency will furnish the Veterans Administration with—

(1) A copy of the approval, and

(2) The basis for its conclusion that the courses are similar. (38 U.S.C. 1789)

(d) *Move to new location.* A school has moved to another location in the same general locality when—

(1) The new location is within normal commuting distance of the original location, and

(2) The school—

(i) Has essentially the same faculty and student body, and

(ii) Offers the same courses. (38 U.S.C. 1789)

* * * * *

(f) *Subsidiary branch or extension.* Notwithstanding the provisions of paragraph (a)(1), (2), (3) or (4) of this section the 2-year period of operation requirement will apply to courses at subsidiary branches or extensions as provided in the following subparagraphs:

(1) Unless the Director, Education Service or the Director of the appropriate Veterans Administration field station waives the 2-year period of operation requirement in whole or in part (as provided in paragraph (g) of this section), it will apply to any course offered by a banch or extension of any of the following institutions:

(i) A public or other tax-supported institution where the branch or extension is located outside the area of the taxing jurisdiction providing support to the institution,

(ii) A proprietary profit or proprietary nonprofit educational institution where the branch or extension is located beyond normal communting distance of the institution, or

(iii) A proprietary profit educational institution, even if the branch or extension is located within normal commuting distance.

(2) A course for which such a waiver is granted will be exempt from the 2-year period of operation requirement only if it also satisfies the provisions of

either paragraph (a)(1), (2), (3) or (4) of this section. (38 U.S.C. 1789(b))

* * * * *

(g) *Waivers.* A school may apply to the appropriate Veterans Administration field station Director for a waiver of the provisions of paragraph (a)(6) or (f) of this section. The Veterans Administration field station Director may grant a waiver only when the conditions specified in this paragraph have been met. If the Director denies a waiver, he or she shall inform the school that the request is denied, and that the school may request a review by the Director, Education Service. A request for review will be forwarded to the Director, Education Service with the field station Director's recommendation. (38 U.S.C. 1789(b))

* * * * *

(3) The Director of the Veterans Administration field station of jurisdiction may exercise authority found in paragraph (f) of this section to allow a waiver of the requirements of paragraph (f)(1) of this section. He or she may grant such a waiver when he or she finds that: * * *

(4) A school, which disagrees with a decision made under this paragraph by a Director of a Veterans Administration field station, has 1 year from the date of the letter notifying the school of the decision to request that the decision be reviewed. The request must be submitted in writing to the Director of the Veterans Administration field station where the decision was made. The Director, Education Service shall review the evidence of record and any other pertinent evidence the school may wish to submit. The Director, Education Service has the authority either to affirm or reverse a decision of the Director of a Veterans Administration field station. (38 U.S.C. 1789)

§ 21.4251 [Amended]

49. The cross reference following § 21.4251 is revised to read as follows: "Courses offered at subsidiary branches or extensions. See § 21.4266."

50. In § 21.4252, paragraphs (g) and (h) are revised as follows:

§ 21.4252 Courses precluded.

* * * * *

(g) *Vocational courses—chapters 34, 35 and 36.* (1) Except as specified in paragraph (g)(2) and (3) of this section the Veterans Administration shall not approve a veteran's or eligible person's enrollment in any course with a vocational objective unless the veteran or eligible person, or the institution offering the course, establishes that at least one-half of the persons completing the course during the preceding 2-year period have attained employment for an average of 10 hours per week in the occupational category for which the course is designed to provide training. There shall be excluded from this calculation the number of persons who—

(i) Pursued the course with assistance under title 38, United States Code, while serving on active duty, or

(ii) Are unavailable for employment.

(2) The provisions of paragraph (g)(1) of this section do not apply to an enrollment in a course in a particular year if—

(i) The total number of eligible veterans and eligible persons enrolled in the educational institution offering the course during the 2-year period preceding that year did not exceed 35 percent of the total enrollment in the educational institution during that 2-year period, and

(ii) The course met the requirements of paragraph (g)(1) of this section for any 2-year period ending after October 16, 1980.

(3) An educational institution desiring a waiver from the application of the provisions of paragraph (g)(1) of this section may apply to the appropriate State approving agency. The State approving agency will recommend to the Director of the Veterans Administration field station of jurisdiction whether or not the Director should grant a waiver. The State approving agency will consider all evidence of record including whether—

(i) The total number of eligible veterans and eligible persons enrolled in the educational institution during the 2-year period preceding the request ever exceeded 35 percent of the total enrollment in the educational institution during that period;

(ii) The total number of eligible veterans and eligible persons enrolled during the 2 years preceding the request ever exceeded 20 percent of the total enrollment in the course during that period;

(iii) The estimated cost of complying with the requirements of paragraph (g)(1) of this section exceeds $22 times the number of eligible veterans and eligible persons enrolled in the course during the 2-year period; and

(iv) The institution collects, or would collect, data on the employment of all graduates solely or principally to compile an employment report to satisfy the requirements of paragraph (g)(1) of this section.

(4) The Director of the Veterans Administration field station of jurisdiction shall consider the State approving agency's recommendation and all other evidence of record in determining whether to grant or deny the request for a waiver.

(5) If an educational institution disagrees with a field station Director's determination concerning a waiver, it may request that the application along with the field Director's determination be forwarded to the Director, Education Service for administrative review.

(6) An exemption under paragraph (g)(2) of this section is revoked automatically at any time the total number of eligible veterans and eligible persons enrolled in the educational institution exceeds 35 percent of the total enrollment. If the educational institution is organized on a term, quarter or semester basis and the exemption is revoked, the beginning date of the 2-year period will be the first day of the term, quarter or semester during which the total number of eligible persons exceeded 35 percent of the total enrollment in the educational institution. If the educational institution is not organized on a term, quarter or semester basis, the beginning date of the 2-year period will be the first day of the calendar quarter during which the total number of eligible veterans and eligible persons exceeded 35 percent of the total enrollment in the educational institution.

(7) A waiver under paragraph (g)(3) of this section is revoked automatically at any time the total number of eligible veterans and eligible persons enrolled in the educational institution exceeds 35 percent of the total enrollment, or the total number of eligible veterans and eligible persons enrolled in the course for which a waiver has been granted exceeds 20 percent of the total enrollment in the course.

(i) If the educational institution is organized on a term, quarter or semester basis, the beginning date of the 2-year period will be the first day of the term, quarter or semester during which—

(A) The number of eligible veterans and eligible persons enrolled in the educational institution first exceeded 35 percent of the educational institution's total enrollment; or

(B) The number of eligible veterans and eligible persons enrolled in the course for which a waiver has been granted first exceeded 20 percent of the total enrollment in the course, whichever is earlier.

(ii) If the educational institution is not organized on a term, quarter or semester basis, the beginning date of the 2-year period will be the first day of the calendar quarter during which—

(A) The number of eligible veterans and eligible persons enrolled in the educational institutions first exceeded

35 percent of the educational institution's total enrollment; or

(B) The number of eligible veterans and eligible persons enrolled in the course for which a waiver has been granted first exceeded 20 percent of the total enrollment in the course, whichever is earlier. (38 U.S.C. 1673(a), 1723(a))

(h) *Erroneous, deceptive, misleading practices.* (1) The Veterans Administration will not approve an enrollment in any course offered by an institution which uses advertising, sales, or enrollment practices which are erroneous, deceptive, or misleading by actual statement, omission, or intimation. As provided by section 1796, title 38, United States Code, the Veterans Administration shall use the services and facilities of the Federal Trade Commission, where appropriate, under an agreement—

(i) To carry out investigations, and

(ii) To make determinations under this paragraph.

(2) To ensure compliance, any institution offering courses approved for the enrollment of veterans or eligible persons shall maintain a complete record of all advertising, sales, or enrollment materials (and copies of each) used by or on behalf of the institution during the preceding 12-month period. This record shall be available for inspection by the State approving agency or the Veterans Administration. These materials shall include, but are not limited to—

(i) Any direct mail pieces,

(ii) Brochures,

(iii) Printed literature used by sales people,

(iv) Films, video cassettes and audio tapes disseminated through broadcast media,

(v) Material disseminated through print media,

(vi) Tear sheets,

(vii) Leaflets,

(viii) Handbills,

(ix) Fliers, and

(x) Any sales or recruitment manuals used to instruct sales personnel, agents or representatives of the educational institution. (38 U.S.C. 1796)

* * * * *

51. In § 21.4253, paragraph (c) is revised as follows:

§ 21.4253 Accredited courses.

* * * * *

(c) *Accrediting agencies.* A nationally recognized accrediting agency or association is one that appears on the list published by the Secretary of Education as required by 38 U.S.C. 1775(a). The State approving agencies may use the accreditation of these accrediting agencies or associations for approval of the course specifically accredited and approved by the agency or association. (38 U.S.C. 1775)

* * * * *

52. Section 21.4260 is revised as follows:

§ 21.4260 Courses in foreign countries.

(a) *Approval of postsecondary courses in foreign countries.* (1) The Veterans Administration may approve a postsecondary course offered by an educational institution not located in a State when—

(i) The educational institution offering the course is an institution of higher learning, and

(ii) The course leads to a standard college degree, or its equivalent.

(2) For the purpose of this paragraph, a degree is the equivalent of a standard college degree when the program leading to the degree has the same entrance requiremnts as one leading to a degree granted by a public degree-granting institution of higher learning in that country. (38 U.S.C. 1676)

(b) *Approval of enrollments in foreign courses.* (1) Except as provided in paragraph (b)(2) of this section the Veterans Administration will approve the enrollment of a veteran or eligible person in a course offered by an educational institution not located in a State when—

(i) The veteran or eligible person meets the eligibility and entitlement requirements of §§ 21.1040 through 21.1045, 21.3040 through 21.3046 or 21.5040 and 21.5041, as appropriate;

(ii) The veteran's or eligible person's program of education meets the requirements of § 21.4230 or § 21.5230 as appropriate; and

(iii) The course meets the requirements of this section and all other applicable VA regulations.

(2) The Veterans Administration may deny or discontinue the payment of educational assistance allowance to a veteran or eligible person pursuing a course in an institution of higher learning not located in a State when the Veterans Administration finds that the veteran's or eligible person's enrollment is not in the best interests of the veteran, eligible person or the Federal Government. (38 U.S.C. 1676)

53. In § 21.4263, the introductory text of paragraph (i) is revised as follows:

§ 21.4263 Flight training—38 U.S.C. Chapter 34, Chapter 32.

* * * * *

(i) *Hourly limitations.* A flight course approved pursuant to paragraph (h)(3) of this section shall be approved only for those hours of instruction generally considered necessary for a student to obtain an identified vocational objective. This requirement is met only if the number of hours approved does not exceed the maximum set forth in paragraph (i)(1) through (3) of this section. Flight instruction may never be substituted for ground training. The Veterans Administration may pay veterans for hours beyond the hours approved only when permitted by the school's standards of progress. (38 U.S.C. 1652(b))

* * * * *

54. In § 21.4270, the introductory text of paragraph (b) is revised as follows:

§ 21.4270 Measurement of courses.

* * * * *

(b) Collegiate graduate, professional and on-the-job training courses shall be measured as stated in this table. This table shall be used for measurement of collegiate undergraduate courses subject to all the measurement criteria of § 21.4272. Clock hours and class sessions mentioned in this table mean clock hours and class sessions per week. (38 U.S.C. 1682, 1732, 1777, 1787, 1788)

* * * * *

55. In § 21.4272, paragraphs (d), (e), (f) and (g) are revised and paragraphs (h), (i), (j) and (k) are added so that the added and revised material reads as follows:

§ 21.4272 Collegiate undergraduate; credit-hour basis.

* * * * *

(d) *Course measurement; general.* When an undergraduate course qualifies for credit-hour measurement, the Veterans Administration will measure it according to the table contained in § 21.4270(b). (38 U.S.C. 1788)

(e) *Course measurement; normal method.* The Veterans Administration will use the table in § 21.4270(b) for measurement of a collegiate undergraduate course without adjusting the credit hours assigned by a school when the course is one of the following:

(1) A course offerd in residence on a standard quarter- or semester-hour basis,

(2) A work-experience course meeting the requirements of § 21.4265(f),

(3) A course of student teaching,

(4) That portion of a cooperative course consisting of school instruction if the veteran or eligible person elects not to receive educational assistance for the portion consisting of training in a business or industrial establishment.

(5) A course involving flight training,

(6) A course which—

(i) Requires the pursuit of standard class sessions for each credit at a rate not less frequent than every 2 weeks.

(ii) Requires monthly pursuit of a total number of standard class sessions equal to the number of class sessions that would result if the course required one standard class session per week for each credit hour.

(iii) Is considered by the institution offering it to be fully equivalent to a course described in paragraph (e)(1) of this section including—

(A) The payment of tuition and fees.

(B) The awarding of academic credit for the purpose of meeting graduation requirements, and

(C) The transfer of credits to a course meeting the provisions of paragraph (e)(1) of this section,

(iv) Would qualify as a course under paragraph (e)(1) of this section except that it does not have weekly class instruction, and

(v) Together with all other similar courses offered by the educational institution, has an enrollment representing less than 50 percent of the persons at that educational institution receiving educational assistance under chapter 31, 32, 34, 35 or 36, title 38, United States Code. (38 U.S.C. 1788)

(f) *Course measurement; insufficient standard class sessions.* The Veterans Administration will measure by the week any collegiate undergraduate course offered in residence which is not listed in paragraph (e) of this section.

(1) When a course is offered over a standard quarter or semester as defined in § 21.4200(b) and includes weeks with at least one regularly scheduled, standard class session for each credit hour, the Veterans Administration will use the table in § 21.4270(b) without adjustment when determining the training time for those weeks.

(2) When a course includes one or more weeks with more than one regularly scheduled class for every 2 credit hours, but less than one regularly scheduled class session for each credit hour, the Veterans Administration will determine the training time for those weeks in one of two ways:

(i) The Veterans Administration will determine training time for the week by using the table in § 21.4270(b) without adjustment when the course requires a level of educational pursuit which approximates, quantitatively and qualitatively, the level required by a similar course offered on a standard quarter- or semester-hour basis. In making this determination the Veterans Administration will consider whether—

(A) The published accrediting standards of the accrediting agency which accredits the course permit a class session which is somewhat shorter than that stated in § 21.4200(g), while requiring an overall level of educational pursuit that approximates the level required by courses offered on a standard quarter- or semester-hour basis, or

(B) The student is required to complete in place of class time such things as papers to be written, extra books to be read for the course, and additional projects to be completed.

(ii) If measurement as described in paragraph (f)(2)(i) of this section is not in order, the Veterans Administration will—

(A) Determine the number of standard class sessions for the week,

(B) Drop any fractions of a standard class session, and

(C) Consider the standard class sessions to be the same as credit hours for the purpose of using the table in § 21.4270(b) to determine training time for the week.

(3) If the course includes one or more weeks with at least one regularly scheduled class session, but no more than one regularly scheduled class session for every 2 credit hours, the Veterans Administration will measure the training time for those weeks by—

(i) Determining the number of standard class sessions for the week,

(ii) Dropping any fractions of a standard class session, and

(iii) Considering the standard class sessions the same as credit hours for the purpose of using the table in § 21.4270(b) to determine training time for the week. (38 U.S.C. 1788(b))

(g) *Course measurement; nonstandard terms.* (1) When a term is not a standard semester or quarter as defined in § 21.4200(b), the Veterans Administration will determine the equivalent for full-time training by—

(i) Multiplying the credits to be earned in the term by 18 if credit is granted in semester hours, or by 12 if credit is granted in quarter hours, and

(ii) Dividing the product by the number of whole weeks in the term.

(2) In determining whole weeks for this formula the Veterans Administration will—

(i) Divide the number of days in the term by 7;

(ii) Disregard a remainder of 3 days or less, and

(iii) Consider 4 days or more to be a whole week.

(3) The quotient resulting from the use of the formula is called equivalent credit hours. The Veterans Administration treats equivalent credit hours as credit hours for measurement purposes. If there is at least one regularly scheduled standard class session per equivalent credit hour each week, the Veterans Administration will use the number of equivalent credit hours to compute educational assistance allowance using the criteria of § 21.4270(b) or the criteria of footnote 2 to that paragraph, whichever is appropriate. If a week contains less than one standard class session per equivalent credit hour, the Veterans Administration will determine training time according to the provisions of paragraph (f)(2) of this section. (38 U.S.C. 1788(b))

(h) *Course measurement; independent study.* The Veterans Administration shall measure a course or subject offered solely by independent study as follows:

(1) If the educational institution evaluates the course or subject in semester or quarter hours of credit and prescribes a period for completion, the course shall be measured as less than one-half but more than one-quarter time when the semester hours per term or equivalent are four or more, and measured as one-quarter time or less for 1 through 3 semester hours per semester or equivalent.

(2) If the educational institution does not evaluate the independent study program in standard semester or quarter hours or the equivalent, independent study shall be measured as less than one-half but more than one-quarter time training. (38 U.S.C. 1682(e))

(i) *Course measurement; combined independent study—resident training.* (1) If a veteran or eligible person pursues independent study concurrently with resident training under chapter 34 or 35, title 38, United States Code, the Veterans Administration shall determine training time as follows:

(i) If the independent study credit hours the veteran or eligible person is pursuing would equal half-time or more, according to the table in § 21.4270(b), the Veterans Administration shall convert them to the highest number of hours considered to be less than half-time training. If the independent study is not measured on a credit-hour basis, the Veterans Administration will assign a credit-hour evaluation to independent study based on the highest number of credit hours considered to be less than half-time training.

(ii) The Veterans Administration will add the number of independent study credit hours as determined in paragraph (i)(1)(i) of this section to the number of hours of resident training. The hours of resident training will be either credit hours or hours based on the number of standard class sessions as required by paragraph (e) or (f) of this section, as appropriate.

(iii) The Veterans Administration will use the total hours computed in paragraph (i)(1)(ii) of this section to determine the training time based upon the measurement criteria found in § 21.4270(b).

(2) In applying the procedure outlined in paragraph (i)(1) of this section when the veteran or eligible person pursues a course or subject of independent study and resident training sequentially, as described in § 21.4280(g)(2), the Veterans Administration will treat that course or subject as—

(i) Independent study during any week in which the course or subject meets the definition of independent study found in § 21.4280(c), and

(ii) Resident training during weeks in which regularly scheduled classroom sessions meet. (38 U.S.C. 1682(e))

(j) *Course measurement; credit course taken under special circumstances.* If a course is acceptable for credit, but the educational institution does not award credit to the veteran or eligible person because he or she has not met college entrance requirements or for some other valid reason, the Veterans Administration will measure the course as though it were pursued for credit, provided the veteran or eligible person performs all of the work prescribed for other students who are enrolled for credit. (38 U.S.C. 1788(b))

(k) *Course measurement; noncredit courses.* (1) Except for courses leading to a secondary school diploma or equivalent, the Veterans Administration will measure noncredit courses given by an institution of higher learning on a quarter- or semester-hour basis if the institution considers them to be the equivalent, for other administrative purposes, of undergraduate courses that lead to a standard college degree at the institution of higher learning.

(2) The Veterans Administration shall measure other noncredit courses under the appropriate criteria of § 21.4270.

(3) Where a school requires a veteran or eligible person to pursue noncredit deficiency, remedial or refresher courses in order to meet scholastic or entrance requirements, the school will certify the credit-hour equivalent of the noncredit deficiency, remedial or refresher courses in addition to the credit hours for which the veteran or eligible person is enrolled. The Veterans Administration will measure the course on the total of the credit hours and credit-hour equivalency. (38 U.S.C. 1788)

56. Section 21.4277 is revised as follows:

§ 21.4277 Discontinuance—unsatisfactory progress and conduct.

(a) *Satisfactory pursuit of program.* Entitlement to benefits for a program of education is subject to the requirement that the veteran or eligible person, having commenced the pursuit of such program, continues to maintain satisfactory progress. If the veteran or eligible person does not maintain satisfactory progress, educational benefits will be discontinued by the Veterans Administration. Progress is unsatisfactory if the veteran or eligible person does not satisfactorily progress according to the regularly prescribed standards and practices of the institution he or she is attending. These standards and practices must be approved by the State approving agency. (38 U.S.C. 1674 and 1724)

(b) *Satisfactory conduct.* Entitlement to a program of education is subject to the requirement that the veteran or eligible person, having commenced the pursuit of such program, continues to maintain satisfactory conduct in accordance with the regularly prescribed standards and practices of the institution in which he or she is enrolled. If the veteran or eligible person will no longer be retained as a student or will not be readmitted as a student by the institution in which he or she is enrolled, educational benefits will be discontinued, unless further development establishes that the action of the school is of a retaliatory nature. See § 21.4253. (38 U.S.C. 1674 and 1724)

§ 21.4277 [Amended]

57. The cross reference immediately following § 21.4277 is revised to read "Reports—requirements. See § 21.4203."

58. In § 21.4279, paragraph (b)(1) is revised as follows:

§ 21.4279 Combination correspondence—residence program.

* * * * *

(b) * * *

(1) The charges for that portion of the program pursued exclusively by correspondence will be in accordance with § 21.4136(a) with 1 month of entitlement charged for each $327 of cost reimbursed, effective October 1, 1980; and 1 month of entitlement charged for each $342 of cost reimbursed, effective January 1, 1981. (38 U.S.C. 1786(a))

* * * * *

59. Section 21.4280 is revised as follows:

§ 21.4280 Independent study leading to a standard college degree.

(a) *General.* A veteran or eligible person may receive an educational assistance allowance for pursuit of an independent study course or subject or for a course or subject which combines independent study with resident training. However, a veteran or eligible person may not receive an educational assistance allowance for pursuing a course or subject offered through open-circuit television unless he or she is enrolled concurrently in resident training. (38 U.S.C. 1673, 1682, 1733)

(b) *Scope of independent study.* The provisions of this section do not apply to a veteran or eligible person who is enrolled in—

(1) A cooperative course as defined in § 21.4233(a),

(2) A farm cooperative course, or

(3) A course approved as a correspondence course. (38 U.S.C. 1682, 1732)

(c) *Definition of independent study.* The Veterans Administration considers a course or subject to be offered entirely through independent study when the course or subject—

(1) Leads to a standard college degree'

(2) Consists of a prescribed program of study with provision for interaction either by mail, telephone or personally between the student and the regularly employed faculty of the university or college;

(3) Is offered without any regularly scheduled, conventional classroom or laboratory sessions; and

(4) Is not a course listed in paragraph (b), (e) or (f) of this section. (38 U.S.C. 1682, 1732)

(d) *Undergraduate resident training.* (1) The Veterans Administration considers the following courses to be resident training during the entire period a veteran or eligible person is pursuing them:

(i) A course or subject which meets the requirements for resident training found in § 21.4265(f);

(ii) A course or subject, leading to a standard college degree, offered in residence on a standard quarter- or semester-hour basis;

(iii) An undergraduate course or subject which requires regularly scheduled, weekly classroom or laboratory sessions, but does not require them in sufficient number to meet the provisions of paragraph (d)(1)(ii) of this section; or

(iv) An undergraduate course or subject leading to a standard college degree which—

(A) Would qualify as a course under paragraph (d)(1)(ii) of this section except that it does not have weekly class instruction.

(B) Requires pursuit of standard class sessions for each credit at a rate not less frequent than every 2 weeks,

(C) Requires monthly pursuit of a total number of standard class sessions which, during that month, is required by a course meeting the provisions of paragraph (d)(1)(ii) of this section,

(D) Is considered by the institution offering it as fully equivalent to a course described in paragraph (d)(1)(ii) of this section including the payment of tuition and fees; the awarding of academic credit for the purpose of meeting graduation requirements, and the transfer of credits to a course meeting the provisions of paragraph (D)(1)(ii) of this section and;

(E) Together with all other similar courses offered by the educational institutions, has an enrollment representing less than 50 percent of persons at that institution receiving educational assistance under either chapter 31, 32, 34, 35 or 36, title 38, United States Code.

(2) The Veterans Administration will consider any undergraduate course not listed in paragraph (b) or (f) or (d)(1) of this section to be a resident course during any week when there are regularly scheduled standard class sessions for the course. (38 U.S.C. 1682, 1732, 1788)

(e) *Graduate resident training.* Graduate resident training is a course which—

(1) Is offered through regularly scheduled, conventional classroom or laboratory sessions; or

(2) Consists of research necessary for the preparation of the student's—

(i) Master's thesis,

(ii) Doctoral dissertation, or

(iii) A similar treatise which is a prerequisite to the degree being pursued. (38 U.S.C. 1682, 1732)

(f) *Other training.* The following types of training are considered resident training by the Veterans Administration for measurement and payment when the student combines them with independent study:

(1) A course of student teaching,

(2) An undergraduate course leading to a standard college degree which includes flight training, and

(3) A graduate course consisting of research in absentia. Research in absentia is research pursued off the campus of the educational institution which meets the requirements of paragraph (e)(2) of this section. (38 U.S.C. 1682, 1732)

(g) *Independent study-resident training.* A veteran or eligible person is in independent study-resident training if he or she—

(1) Is enrolled concurrently in one or more courses or subjects offered by independent study as defined in paragraph (c) of this section and one or more courses or subjects offered by resident training as listed in paragraph (d), (e) and (f) of this section or

(2) Is enrolled in one or more undergraduate subjects which—

(i) Do not meet the requriements of paragraph (d)(1) of this section,

(ii) Have some weeks when standard class sessions are scheduled; and

(iii) Consists of independent study as defined in paragraph (c) of this section during those weeks when there are no regularly scheduled, standard class sessions. (38 U.S.C. 1682, 1732)

(h) *Approval of independent study.* A course or subject offered through independent study or independent study-resident training must be approved as independent study or independent study-resident training by the State approving agency. (38 U.S.C. 1682, 1732)

60. In § 21.4500, paragraphs (d) (1) and (2) (i)(*d*) and (ii), (e) (4) and (6), (f) (1) and (2)(iii) and (h) are revised as follows:

§ 21.4500 Definitions.

* * * * *

(d) *Loan period.* (1) The Veterans Administration will make loans normally for a quarter, semester, summer term or two consecutive quarters.

(2) The Veterans Administration may grant a loan to a veteran or eligible person attending a course not organized on a term, quarter or semester basis if the course requires at least 6 months at the full-time rate to complete. A loan will be granted for not more than 6 months at a time. (38 U.S.C. 1798)

(i) * * *

(*d*) The default rate on all loans ever made to students pursuant to loan programs administered by the Department of Education does not exceed 5 percent or five cases, whichever is greater. (38 U.S.C. 1798(c)) * * *

(ii) If a school disagrees with a decision of a Director of a Veterans Administration field station, it may, within 1 year from the date of the letter from the Director informing the school of the decision, request that the decision be reviewed by the Director, Education service. The Director of the Veterans Administration field station shall forward all requests to the Director, Education Service, who shall consider all evidence submitted by the school. He or she has the authority to affirm or reverse a decision of a Veterans Administration field station, but shall not grant a waiver if the requirements of paragraph (d)(2)(i) of this section are not met. (38 U.S.C. 1798(c))

* * * * *

(e) *Total amount of financial resources.* This term means the total of the following: * * *

(4) Educational assistance received or receivable of the loan period by the veteran or other eligible person under section 1631, 1661, or subchapter II of chapter 35, title 38, United States Code, which applies solely to the veteran or eligible person. This amount shall be exclusive of an education loan. (38 U.S.C. 1798(b)) * * *

(6) Veterans Administration work-study allowance received by receivable by the veteran under section 1685, title 38, United States Code. (38 U.S.C. 1798(b))

(f) *Actual cost of attendance.* (1) This term means—

(i) Actual charge per student for tuition, fees, and books.

(ii) An allowance for commuting. (This allowance will be based on 22.5 cents per mile for distances which shall not exceed normal commuting distance),

(iii) An allowance for other expenses reasonably related to attendance at the institution at which the veteran or other eligible person is enrolled, and

(iv) A room and board allowance.

(2) The room and board allowance shall be determined as follows: * * *

(iii) If the educational institution does not provide any students with room and board, the room and board allowance shall equal either the actual expenses incurred by the veteran or eligible person for room and board or the amount the veteran or eligible person would have been charged for room and board had he or she been provided room and board by the nearest State college or State university that provides room and board, whichever is the lesser. (38 U.S.C. 1798(b)) * * *

(h) *Annual adjusted effective income.* This income shall include:

(1) Nontaxable income for the student only for the current tax year in which the application for the education loan is received by the Veterans Administration. This includes income from sources such as Veterans Administration compensation and pension, disability retirement, unemployment compensation, welfare payments, social security benefits, etc.

(2) Adjusted gross income (wages, salary, dividends, interest, rental, business, etc.) for the student only for the current tax year in which the application for the education loan is received by the Veterans Administration, less:

(i) Authorized deductions for exemptions;

(ii) Itemized or standard deduction, whichever is greater;

(iii) Mandatory withholdings such as Federal and State income taxes, social security taxes, etc. (38 U.S.C. 1798(b))

* * * * *

61. In § 21.4501, paragraphs (c)(2) (the introductory text preceding subdivision (i)) and (d)(1) are revised as follows:

§ 21.4501 Eligibility.

* * * * *

(c) *Additional criteria for eligible veterans, spouses and surviving spouses not eligible to receive educational assistance allowance.* * * *

(2) For the purpose of this paragraph (c)(2) the Veterans Administration shall consider a veteran who is enrolled in a flight training course to be enrolled in a program of education on a full-time basis. A loan shall be granted if the eligible veteran, spouse or surviving spouse meets the eligibility criteria found in paragraph (a) of this section and if he or she: (38 U.S.C. 1798) * * *

(d) *Exclusions.* No veteran or other eligible person shall be authorized an education loan who:

(1) Is pursuing a program of correspondence, flight training for which the veteran is being reimbursed by the Veterans Administration at the 90 percent rate, apprenticeship, or other on-job training, or (38 U.S.C. 1798)

* * * * *

62. In § 21.4502, paragraphs (a) and (b) (1) and (4) are revised as follows:

§ 21.4502 Applications.

(a) *General.* An eligible veteran or other eligible person shall make an application for an education loan in the manner prescribed and upon the forms prescribed by the Veterans Administration. The Veterans Administration must receive the application no later than the last date of the term, quarter, semester, or 6-month period to which all or part of the loan will apply. The application shall be certified by the school as to the date required from the school by the Veterans Administration. (38 U.S.C. 1671)

(b) *Information.* * * *

(1) A statement of nontaxable income for the student for the current tax year in which the application is received by the Veterans Administration; as well as a statement of adjusted gross income for the student for the current tax year in which the application for an education loan is received by the Veterans Administration less authorized deductions for exemptions, itemized or standard deduction, whichever is greater, and mandatory withholdings such as Federal and State income taxes, social security taxes, etc. (38 U.S.C. 1798(b)) * * *

(4) The amount of reasonably anticipated expenses for room and board to be expended by the veteran or other eligible person during the period for which the loan is sought, including a reasonable amount, not to exeed 22.5 cents per mile, for commuting normal distances to classes if the student does not reside on campus. Applications may also provide the Veterans Administration with a statement of the amount of charges for room and board which the school would have made had the school provided the veteran or eligible person with room and board. If the school does not provide room and board, the application may provide the Veterans Administration with a statement of charges for room and board which the veteran or eligible person would have received had he or she been provided room and board at the nearest State college or State university which provides room and board. (38 U.S.C. 1798(b))

* * * * *

63. In § 21.4503, paragraph (b) is revised as follows:

§ 21.4503 Determination of loan amount.

* * * * *

(b) *Amount.* A loan shall be authorized in the amount of the excess of cost over available resources as determined in paragraph (a) of this section subject to the following limitations:

(1) If the costs exceed the available resources by $50 or less no loan shall be granted.

(2) The aggregate of the amounts any veteran or eligible persons may borrow for an education loan may not exceed $2,500 in any one academic year. It also may not exceed an amount determined by multiplying the number of months of educational assistance allowance to which the veteran or eligible person is entitled (or would be entitled were it not for the expiration of his or her delimiting period) under section 1661 or subchapter II of chapter 35, title 38, United States Code, on the date he or she commences training during the loan period times—

(i) $327, effective October 1, 1980, for eligible persons and veterans enrolled in a course other than a flight training course,

(ii) $342, effective January 1, 1981, for eligible persons and veterans enrolled in a course other than a flight training course,

(iii) $302, effective October 1, 1980, for veterans enrolled in a flight training course, and

(iv) $317, effective January 1, 1981, for veterans enrolled in a flight training course. (38 U.S.C. 1798(b))

(3) If a student is enrolled in a course organized on a term, quarter or semester basis, no single loan shall be authorized at one time for a period that is longer than two consecutive quarters. If a student is enrolled in a course not organized on a term, quarter or semester basis, no single loan shall be authorized at one time for a period that is longer than 6 months. (38 U.S.C. 1798)

(4) If the loan is a second or subsequent loan for the same flight course, the Veterans Administration will reduce the loan by an amount equal to the amount of the previous loans granted for the course less the actual charges incurred by the veteran during the previous loan periods. (38 U.S.C. 1798)

(5) If the loan is for a flight course and the loan period begins before the ending date of the veteran's prior loan period, the Veterans Administration will reduce the loan by an amount equal to the amount of the prior loan less the amount the prior loan would have been had the Veterans Administration known the actual ending date of the veteran's prior flight course at the time the Veterans Administration calculated the loan. (38 U.S.C. 1798)

(6) The Veternas Adminstration shall pay the following maximum amounts for these loan periods:

(i) $1,250 for any semester.

(ii) $830 for any term of 8 weeks or more leading to a standard college degree which is not part of the normal academic year or for a quarter.

(iii) $1660 for two consecutive quarters.

(iv) $270 per month for a course not leading to a standard college degree if less than 6 months long.

(v) $1660 for a 6-month loan period based on a course not leading to a standard college degree which is 6 or more months long.

(vi) $270 per month for a loan period of less than 6 months based on a course not leading to a standard college degree which is 6 or more months long. (38 U.S.C. 1798(b))

(7) No amount authorized will be paid by the Veterans Administration until the veteran or other eligible person is certified as being enrolled and actually pursuing the course.

(8) an eligible veteran or other eligible

person may recieve more than one loan covering separate loan periods subject to paragraphs (b) (3) and (9) of this section.

(9) If the veteran or other eligible person has a material change in economic circumstances subsequent to the orginal application for a loan, he or she may reapply for an increase in an authorized loan or for a loan, if otherwise qualified, if no loan was originally granted. However, the Veterans Administration will not decrease or revoke a loan once granted, absent fraud in the application.

64. In § 21.4504, paragraphs (a)(3)(ii) and (b) are revised as follows:

§ 21.4504 Promissory note.

(a) *General.* The agreement by the Veterans Administration to loan money pursuant to section 1798, title 38, United States Code, to any eligible veteran or eligible person shall be in the form of a promissory note which shall include:

* * *

(3) A note or other written obligiation providing for repayment of the principal amount, and interest on the loan in annual installments over a period beginning 9 months after the date on which the borrower first ceases to be at least a half-time student and ending:

* * *

(ii) For loans of less than $600 1 year and 7 months after such date for the first $50 of the loan plus 1 additional month for ench additional $5 of the loan. For loan repayment purposes the Veterans Administration considers a flight student to have ceased to be at least a half-time student when he or she fails to complete at least 10 hours of training in any 3-month period. (38 U.S.C. 1798)

* * *

(b) *Interest.* The promissory note shall advise the student that the loan shall bear interest on the unpaid balance of the loan at a rate comparable to, but not in excess of the rate of interest charged students at such time on loans insured by the Secretary of Education, Dapartment of Education, under part B of title IV of the Higher Education Act of 1965. The rate shall be determined as of the date the agreement is executed and shall be a fixed amount. (38 U.S.C. 1798)

* * * * *

§ 21.4506 [Amended]

65. Section 21.4506 is amended by removing the reference "§ 21.1045(h)" and inserting the reference "21.1045(j)" in paragraph (f).

[FR Doc. 82-28350 Filed 10-15-82; 8:45 am]

BILLING CODE 8410-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL 2209-5]

Air Programs; Revision to the Maine Ozone Attainment Plan, Pioneer Plastics

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is today proposing approval of a revision to the Maine State Implementation Plan (SIP) submitted on May 12, 1982 by the Commissioner of the Maine Department of Environmental Protection (DEP). This revision requires the reduction of volatile organic compound (VOC) emissions from Pioneer Plastics, a paper coating operation, and is required for continued satisfaction of the requirements of Part D of the Clean Air Act with respect to ozone nonattainment areas.

DATE: Comments must be received on or before November 17, 1982.

ADDRESSES: Comments should be sent to Harley F. Laing, Acting Director, Air Management Division, Room 2103, JFK Federal Building, Boston, MA 02203. Copies of the Maine DEP's submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, State Air Programs Branch, Room 2111, JFK Federal Building, Boston, Massachusetts and the Department of Environmental Protection, State House, Augusta, Maine 04330.

FOR FURTHER INFORMATION CONTACT: Margaret McDonough, State Air Programs Branch, Environmental Protection Agency, Room 2111, JFK Federal Building, Boston, MA 02203, 617/223-5130.

SUPPLEMENTARY INFORMATION: On February 19, 1980 (45 FR 10766) EPA approved the Maine DEP's plan to attain compliance with the ozone standard. One aspect of the DEP's strategy for meeting the ozone standard included reasonably available control technology (RACT) requirements for sources of VOC emissions for which EPA had issued control technique guidelines (CTGs) by January, 1978. Therefore, DEP included air emissions licenses for two papers coaters located in areas designated nonattainment with respect to ozone as part of its attainment plan. These licenses required reductions of VOC emissions consistent with EPA's guidance. Since the February 19, 1980 approval, one additional source, Pioneer Plastics of Auburn, Maine, has been classified by EPA ;as a paper coating operation. Auburn, Maine is located in the Androscoggin Valley Interstate Air Quality Control Region (AQCR 107) which is designated nonattainment with respect to ozone. Therefore, Pioneer Plastics must control its emissions of VOCs to a degree consistent with EPA's CTG's for paper coasters..

On May 12, 1982, the Commissioner of the Maine Department of Environmental Protection submitted a request to revise the Maine SIP to include an air emissions license issued to Pioneer Plastics.

The air emissions license issued to Pioneer Plastics by DEP on November 10, 1981 requires the installation of a VOC incinerator. EPA agrees with DEP's determination that VOC emissions will be reduced by 87.9%. This reduction meets EPA's requirements.

DEP's administrative procedures for issuing an air emissions license to Pioneer Plastics did not include a public hearing. However, a 30-day public comment period was provided and the opportunity to request a hearing was announced. DEP received no requests for a hearing. Further, EPA received no comments on its proposed approval of the Maine SIP (44 FR 45210, August 1, 1979) with respect to air emissions licenses issued to paper coaters. Therefore, EPA is not requiring the Maine DEP to conduct a separate hearing on this revision.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291. The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A-K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Sections 110(a) and 301(a) of the Clean Air Act as amended (42 USC 7410(a) and 7601(a)).

List of Subjects in 40 CFR Part 52

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

Dated: September 7, 1982.

Leslie Carothers,

Acting Regional Administrator, Region I.

[FR Doc. 82-28571 Filed 10-15-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3620, 3630 and 8360

Extension of Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Extension of Comment Period.

SUMMARY: A proposed rulemaking on Geologic and Hobby Mineral Materials—43 CFR Part 3630—was published in the **Federal Register** on August 17, 1982 (47 FR 35914). The proposed rulemaking provided a comment period of 60 days, ending on October 18, 1982. Several individuals and organizations affected by the proposed rulemaking have requested an extension of the comment period. After careful consideration of those requests, the Department of the Interior has determined that the comment period should be extended for an additional 30 days. Notice is hereby given of such extension.

DATE: Comments should be submitted by November 17, 1982.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert J. Sulenski, (202) 343-3207.

Robert M. Broadbent,

Acting Assistant Secretary of the Interior.

October 13, 1982.

[FR Doc. 82-28551 Filed 10-15-82; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. SIPS-67-83A]

National Flood Insurance Program

Correction

In FR Doc. 82-28119, at page 45044, in the issue of Wednesday, October 13, 1982, on page 45045, in the third column, correct the part heading now reading Part 167 to read Part 67.

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 61 and 63

[CGD 80-064]

Marine Engineering; Thermal Fluid Heaters, Required Tests and Inspections

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to issue a separate subpart for tests and inspections of fired thermal fluid heaters. Fired thermal fluid heaters are reliable and are in widespread use on tank vessels and their use is increasing on cargo vessels. This proposed rule will modify required inspections by emphasizing operational safety control tests and minimizing hydrostatic and mechanical material tests.

DATES: Comments must be received on or before December 2, 1982.

ADDRESSES: Comments should be mailed to Commandant (G-CMC/44), (CGD 80-064), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered to and will be available for inspection or copying between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, at the Marine Safety Council (G-CMC/44), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: CDR David M. Strasser, Commandant (G-MVI-2/24), U.S. Coast Guard Headquarters, Room 2612, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426-2190.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this rulemaking by submitting written views, data, or arguments. Comments should include the name and address of the person making them, identify this notice (CDG 80-064) and the specific section to which each comment applies, and give reasons for the comments. If an acknowledgement is desired, a stamped, self addressed postcard or envelope should be enclosed.

The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one will be held if written requests for a hearing are received from interested persons having a genuine issue to raise and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Commander David M. Strasser, Project Manager, Office of Merchant Marine Safety, and Lieutenant Walter J. Brudzinski, Project Attorney, Office of Chief Counsel.

DISCUSSION OF PROPOSED RULES: Fired thermal fluid heaters have been treated as boilers and inspected accordingly. While their design may be similar to boilers their usage and operation are substantially different. Thermal fluids remain in a liquid state under atmospheric pressure (plus a nominal pump head pressure, usually 60 psi or less). Fired thermal fluid heaters experience less severe service than boilers. Normally the operating temperature is less than 400°F in order to design the piping as a Class II system (46 CFR Table 56.04-2) and to keep the operating temperatures below the flash point of the thermal fluid.

They are most often used to heat viscous petroleums, asphalts, sulfurs and other cargoes indirectly through coils in the cargo tanks of tank vessels and to heat bunker fuel, potable water, and accommodation spaces.

The opportunity to reduce the burden of inspection requirements has become apparent based on the thermal fluid heater's excellent safety record, technological improvements, increasing scope of usage, and recommendations received from Marine Inspection Offices in the field. Fired thermal fluid heaters will no longer be required to have a periodic hydrostatic test, or have valves opened every fourth year and mountings removed every eighth year. However, hydrostatic testing will be required upon initial installation of the heater, and when the condition of the heater warrants such a test. The major emphasis of the periodic inspections will be verify proper functioning of the safety devices and limit controls that are required by 46 CFR 63.05-90 for initial approval of the unit. The instruction booklet will be required to include approved test procedures which will duplicate actual conditions that would physically trip the safety or the limit control and thus shut down the heater, such as flame failure, low fluid level or flow, high temperature, low fuel oil pressure, etc.

In light of the increasing domestic and foreign usage of fired thermal fluid heaters, the Coast Guard feels there is a

need to update and consolidate existing rules applicable to this equipment. We believe that this proposal will clarify the rules and respond to improvements in technology in this field. These revised standards should result in a savings of time and money to industry, and enable the Coast Guard to improve the quality of inspections. Industry comments on the effect of this proposal and alternative means of ensuring safe operation of thermal fluid heaters are solicited.

SUMMARY OF DRAFT EVALUATION: These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major. These proposed regulations are considered to be non-significant and, accordingly, a draft evaluation has been proposed and placed in the public docket as required by the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 dtd 5–22–80). The DOT Order requires that each draft evaluation include an economic analysis which quantifies, to the extent practicable, the estimated cost of the regulations to the private sector, consumers, and federal, state, and local governments, as well as the anticipated benefits and impacts of the regulations.

These proposed regulations will reduce the burden of inspection requirements and will therefore result in some cost savings by the Maritime industry. Hydrostatic tests often require pumps not normally available. Opening and removing mountings often requires new bolts and studs to reassemble the valves. Spilling and contamination of thermal fluid during hydrostatic tests require replacement of some fluid. It is estimated that the cost of all these tests and inspections is $750 to $1000 per vessel every two years. Since approximately 150 vessels are affected, the total annual savings which would result from the elimination of these tests and inspections would be from $56,000 to $75,000. Eliminating these tests and inspections will also benefit the Coast Guard by reducing inspection time. The time saved will be shifted to other inspections. In accordance with § 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities. Out of roughly 5000 certificated tank barges, approximately 150 would be affected by this proposal. It is estimated that possibly only 3% of those affected represent small entities. Therefore, the number of small entities is not considered significant and the economic impact on them is not considered substantial.

PAPERWORK REDUCTION ACT: The reporting or recordkeeping provisions that are included in this regulation have been or will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained and the public notified to that effect through a technical amendment to this regulation.

List of Subjects in 46 CFR Parts 61 and 63

Vessels, Marine safety.

PROPOSED REGULATIONS: In consideration of the foregoing, the Coast Guard proposes to amend the applicable sections concerning thermal fluid heaters contained in Parts 61 and 63 of Title 46, Code of Federal Regulations, and to add Subpart 61.30 as follows:

PART 61—[AMENDED]

1. The Authority citation for Part 61 reads as follows:

Authority: R.S. 4405, as amended, (46 U.S.C. 375); R.S. 4471a, as amended, (46 U.S.C. 391a); R.S. 4462, as amended, (46 U.S.C. 416); 54 Stat. 166, (46 U.S.C. 526p); 54 Stat 347, (46 U.S.C. 1333); E.O. 11239, July 31, 1965, 30 FR 9671, 3 CFR 1965 Supp; 14 U.S.C. 633; sec. 6(b)(1), 80 Stat. 938 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b).

2. Section 61.05–1 is revised to read as follows:

§ 61.05–1 Scope.

The term "boiler" as used in this subpart includes power boilers subject to Part 52 and heating boilers subject to Part 53 of this subchapter.

3. Section 61.05–10 is amended by revising paragraph (a) and Table 61.05–10 Hydrostatic Tests, to read as follows:

§ 61.05–10 Boilers in service.

(a) Main boilers, including superheaters, reheaters, economizers, auxiliary boilers, low pressure heating boilers and unfired steam boilers are examined by a marine inspector during the inspection for certification and more often if necessary, to determine that the complete unit is in a safe and satisfactory condition. Where hydrostatic tests are required, an inspection is made of all accessible parts while under pressure.

* * * * *

TABLE 61.05–10.—HYDROSTATIC TEST

Boiler	Passenger vessels	Cargo, tank and miscellaneous vessels
Firetube	Annual	Annual.
Watertube	Annual	Quadrennial.

4. Subpart 61.30 is added to Part 61 to read as follows:

PART 61—PERIODIC TESTS AND INSPECTIONS

Subpart 61.30—Tests and Inspections of Fired Thermal Fluid Heaters

Sec.

Subpart 61.30—Tests and Inspections of Fired Thermal Fluid Heaters

§ 61.30–1 Scope.

The term "thermal fluid heater" as used in this part includes any fired automatic auxiliary heating unit which uses a natural or synthetic fluid in the liquid phase as the heat exchange medium and whose operating temperature and pressure do not exceed 204°C (400°F) and 225 psig respectively. Thermal fluid heaters having operating temperatures and pressures higher than 204°C (400°F) and 225 psig, respectively are inspected under Subpart 61.05—Tests and Inspections of Boilers.

§ 61.30–5 Preparation of thermal fluid heater for inspection and test.

(a) The owner, chief engineer, or person in charge shall prepare the thermal fluid heater for inspection.

(b) For visual inspection, access plates and manholes shall be removed as required by the marine inspector and the heater and combustion chambers shall be thoroughly cooled and cleaned.

§ 61.30–10 Hydrostatic test.

All new installations of thermal fluid heaters must be given a hydrostatic test of 1½ times the maximum allowable working pressure. The test must be conducted in the presence of a marine inspector. No subsequent hydrostatic tests are required unless, in the opinion of the Officer in Charge Marine Inspection, the condition of the heater warrants such a test. Where hydrostatic tests are required, land inspection is made of all accessible parts under pressure. The thermal fluid may be used as the hydrostatic test medium.

§ 61.30–15 Visual inspection.

Thermal fluid heaters are examined by a marine inspector at the inspection for certification and when directed by the Officer in Charge Marine Inspection, to determine that the complete unit is in a safe and satisfactory condition. The visual examination includes, but is not limited to, the combustion chamber, heat exchanger, refractory, exhaust stack, and associated pumps and piping.

§ 61.30–20 Automatic controls tests.

An operating test of all safety and limit controls, combustion controls, and programming controls shall be conducted by the owner, chief engineer, or person in charge at the inspection for certification, and when directed by the Officer in Charge Marine Inspection, to determine that the control components and safety devices are functioning properly and are in satisfactory operating condition. The test must be conducted in the presence of a marine inspector and the procedures in the heater instruction booklet must be followed. If an existing heater does not have a test procedure, as required in § 63.05–95 of this chapter, one must be submitted to the Officer in Charge Marine Inspection for approval. The test must include the following: proper purge, burner ignition sequence checks; operation of the combustion controls; shutdown verification of flame safeguard, limit controls, fluid level controls, fluid flow controls, and high temperature control, as required in § 63.05–90 of 63.10–90 of this chapter.

Note: Section 63.05–90 and 63.10–90 of this chapter may be referenced concerning operating tests.

PART 63—[AMENDED]

5. The authority citation for Part 63 reads as follows:

Authority: R.S. 4405, as amended, (46 U.S.C. 375); R.S. 4471a, as amended, (46 U.S.C. 391a); R.S. 4462, as amended, (46 U.S.C. 416); 54 Stat 166, (46 U.S.C. 526p); 54 Stat 347, (46 U.S.C. 1333); E.O. 11239, July 31, 1965, 30 FR 9671, 3 CFR 1965 Supp; 14 U.S.C. 633; sec. 6(b)(1), 80 Stat. 938 [49 U.S.C. 1655(b)(1)]; 49 CFR 1.46(b).

6. Section 63.05–95 is amended by adding a new paragraph (b) to read as follows

§ 63.05–95 Instruction booklets.

* * * * *

(b) In addition to the above, for thermal fluid heaters, the instruction booklet must provide a full description of testing procedures for tests required in § 63.05–90. the test must duplicate actual conditions which would trip the safety or limit controls.

Dated: September 10, 1982.

L N. Hein,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 82–28545 Filed 10–15–82; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[General Order 16; Docket No. 82–48]

Miscellaneous Amendments to Rules of Practice and Procedure

AGENCY: Federal Maritime Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Federal Maritime Commission proposes to amend its Rules of Practice and Procedure to (1) increase the jurisdictional limit for the informal adjudication of small claims from $5,000 to $10,000; (2) provide for tariff notification of decisions of Administrative Law Judges and Settlement Officers in formal and informal docket proceedings; and (3) provide for submissions of petitions for reconsideration in informal adjudications to Settlement Officers. The increase in the small claims ceiling is necessary to reestablish the relationship between the ceiling which was last set in 1975 and present-day cost of doing business. The purpose of the tariff notifications is to ensure that all shippers are treated equally by providing notice of decisions in appropriate cases. Finally, the proposed procedure for filing petitions for reconsideration will remedy a defect in the rules which permits such petitions to be filed with the Commission itself even though parties in informal claims procedures ahve waived the right to file exceptions to Settlement Officer decisions.

DATES: Comments due by December 17, 1982.

ADDRESSES: Comments (original and 15 copies) to:

Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573 (202) 523–5725

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573 (202) 523–5725

SUPPLEMENTARY INFORMATION:

The Federal Maritime Commission proposes to amend its Rules of Practice and Procedure (46 CFR Part 502, *et seq.*) to (1) increase the jurisdictional limit for the informal adjudication of small claims from $5,000 to $10,000; (2) provide for tariff notification of decisions of Administrative Law Judges and Settlement Officers in proceedings involving overcharge claims; and (3) provide for the filing of petitions for reconsideration with Settlement Officers.

The present ceiling of $5,000 in adjudication of small claims was set in 1975. This limitation appears to be inadequate for the present day due to inflationary pressures. An increase to $10,000 would make informal procedures available to a wider range of parties and thus enhance expeditious regulatory action. Accordingly, a limitation of $10,000 is being proposed.

Also being proposed is a provision that, in appropriate cases, Administrative Law Judges and Settlement Officers may direct the publication by carriers or conferences of carriers of a tariff notice which makes all shippers and carriers aware of the import of decisions involving overcharge claims. For example, if a decision were to specify that a certain commodity was entitled to a specific rate, an order would be issued that would specify that the carrier publish in its tariff a notice to this effect. This is similar to the procedure followed in special docket proceedings conducted under section 18(b)(3) of the Shipping Act, 1916 (46 U.S.C. 817). Under such a procedure, all shippers would be alerted to the opportunity to receive the same rate adjustment, within the limits of applicable statutes of limitation.

Finally, the Commission proposes to establish a procedure for filing of petitions for reconsideration with respect to small claims adjudications. Parties to such proceedings waive their right to file exceptions to decisions of Settlement Officers. However, they are not precluded from filing petitions for reconsideration to the Commission itself which, in the Commission's experience, is tantamount to the filing of exceptions. The procedure proposed would permit filing of such petitions with the Settlement Officer involved who will issue a supplementary decision reviewable by the Commission.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Commission certifies that this proposed rulemaking will not, if adopted, have a significant imact on a substantial number of small entities.

List of Subjects in 46 CFR Part 502

Administrative practice and procedure.

PART 502—[AMENDED]

Therefore, pursuant to 5 U.S.C. 553 and sections 22 and 43 of the Shipping Act, 1916 (46 U.S.C. 821 and 841a), the Commission proposes to amend Part 502 of Title 46 CFR as follows:

§ 502.301 [Amended]

1. Section 502.301 is proposed to be amended by changing the $5,000 limitation in the first sentence to read "$10,000".

§ 502.304 [Amended]

2. Section 502.304(g) is proposed to be amended by addition of the following sentence after the first sentence.

* * * * *

(g) * * *

Where appropriate, the Settlement Officer may require that the carrier publish notice in its tariff of the substance of the decision.

3. A new § 502.304(h) is proposed to be added to read as follows:

* * * * *

(h) Within thirty days after service of a final decision by a Settlement Officer, any party may file a petition for reconsideration. Such petition shall be directed to the Settlement Officer and shall act as a stay of the review period prescribed in § 502.304(g). A petition will be subject to summary rejection unless it: (1) Specifies that there has been a change in material fact or in applicable law, which change has occurred after issuance of the decision or order; (2) identifies a substantive error in material fact contained in the decision or order; or (3) addresses a material matter in the Settlement Officer's decision upon which the petitioner has not previously had the opportunity to comment. Petitions which merely elaborate upon or repeat arguments made prior to the decision or order will not be received. Upon issuance of a decision or order on reconsideration by the Settlement Officer, the review period prescribed in § 502.304(g) will recommence.

4. Section 502.261 is proposed to be amended by addition of a new paragraph (c) to read as follows:

§ 502.261 [Amended]

* * * * *

(c) The provisions of this section are not applicable to decisions issued pursuant to Subpart S of this part.

5. Section 502.225 is proposed to be amended to add a new sentence to read as follows:

§ 502.225 [Amended]

* * * * *

In proceedings involving overcharge claims, the presiding officer may, where appropriate, require that the carrier publish notice in its tariff of the substance of the decision; this provision shall also apply to decisions issued pursuant to Subpart T of this part.

By the Commission.

Joseph C. Polking,

Assistant Secretary.

[FR Doc. 82-28465 Filed 10-15-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 90

[General Docket No. 82-625; RM-3504; RM-3534; FCC 82-411]

Amendment of the Commission's Rules To Provide High Frequency Spectrum for Use by Eligibles in the Special Industrial Petroleum, Telephone Maintenance and Power Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: The Commission proposes to amend its Rules to provide long distance high frequency communications to the Petroleum, Power, Telephone Maintenance and Special Industrial Radio Services. This action proposes communications links to remote sites for safety of life and property and in the exploration for, and distribution of, energy and mineral resources. This action is necessary to align operating rules with the Commission's recently established HF (high frequency) policy.

DATES: Comments are due by November 4, 1982 and replies by November 19, 1982.

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

FOR FURTHER INFORMATION CONTACT: Keith Plourd, Land Mobile and Microwave Division, Private Radio Bureau, Washington, D.C. 20554 (202) 634-2443.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 90

Administrative practice and procedure, Business and Industry, Industrial radio services, Land transportation radio services, Private land mobile radio services.

47 CFR Part 2

Table of frequency allocations, Radio treaty matters, Equipment authorization procedures.

Adopted: September 2, 1982.
Released: September 14, 1982.

In the matter of amendment of Parts 2 and 90 of the Commission's rules to provide high frequency spectrum for use by eligibles in the special industrial, petroleum, telephone maintenance and power radio services, Gen. Docket No. 82-625 RM-3504 RM-3534.

Summary

1. In this Notice, we propose to allot spectrum between 2 and 25 MHz for fixed and mobile communications use in the exploration for energy and mineral resources, in restoring disrupted electric power distribution systems, and in backup communications circuits.

Background

2. This Notice is issued in response to two petitions, filed by the Utilities Telecommunications Council (UTC) and the Central Committee on Telecommunications of the American Petroleum Institute (Central Committee). Parties filing in response to these petitions are listed in Appendix A.[1] Both petitions request allocation of bands between 2 and 25 MHz, most of which is known as the "HF spectrum," for purposes of backup communications for existing but disrupted communications circuits which have safety of life or property implications, and for purposes involving the national interest where other communications circuits are not available and where their use is not feasible.

3. To these ends, the Central Committee has requested an allocation of spectrum between 2 and 25 MHz and the UTC has requested an allocation of spectrum between 2 and 8 MHz. Currently, entities in these services satisfy their fixed communications needs in the HF bands under a safety of life provision in § 90.263 of our Rules.[2]

[1] The American Telephone and Telegraph Company (AT&T) filed late comments on both petitions. However, we are considering them in this proceeding. In its comments, AT&T stated that it also "requires the capability to establish high frequency temporary fixed facilities where the public switched telephone network (PSTN) may be damaged." Therefore, we have included the Telephone Maintenance Radio Service for eligibility to use these frequencies, as proposed herein.

[2] Section 90.263 of the Rules states:

§ 90.263 Substitution of frequencies below 25 MHz.

Frequencies below 25 MHz when shown in radio service frequency listings under this part will be assigned to base or mobile stations only upon a satisfactory showing that, from a safety of life standpoint, frequencies above 25 MHz will not meet the operational requirements of the applicant. These frequencies are available for assignment in many areas; however, in individual cases such assignment may be impracticable due to conflicting frequency use authorized to stations in other services by this and other countries. In such cases, a substitute frequency, if found to be available, may be assigned

Many power and petroleum utilities have been granted authorizations based on this provision in our rules, with the Commission responding in an ad hoc manner. In seeking a more formalized approach, the petitioners request spectrum similar to the relief granted the States and insular areas in General Docket 80–7 (46 FR 52367) for disaster response communications. The use of HF spectrum in that proceeding, and in the instant proceeding,[3] is governed by decisions reached in General Docket 80–740, which amended Part 2 of the Commission's rules concerning use of the HF radio spectrum (46 FR 51249).[4] Consequently, the rules proposed herein are guided by those decisions and they would implement the United States' policy on the use of HF bands within the context of international requirements.

The Issues

4. The constraints on availability and use adopted in Docket 80–740 reflect our concern for the potential for interference to and from international sources. Therefore, in developing guidelines to permit this additional use of the HF spectrum, while avoiding unnecessary interference to HF communications internationally, we have taken steps in our proposals to assure that the use of HF spectrum is kept to the minimum necessary to meet the needs outlined in paragraph 2. Therefore, we are proposing here that:

(i) Only those persons or entities with communications requirements which cannot be met by any means other than through the use of HF frequencies will be eligible; and,

(ii) Use of HF frequencies by eligibles will be limited as set out in Docket 80–740.

5. Both petitioners propose to use fixed stations in the HF bands to meet long range communications requirements which they contend cannot presently be met. In its petition (RM–3504), the Central Committee states that there have been previous unsuccessful attempts to obtain HF allocations for fixed stations in order to provide communications to remote offshore and onshore sites where exploration for energy and mineral resources occurs. Such communications links are important during the exploration stages of a company's search for energy, it says, because microwave, satellite, and other types of communications links are not justified in terms of cost or technology until a site, once explored, begins production. During exploration stages, the Central Committee states, HF communication links to the remote sites are necessary for safety, "* * * to coordinate the delivery of personnel and supplies, and to provide for timely reporting of work activities." The short duration of the exploration stage (usually less than a year), it says, does not justify the use of more costly links. Additionally, the Central Committee requests the use of HF circuits to provide standby communications to back up links that are used after the exploration stage, during production.

6. In a similar vein, the UTC requests an HF allocation to eligibles in the Power Radio Service for standby circuits to back up normal communication circuits used for intra-utility, inter-utility, and power pool links. The UTC states that the circuits involved are used in coordinating power distribution and are important to the national interest. Also, the UTC requests the use of HF frequencies for the restoration of electric service when power distribution is disrupted due to equipment malfunction or damage occuring in remote areas where UHF, VHF, microwave and other communications channels are not available. In essence, this request is for the use of HF frequencies when no alternative means of communication exists.

7. We believe that the requests for relief filed by the Central Committee and the UTC have merit. We find that certain eligibles in the Power Radio Service, the Special Industrial Radio Service, the Telephone Maintenance Radio Service and in the Petroleum Radio Service have communications needs which are important to the national interest and to the safety of life and property, for which use of HF frequencies is desirable. However, we also believe that the requirements can be met without routine, day-to-day use of HF frequencies. Routine communications requirements can be satisfied through the use of wireline or the use of frequencies above 25 MHz allocated to the fixed services, including microwave. Therefore, we envison the use of HF frequencies for the exploration of oil off the coast or in remote areas of the country; for standby systems in communicating between power pools when land lines are downed due to, for example, a storm; as needed for use by mobile stations coordinating the repair of power distribution or telephone lines, or the repair of pipelines or microwave links; and in situations where coordination cannot be accomplished without the use of HF, and where such use is in the national interest and/or lack of availability of such communications directly jeopardizes the safety of life or porperty. We are also requiring the submission of a plan for the use of HF frequencies by eligibles.

The Proposals: Eligibility

8. Accordingly, we propose to limit eligibility in the Power Radio Service to utilities and power pools engaged in the distribution of electric power or the distribution by pipeline of fuels or water. In the Petroleum Radio Service, we propose to limit eligibility to persons engaged in exploring for petroleum or petroleum products. In the Telephone Maintenance Radio Service, we propose to limit eligibility to communications common carriers, for the repair of communications links important to the national interest. In the Special Industrial Radio Service, we propose to limit eligibility to use HF frequencies to persons engaged in any one of the following activities:

---

from the following bands 1605–1750, 2107–2170, 2194–2495, 2505–2850, 3155–3400, or 4438–4650 kHz. Since such assignments are in certain instances subject to additional technical and operation limitations, it is necessary that each application also include precise information concerning transmitter output power, type and directional characteristics, if any, of the antenna, and the minimum necessary hours of operation. (This section is not applicable to the Radiolocation Radio Service, Sub-part F.)

[3] The specific allocation within the 2 to 25 MHz band may be changed by proceedings in General Docket 80–739, which deals with domestic implementation of the 1979 WARC. The WARC made a number of allocation changes in the HF spectrum which generally reflect decreased availability of spectrum for the fixed services. Under these guidelines, we anticipate that we will have to remove from availability to eligibles under Part 90 of the rules all permanent HF allotments to the Private Radio Services. Thus, this proceeding and General Docket 80–7 provide the groundwork as to how the Commission will, in the future, accommodate operations at HF frequencies in the Private Radio Services.

[4] The proceedings in Docket 80–740 set out ground rules for the types of communications to be permitted in the non-Government HF spectrum, and how the spectrum is to be used. With respect to fixed and land mobile stations in the Private Radio Services, the use of this spectrum will be only to "* * * provide communication circuits in emergency and/or disaster situations, where safety of life and property are concerned, and to provide communications circuits to support operations which are highly important to the national interest and where other means of telecommunication are unavailable." Further, "* * * the Commission does not intend to seek international protection for assignments pursuant to such use. This results in the following constraints upon the circuits/assignments:

(i) The FCC will not accept responsibility for protection of the circuits from harmful interference caused by foreign operations.

(ii) In the event that a complaint of harmful interference resulting from operation of these circuits is received from a foreign source, the offending circuit(s) must cease operation on the particular frequency concerned.

(iii) In order to accommodate the situations described in (i) and (ii), equipments shall be capable of transmitting and receiving on any frequency in the bands assigned to the particular operation and capable of immediate change among the frequencies."

• Exploratory efforts in mining for solid fuels, minerals, and metals important to the national interest;

• Repair of pipelines being used for the transmission of fuel or water; or,

• Services supporting the exploration for energy or mineral resources important to the national interest, without which such exploration cannot be conducted.

The Proposals: The HF Allocation

9. We propose to allocate frequency bands listed in Appendix B between 2 and 25 MHz, for the purposes set out in the foregoing paragraphs.[5] We believe that because international use of HF frequencies will be dynamic in coming years, an allocation of bands not only between 2 and 8 MHz, but rather between 2 and 25 MHz is appropriate in these services. This would provide the flexibility the Commission needs to make assignments on a non-interference basis to international users.

10. Also, we note that since domestic assignments might change as international assignments change, we propose to require the use of equipment that can transmit and receive on any 100 Hz step frequency between 2 and 25 MHz, to provide the ability to operate at any time and under any ionospheric conditions. Licenses issued would reflect bands of frequencies only, with specific frequencies being separately requested by applicants and approved by the Commission for use, so as to avoid interference internationally.

The Proposals: Communications Plans

11. In order to comply with the Commission's decision in Docket 80–740, which has the underlying goal of limiting unnecessary use of HF frequencies, eligibles should review their communications requirements to determine whether there is any alternative to use of the HF frequencies. Along this line, we would like to place a distance limitation in our Rules of perhaps 160 km (100 miles), or some other value, below which authorizations would not be routinely granted. Such a distance limitation would apply to the minimum path distance over which alternative communications links could not be made available. For example, if an applicant had a requirement to provide communications to mobile units operating in an area of which portions are at least 160 km from the nearest telephone or other operational communications facilities, then he would be eligible for licensing on these frequencies. The limitation would facilitate review of applications and would alert an applicant to alternative modes of communication. In the Power Radio Service, we would also like comments on the usefulness of limiting the use of HF frequencies to communications needs that involve distribution lines which exceed a minimum voltage, such as 100 KV. A minimum voltage requirement for communications essential to power distribution is predicated on the premise that utilities using higher voltages have a need to distribute over greater distances. Such a reference voltage would also facilitate review of applications.

12. Any criteria we would adopt to limit the use of HF frequencies would need to be reflected in a plan submitted with license applications. In order to avoid non-essential uses of HF frequencies, we would require that the applicant show the following in the plan:

(i) How the HF link(s) fits into the overall communications plans of the applicant;

(ii) A description of the communication requirement sufficient to demonstrate that no alternative to the HF link is appropriate and that there is no reasonable way to abbreviate the link;

(iii) Locations of the HF fixed sites and the intended link(s) between them and all mobile or temporary fixed stations;

(iv) The frequency bands and the number of frequencies necessary for the HF link(s);

(v) The name and phone number of the person(s) responsible for ceasing operations of the licensee's stations in the event of interference; and,

(vi) Where the HF link(s) provides a standby backup circuit for another communications circuit:

(a) a description of the supported circuit and its vulnerability to disruption, and

(b) a description of the supported circuit's message content sufficient to show that the circuit's disruption endangers life, property, or the national interest.

13. The applicant's plan would include all fixed and mobile stations intended to be used. The plan would be submitted with the first application for an HF system. After the first application, other applications could be filed with the Commission under the same plan. Any applications for stations not covered in the plan would be accompanied by an amendment of the licensee's plan to that effect, which may be subject to further review.

The Proposals: Coordination

14. We propose not to require frequency coordination prior to system authorization. However, we also believe that users need to develop a method of assuring the optimum use of the limited number of frequencies available. Further, licensees using current equipment must be given due consideration when operational plans are being developed. Therefore, we invite comments suggesting methods to implement a volunteer system to coordinate licensees' use of specific frequencies in authorized bands. Without such a method or structure, the licensee's ability to swiftly change frequencies to eliminate interference or during emergency situations would be hindered.

The Proposals: Channel Use

15. These frequencies are intended to be used for purposes set out in paragraph 8, above, and in no instance are they intended for use where other operational circuits not using HF either exist or could be made available. Because single sideband emissions conserve radio spectrum, we would require that voice emissions be of the type 2.8A3J, in consonance with present rules. In order to permit the essential types of traffic that exist on the channels that HF circuits are intended to back up, we propose to extend the permissible emission types to include A2, F1, A9, F4, and A4 emissions, confined to within the emission envelope of the authorized (A3J) voice channel. As to testing of the HF systems and attendant training, we envision permitting the operation of these HF circuits for these purposes at a rate not to exceed 60 accumulated minutes per week, as we have similarly provided for disaster communications circuits in the Local Government Radio Service.

The Proposals: Authorizations and Equipment

16. To insure the requisite preparedness to vacate frequencies when notified by the FCC, we would require that licenses authorized pursuant to § 90.263 of the Rules be modified at the time of renewal to reflect the new rules. The modified authorizations would specify frequency bands rather than discrete frequencies. While equipment that has been in use may continue to be used until it is replaced, licensees must be prepared to vacate a frequency if we so order. Thus, early equipment replacement should be contemplated if such systems are expected to serve the vital purposes outlined in this proceeding. Wherever

[5] The full complement of frequency bands which would currently be made available through this proceeding includes the following bands (in kHz): 2107–2170, 2194–2495, 2505–2850, 3155–3400, 4000–4063, 4438–4650, 4750–4995, 5005–5450, 5730–5950, 6765–7000, 7300–8195, 9040–9500, 9775–9995, 10100–11175, 11400–11700, 11975–12330, 13360–14000, 14350–14990, 15450–16460, 17360–17700, 18030–19990, 20010–21000, 21750–21850, 22720–23200, 23350–24990. Also see footnote 3.

possible, we would continue present assignments of HF frequencies by current licensees.

Summary and Conclusions

17. In summary, there appear to be some long distance communications needs in the Power, Special Industrial, Telephone Maintenance, and Petroleum Radio Services that cannot be met by other means and we are proposing to provide frequencies in the 2 to 25 MHz range to these services to fulfill requirements involving the safety of life and property and efforts important to the national interest. We propose limiting the use of these frequencies to fulfilling these requirements only, with attendant testing and training. Plans would be submitted to identify the requirements for the use of HF frequencies. New equipment would be required to be frequency agile over the frequency range from 2 to 25 MHz, to accommodate the dynamic international HF environment. Finally, present licensees would be required to vacate a frequency upon notification by the FCC.

18. We conclude that the rules set forth in Appendix B appear to meet essential needs in providing some relief for the petitioners, and we, therefore, propose to adopt these rules.

19. We encourage all interested parties to respond to this Notice since such information as they may provide often forms the basis for further Commission action. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contracts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who initiates an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

20. Authority for issuance of this Notice is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before November 4, 1982 and reply comments on or before November 19, 1982. Timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order. A summary of the Commission's procedures governing *ex parte* contacts in informal rule makings is available from the Commission's Consumer Assistance Office, Federal Communications Commission, Washington, D.C. 20554. (202) 632–7000.

21. In accordance with the provisions of § 1.419 of the Commission's rules, an original and five copies of all statements, briefs or comments filed shall be furnished to the Commission. Responses will be available for public inspection during business hours in the Commission's Public Reference Room in its headquarters in Washington, D.C.

22. After an analysis of these proposed rules, the Commission concludes that they are not likely to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354). The majority of licensees in the Power, Telephone Maintenance, and Petroleum Radio Services are not small businesses.[5] Neither eligibles nor existing users will incur any significant additional costs if the proposed rules are adopted. In that regard it is noteworthy that use of radio in the industries affected is secondary to their main operations. The proposed rules may directly effect a small number of licensees and eligibles in the Special Industrial Radio Service who might be considered "small business concerns". Although the rules proposed set out additional reporting requirements, these requirements are brief and general and can be fulfilled by the applicant without professional assistance. Thus, no significant impact on these small businesses is foreseen. To the contrary, both for small and large businesses, the proposed rules represented a measure of relief as well as a communications supplement which does not exist.[6] Accordingly, the Commission certifies that Sections 603 and 604 of the Regulatory Flexibility Act do not apply to these proceedings. See 5 U.S.C. Section 605(b).

23. For further information concerning this rule making proceeding, contact Keith Plourd, (202) 634–2443.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Comments

RM–3504—Special Industrial Radio Service Association, American Telephone and Telegraph Company (Late)

RM–3534—National Electric Reliability Council Operating Committee, American Telephone and Telegraph Company (Late)

Reply Comments

No reply comments were filed on either petition.

Appendix B

The Commission proposes to amend Title 47 of the Code of Federal Regulation, Parts 2 and 90, as follows:

PART 2—[AMENDED]

1. In Section 2.106, amend the Table of Frequency Allocations, for the following specific frequencies, columns 7 through 11, to read as follows:

[5] Based on available information, we feel that entities involved in the proposed eligible activities in the Power, Telephone Maintenance and Petroleum industries are not small businesses. Section 601(3) of the Regulatory Flexibility Act, 5 U.S.C. 601(3), provides that the term "small business" has the same meaning as the term "small business concern" under Section 3 of the Small Business Act. The Rules implementing the Small Business Act, at 13 CFR 121.3 et seq., provide criteria for determining whether a business qualifies as a "small business concern" which would bring it under the reach of the Regulatory Flexibility Act. Under these criteria, based on information available to us, this rule making will not have a significant economic impact on a substantial number of small entities in these services.

[6] See *Report and Order*, General Docket 80–740 (FCC 81–431), 46FR51249; the proposed rules would provide alternate frequencies and bands so that the U.S. licensee could change frequency and continue to operate instead of discontinuing use of frequencies in the subject bands should interference occur to foreign operations.

§ 2.106 Table of frequency allocations.

FEDERAL COMMUNICATIONS COMMISSION

7 Band (kHz)	8 Service	9 Class of station	10 Frequency (kHz)	11 Nature OF SERVICES of stations
•	•	•	•	• • •
4000–4063	FIXED	Fixed		AERONAUTICAL FIXED. FIXED (in Alaska). INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. LOCAL GOVERNMENT. TELEPHONE MAINTENANCE.
•	•	•	•	• • •
4750–4995	FIXED	Fixed		AERONAUTICAL FIXED. FIXED (in Alaska). INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. LOCAL GOVERNMENT. TELEPHONE MAINTENANCE.
•	•	•	•	• • •
5005–5450	FIXED	Fixed		AERONAUTICAL FIXED. FIXED (in Alaska). INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. LOCAL GOVERNMENT. TELEPHONE MAINTENANCE.
•	•	•	•	• • •
5730–5950	FIXED	Fixed		AERONAUTICAL FIXED. FIXED (in Alaska). INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. LOCAL GOVERNMENT. TELEPHONE MAINTENANCE.
•	•	•	•	• • •
6765–7000	FIXED	Fixed		AERONAUTICAL FIXED. FIXED (in Alaska). INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. LOCAL GOVERNMENT. TELEPHONE MAINTENANCE.
•	•	•	•	• • •
7300–8195	FIXED	Fixed		AERONAUTICAL FIXED. FIXED (in Alaska). INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. LOCAL GOVERNMENT. TELEPHONE MAINTENANCE.
•	•	•	•	• • •
9040–9500	FIXED	Fixed		AERONAUTICAL FIXED. FIXED (in Alaska). INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. LOCAL GOVERNMENT. TELEPHONE MAINTENANCE.
•	•	•	•	• • •
9775–9995	FIXED	Fixed		AERONAUTICAL FIXED. FIXED (in Alaska). INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. LOCAL GOVERNMENT. TELEPHONE MAINTENANCE.
•	•	•	•	• • •
10100–11175	FIXED	Fixed		AERONAUTICAL FIXED. INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. TELEPHONE MAINTENANCE.
•	•	•	•	• • •
11400–11700	FIXED	Fixed		AERONAUTICAL FIXED. INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. TELEPHONE MAINTENANCE.
•	•	•	•	• • •
11975–12330	FIXED	Fixed		AERONAUTICAL FIXED. INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. TELEPHONE MAINTENANCE.
•	•	•	•	• • •
13360–14000 (217)	FIXED	Fixed	13560	AERONAUTICAL FIXED. INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. Industrial, scientific and medical equipment. TELEPHONE MAINTENANCE
•	•	•	•	• • •
14350–14990	FIXED	Fixed		AERONAUTICAL FIXED. INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. TELEPHONE MAINTENANCE.
•	•	•	•	• • •
15450–16460	FIXED	Fixed		AERONAUTICAL FIXED. INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. TELEPHONE MAINTENANCE.
•	•	•	•	• • •
17360–17700	FIXED	Fixed		AERONAUTICAL FIXED. INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. TELEPHONE MAINTENANCE.
•	•	•	•	• • •
18030–19990	FIXED	Fixed		AERONAUTICAL FIXED. INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. TELEPHONE MAINTENANCE.
•	•	•	•	• • •
20010–21000	FIXED	Fixed		AERONAUTICAL FIXED. INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. TELEPHONE MAINTENANCE.

FEDERAL COMMUNICATIONS COMMISSION—Continued

7 Band (kHz)	8 Service	9 Class of station	10 Frequency (kHz)	11 Nature OF SERVICES of stations
*	*	*	*	* * *
21750–21850	FIXED	Fixed		AERONAUTICAL FIXED. INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. TELEPHONE MAINTENANCE.
*	*	*	*	* * *
22720–23200	FIXED	Fixed		AERONAUTICAL FIXED. INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. TELEPHONE MAINTENANCE.
*	*	*	*	* * *
23350–24990	FIXED	Fixed		AERONAUTICAL FIXED. INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. TELEPHONE MAINTENANCE.
*	*	*	*	* *

PART 90—[AMENDED]

2. Amend § 90.63 as follows:

A. In paragraph (c), Power Radio Service Frequency Table, revise the Kilohertz portion to read as set forth below:

B. Revise paragraph (d)(1) to read as set forth below:

§ 90.63 Power radio service.

* * * * *

(c) * * *

POWER RADIO SERVICE FREQUENCY TABLE

Frequency or Band	Class of station(s)	Limitations
Kilohertz: 2000 to 25000.	Fixed, base or mobile.	1
Megahertz:		
*	* * * * *	

(d) Explanation of assignment limitations appearing in the frequency tabulation of paragraph (c) of this section:

(1) Only utilities and power pools engaged in the distribution of electric power, or the distribution by pipeline of fuels or water are eligible to use this spectrum, and then only in accordance with § 90.266. Except as provided in this Part, licensees may not use these frequencies in the place of other operational circuits permitted by the Commission's Rules. Circuits operating on these frequencies may be used only to communicate over distances exceeding 160 km (100 miles) for the following purposes:

(i) Providing backup standby communications for circuits which have been disrupted and which are used for coordianting inter-utility, intra-utility, and power pool distribution of electric power; or,

(ii) Coordinating the repair of inter-utility, intra-utility, and power pool electric power distribution networks, or the repair of pipelines.

* * * * *

3. Amend § 90.65 as follows:

A. In paragraph (b), Petroleum Radio Service Frequency Table, revise the Kilohertz portion to read as set forth below:

B. In paragraph (c), revise paragraph (c)(1), and remove and reserve paragraphs (c)(2) through (c)(5) to read as set forth below:

§ 90.65 Petroleum radio service

* * * * *

PETROLEUM RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of Station(s)	Limitations
Kilohertz: 2000 to 25000.	Fixed, base or mobile.	1
Megahertz:		
*	* * * * *	

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

(1) Only entities engaged in prospecting for petroleum or petroleum products are eligible to use this spectrum, and then only in accordance with § 90.266. Except as provided in this Part, licensees may not use these frequencies in the place of other operational circuits permitted by the Commission's Rules. Circuits operating on these frequencies may be used only to communicate over distances which exceed 160 km (100 miles) for the following purposes:

(i) Providing standby backup communications for circuits which have been disrupted and which directly affect the safety of life, property, or the national interest; or,

(ii) Providing operational circuits during exploration.

(2) [Reserved]

(3) [Reserved]

(4) [Reserved]

(5) [Reserved]

* * * * *

4. Amend § 90.73 as follows:

A. In paragraph (c), Special Industrial Radio Service Frequency Table, revise the Kilohertz portion to read as set forth below:

B. Revise paragraph (d)(1) to read as set forth below:

C. Add a new paragraph (f)(5) to read as set forth below:

§ 90.73 Special industrial radio service.

* * * * *

(c) * * *

SPECIAL INDUSTRIAL RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Kilohertz: 2000 to 25000.	Fixed, base or mobile.	1
Megahertz.		
*	* * * * *	

(d) Explanation of assignment limitations appearing in the frequency table of paragraph (c) of this section:

(1) Only entities engaged in exploration, its support services, and the repair of pipelines are eligible to use this spectrum, and then only in accordance with § 90.266. Except as provided in this Part, licensees may not use these frequencies in the place of other operational circuits permitted by the Commission's Rules. The use of these frequencies is not subject to § 90.73(f). Circuits operating on these frequencies may be used only to communicate over distances which exceed 160 km (100 miles) for the following purposes:

(i) Exploratory efforts in mining for solid fuels, minerals, and metals important to the national interest;

(ii) Repair of pipelines used for the transmission of fuel or water; and,

(iii) Services supporting the exploration for energy or mineral resources important to the national

interests, without which such exploration cannot be conducted. * * *

* * * * *

(f) * * *

(5) This limitation shall not apply to paragraph (d)(1) of this section.

* * * * *

5. Amend § 90.81, "Telephone Maintenance Radio Service," as follows:

A. Amend paragraph (c) by adding a kilohertz portion to the Telephone Maintenance Radio Service Frequency Table, before the Megahertz portion, to read as follows:

§ 90.81 [Amended]

* * * * *

(c) * * *

TELEPHONE MAINTENANCE RADIO SERVICE FREQUENCY TABLE

Frequency or Band	Class of station(s)	Limitations
Kilohertz: 2000 to 25,000.	Fixed, base or mobile.....	12
Megahertz:		

* * * * *

B. Amend paragraph (d) by adding new paragraph (11), to read as follows:

* * * * *

(d) * * *

(11) Only entities engaged in the repair of telecommunications circuits are eligible to use this spectrum, and then only in accordance with § 90.266. Except as provided in this Part, licensees may not use these frequencies in the place of other operational circuits permitted by the Commission's Rules. Circuits operating on these frequencies may be used only to communicate over distances exceeding 160 km (100 miles) for coordinating the repair of wireline or point-to-point microwave circuits.

6. In § 90.129, "Supplemental information to be routinely submitted with applications," add paragraph (n) to read as follows:

§ 90.129 Supplemental information to be routinely submitted with applications.

Each application shall be accompanied by the appropriate information listed below:

* * * * *

(n) Applicants requesting licenses to operate on frequencies pursuant to §§ 90.63(d)(1), 90.65(c)(1), 90.73(d)(1) and 90.81(d)(11) must submit communications plans containing the following information:

(1) How the communications link fits into the overall communications plans of the applicant;

(2) A description of the communication requirement sufficient to demonstrate that no alternative to the link is appropriate and that there is no reasonable way to abbreviate the link;

(3) Locations of the fixed sites and the intended link(s) between them and all mobile or itinerant fixed stations;

(4) The frequency bands and the number of frequencies necessary for the link(s);

(5) The name and phone number of the person(s) responsible for ceasing operations of the licensee's stations in the event of interference; and,

(6) Where the link(s) provides a standby backup circuit for another communications circuit:

(i) A description of the supported circuit and its vulnerability to disruption, and

(ii) A description of the supported circuit's traffic sufficient to show that the circuit's disruption endangers life, property, or the national interest.

7. In § 90.207, paragraph (e) and (f), revise the text to read as follows:

§ 90.207 Types of emissions.

* * * * *

(e) For radioteleprinter operations that may be authorized in accordance with § 90.237, only F2 or F9 emissions will be authorized above 25 MHz, and A2 or F2 emissions below 25 MHz.

(f) For radiofacsimile operations that may be authorized in accordance with § 90.237, only F4 emissions will be authorized above 25 MHz, and A4 emissions below 25 MHz.

* * * * *

8. Revise paragraph (g) of § 90.237 to read as follows:

§ 90.237 Interim provisions for operation of radioteleprinter and radiofacsimile devices

* * * * *

(g) For single operations in accordance with § 90.266, transmitters type-accepted under this part for use of A3J emissions may also be used for A2 and F2 emission for radioteleprinter transmissions. Transmitters type-accepted under this part for use of A3J emissions in accordance with §§ 90.63(d)(1), 90.65(c)(1), 90.73(d)(1) and 90.81(d)(11) may also be used for A2, F2, A9, F9, and A4 emissions to provide standby backup circuits for operational telecommunications circuits which have been disrupted, where so authorized in other sections of this part.

9. Add new § 90.266 to read as follows:

§ 90.266 Long distance communications on frequencies between 2 and 25 MHz.

(a) The use of any particular frequency between 2 and 25 MHz is limited to those frequencies falling within the bands allocated to the fixed and land mobile services as indicated in § 2.106 of the Commission's Rules and Regulations.

(b) Only in the following circumstances will authority be extended to stations to operate on the frequencies between 2 and 25 MHz:

(1) To provide communications circuits to support operations which are highly important to the national interest and where other means of telecommunication are unavailable;

(2) To provide standby and/or backup communications circuits to regular domestic communications circuits which have been disrupted by disasters and/or emergencies.

(c) No protection is afforded to users of these frequencies from harmful interference caused by foreign operations.

(d) In the event that a complaint of harmful interference resulting from operation of these circuits is received from a foreign source, the offending circuit(s) must cease operation on the particular frequency concerned immediately upon notification by the Commission.

(e) In order to accommodate the situations described in (c) and (d), the equipment shall be capable of transmitting and receiving on any 100 Hz step frequency within the bands between 2 and 25 MHz and capable of immediate change among the frequencies.

(f) Only 2.8A3J, 0.1A1 and those emission types listed in § 90.237(g) are permitted.

(g) Applicants must fulfill eligibility requirements set out in §§ 90.63(d)(1), 90.65(c)(1), 90.73(d)(1) or 90.81(d)(11) and shall submit communications plans pursuant to § 90.129(n).

(h) Training exercises or circuit tests which require use of these frequencies for more than 60 minutes per week, cumulative, are prohibited unless prior written approval is obtained from the Commission.

(i) Communications on these frequencies are permitted only over distances exceeding 160 km (100 miles), and only if there is no means to abbreviate this distance.

10. In § 90.555, revise the kilohertz portion of the combined frequency list as follows:

§ 90.555 Combined frequency listing.

* * * * *

(b) Combined frequency list:

Frequency	Services	Special limitations
Kilohertz:		
70–90.....	IR.....	Radiolocation.

Frequency	Services	Special limitations
10	IR	Radiolocation.
110–130	IR	Radiolocation.
530	PL	Travelers' information stations.
1610	PL	Do.
1605–1715	IR	Radiolocation.
1610	PP	
1618	PP	
1626	PP	
1630	PP	
1634	PP	
1642	PP	
1650	PP	
1658	PP	
1666	PP	
1674	PP	
1682	PP	
1706	PP	
1714	PP	
1715–1750	IR	Radiolocation.
1722	PP	
1730	PP	
1750–1800	IR	Radiolocation.
2000–3000	PS, PL, IS, IW, IP, IT.	Communications with public coast, disaster communications, long distance circuits.
2212	PO	
2226	PO	
2236	PO	
2244	PO	
2366	PP	
2382	PP	
2390	PP	
2406	PP	
2430	PP	
2442	PP	
2450	PP	
2458	PP	
2482	PP	
2490	PP	
2505–3500	PL, PS	State guard.
2726	PL, PS	Do.
3000–10,000	PL, IS, IW, IP, IT.	Disaster communications, long distance circuits.
3201	PS	
3230–3400	IR	Radiolocation.
4383.8	(2)	Alaska emergency frequency.
10,000–25,000	IS, IW, IP, IT	Long distance circuits.

Megahertz:

* * * * *

§ 90.213 [Amended]

11. Revise footnote 4 of the Frequency Tolerance Table in paragraph (a) of § 90.213 to read as follows:

[4] For disaster communications and long distance circuit operations according to §§ 90.264 and 90.266, transmitters exceeding 200 W peak envelope power shall maintain the carrier frequency to within 20 Hz of the authorized carrier frequency.

§ 90.205 [Amended]

12. Revise footnote 9 of the power table in § 90.205 to read as follows:

[9] For disaster communications and long distance circuit operations as provided for in § 90.264 and § 90.266, peak envelope power is limited to 1 kW.

[FR Doc. 82–28417 Filed 10–15–82; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 47, No. 201
Monday, October 18, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Administration; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Administration of the Administrative Conference of the United States, to be held at 1:30 p.m., Tuesday, October 26, 1982, at 400 Maryland Avenue, SW., Room 7002, Washington, D.C. 20546.

The Committee will meet primarily to discuss consultant Thomas J. Madden's report and draft recommendations on officials' liability for constitutional torts.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information contact Charles Pou, Jr., Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. (Telephone 202–254–7065). Minutes of the meeting will be available on request.

Richard K. Berg,
General Counsel.
October 13, 1982.
[FR Doc. 82–28544 Filed 10–15–82; 8:45 am]
BILLING CODE 6110–01–M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Protection of Historic and Cultural Properties

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of Guidelines for Exemptions under Section 214 of the National Historic Preservation Act.

SUMMARY: The Advisory Council on Historic Preservation promulgates guidelines, as authorized by Section 214 of the National Historic Preservation Act, under which Federal programs or undertakings may be exempted from the requirements of the Act.

DATE: These guidelines are effective October 18, 1982.

FOR FURTHER INFORMATION CONTACT: John Fowler, General Counsel, Advisory Council on Historic Preservation, 1522 K Street, NW, Suite 430, Washington, D.C. 20005; (202) 254–3967.

SUPPLEMENTARY INFORMATION: The National Historic Preservation Act of 1966, 16 U.S.C. 470, *et seq.*, sets forth the Nation's policy in favor of preserving and protecting historic and cultural resources. Among other things, the Act specifies a number of responsibilities for Federal agencies with regard to historic preservation. Section 106 of the Act requires Federal agencies having jurisdiction over any undertaking that may affect a property eligible for or listed on the National Register to take into account the effects of the undertaking on historic properties and to afford the Advisory Council on Historic Preservation an opportunity to comment on the undertaking. Section 110 of the Act directs Federal agencies to appoint agency historic preservation officers, preserve and use historic buildings, locate, inventory and nominate historic properties within their control, record historic structures prior to demolition or alteration, undertake planning to minimize harm to National Historic Landmarks and afford the Council an opportunity to comment on such undertakings affecting landmarks, and conduct programs in accordance with the purposes of the Act. Other duties are found in assorted provisions of the Act.

Section 214 of the Act authorizes the Advisory Council on Historic Preservation to promulgate regulations or guidelines under which Federal agencies may be exempted from all or part of the requirements of the National Historic Preservation Act when such exemption is consistent with the purposes of the Act.

The Council now promulgates guidelines for exemptions under the Act. They set out the procedures to be used by Federal agencies when applying for exemptions from the Act and by the Council in deciding whether to grant such exemptions. Under the Guidelines, an agency official applies to the Council for an exemption by submitting certain information concerning the proposed exemption. The Council, after notifying the public and allowing time for public comment, then considers and rules on the exemption. The Council may impose conditions on or modify the requested exemption, may periodically review the exemption, and may terminate the exemption if conditions change or historic properties are likely to be impaired if the exemption continues. The Guidelines also provide for categorical exemptions as well as program exemptions.

Dated: October 13, 1982.

Robert R. Garvey, Jr.,
Executive Director.

Guidelines for Exemptions under Section 214 of the National Historic Preservation Act

I. Purpose

These guidelines set forth the policies and procedures for Federal agencies to follow when applying for exemptions in accordance with Section 214 of the National Historic Preservation Act (16 U.S.C. 470v) and for the Council when considering whether to grant such exemptions.

II. Scope

Upon application of the responsible Federal agency or by initiative of the Council, Federal programs or undertakings may be exempted from any of the statutory requirements of the National Historic Preservation Act, along with implementing regulations or procedures, when the Council determines, in accordance with these guidelines, that the exemption is consistent with the purposes of the Act, as set forth in Section 1(b) and substantive provisions of the Act.

III. Definitions

A. "Activity" means (1) any program of a Federal agency which results in individual undertakings or actions and (2) any class of undertaking which, while not necessarily

comprising a program, constitutes a group of undertakings or actions that are similar in their nature and in their usual effects on historic properties.

B. All other terms are defined in accordance with Section 301 of the National Historic Preservation Act and 36 CFR 800.2.

IV. Criteria for Exemption

The Council will judge each exemption request on its own merits and in accordance with the statutory requirement of "taking into consideration the magnitude of the exempted undertaking or program and the likelihood of impairment of historic properties." Generally, the Council will approve exemptions for activities that have little effect, or positive effects, on historic properties. The Council will not approve exemptions for individual undertakings.

V. Application Procedure

A. An Agency Official may apply for an exemption by submitting a written request to the Chairman supported by the following documentation:

1. A description of the specific activity for which the exemption is sought, including legislative authorities, level of appropriation (if applicable), and a narrative description of the nature of the activity and its effects or potential effects on historic properties.

2. A description of the specific provisions of the National Historic Preservation Act to which the exemption would apply.

3. An assessment of the effect of granting the exemption in accordance with the criteria set forth in Section IV.

4. A description of parties (State and local government agencies, State Historic Preservation Officers, industries and businesses, organizations, Indian Tribes, classes of individuals and the like) who would be affected by the exemption.

B. Upon receiving an application for an exemption and determining that the requirements of Section V–A have been met, the Chairman shall advise the Agency Official that the Council will consider the exemption application. The Chairman shall advise the Agency Official of appropriate public notice in accordance with the scope and nature of the exemption request. At a minimum, such notice shall provide 30 days opportunity for public comment after notification in the **Federal Register**. Additional notice requirements in other media or to specified parties may be imposed by the Chairman to ensure that interested parties have full opportunity to comment on the exemption application. Additional notice shall be coordinated with the **Federal Register** notice period to the maximum extent possible.

C. After the Agency Official has provided the public notice specified by the Chairman, the Council will promptly rule on the exemption application. Depending on the nature and scope of the exemption, the Chairman will submit the exemption application to the membership of the Council at a meeting or by mail for a vote. The Chairman shall provide each Council member with a full record of the exemption proceedings, including copies of any comments received. Opportunity for oral testimony before the Council shall be provided as the Chairman deems appropriate. The Chairman may use panels of Council members to assist the Council in considering an exemption application.

D. Exemptions shall be granted when a majority of the full Council membership votes, by mail or at a meeting, in favor of the exemption. The Council may impose specific conditions, including a limitation in time, on any exemption and may modify the scope or nature of the requested exemption when it is determined to be consistent with the purposes of the Act. Each exemption approval by the Council shall contain provisions for periodic review and monitoring of performance as the Council deems appropriate for the particular exemption.

E. If approved by the Council, the exemption shall become effective upon publication of notice of the exemption in the **Federal Register** by the Agency Official. If the exemption is disapproved by the Council, the Council shall specify its reasons for disapproval and the Agency Official may resubmit a modified exemption application at any time in accordance with Section V–A.

F. The Council shall report the action taken upon each exemption application to the President and the Congress, including the committees having jurisdiction over the National Historic Preservation Act and the activity subject to the exemption.

G. The Council may terminate or modify an exemption when it determines that conditions have changed or that historic properties are being or are likely to be impaired if the exemption is continued. Termination or modification shall require a majority vote of the full Council membership, by mail or at a meeting. If the Chairman determines exempted activities are likely to cause irreparable harm to historic properties, he may suspend the exemption by providing notice to the Agency Official. The Council will review and act on termination or modification of the suspended exemption within 30 days of such notice.

H. The Council, at its own initiative or by request of one or more Agency Officials, may consider an exemption that covers activities that fall within a single descriptive category but are administered by a variety of agencies under different programs. The affected agencies may designate a single lead Agency Official or jointly assume the responsibilities for application. The Chairman shall ensure that the requirements of Sections V–A and B are met prior to consideration of the exemption, which shall be conducted in accordance with Section V generally. A categorical exemption shall become effective upon publication of notice of the exemption in the **Federal Register** by the Council.

[FR Doc. 82–28559 Filed 10–15–82; 8:45 am]

BILLING CODE 4310–10–M

CIVIL AERONAUTICS BOARD

[Docket 41040; (82–10–45)]

Applications of Trans-Air-Link Corp. for Certificate Authority Under Subpart Q

AGENCY: Notice of Order instituting the Trans-Air-Link Corporation Fitness Investigation.

SUMMARY: The Board is instituting an investigation to determine the fitness of Trans-Air-Link Corporation to engage in the interstate, overseas, and foreign charter air transportation of property and mail (except for charters in Alaska and all-cargo charters in Hawaii) and domestic all-cargo air service as defined in section 101(11) of the Act.

DATES: Persons wishing to intervene in the *Trans-Air-Link Corporation Fitness Investigation* shall file their petitions in Docket 41040 by October 25, 1982.

ADDRESSES: Petitions to intervene should be filed in Docket 41040, and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Joseph W. Bolognesi, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673–5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–10–45 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82–10–45 to that address.

By the Civil Aeronautics Board: October 8, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–28554 Filed 10–15–82; 8:45 am]

BILLING CODE 6320–01–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (See, 14 CFR 302.1701 et seq.); Week Ended October 8, 1982

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Oct. 5, 1982	41027	Transamerica, Airlines Inc., c/o Jeffrey A. Manley, Burwell, Hansen, Manley & Peters, 1706 New Hampshire Avenue, N.W., Washington, D.C. 20009. Application of Transamerica Airlines, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests issuance of a certificate of public convenience and necessity to engage in foreign air transportation of persons, property and mail as follows: "Between the coterminal points New York, N.Y.-Newark, N.J., San Francisco-Oakland and Los Angeles, California, and Honolulu, Hawaii, on the one hand, the intermediate point Tokyo, Japan (or another intermediate point in Japan) and the coterminal point Shanghai and Peking, People's Republic of China." Conforming Applications, motions to modify scope and Answers may be filed by November 2, 1982.
Oct. 5, 1982	41028	Capital Air, Inc., Smyrna Airport, Smyrna, Tennessee 37167. Application of Capitol Air, Inc. pursuant to section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests an amendment of its existing certificate of public convenience and necessity over Route 191-F, or for a new certificate, sufficient to authorize air transportation of persons, property, and mail as follows: Between a point or points in the United States and a point or points in Austria. Conforming Applications, motions to modify scope and Answers may be filed by November 3, 1982.
Oct. 5, 1982	41025	Minerve, Compaignie Francaise de Transports Aeriens, S.A. c/o Andrew T. A. Macdonald, Wilmer, Cutler & Pickering, 1666 K Street, N.W., Washington, D.C. 20006. Application of Minerve, Compaignie Francaise de Transports Aeriens, S.A., pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests a temporary foreign air carrier permit authorizing it to engage in charter air transportation of persons, their accompanying baggage, and property as follows: Between any point in metropolitan France, on the one hand, and Miami, Florida; New Orleans, Louisiana; and New York, New York, on the other hand. Answers may be filed by November 2, 1982.
Oct. 7, 1982	41033	All Star Airlines, Inc., c/o Timothy J. Healey, Healey, Farrell & Lear, Norwood Airport, Norwood, Massachusetts 02062. Application of All Star Airlines, Inc. for Disclaimer of Jurisdiction or, Alternatively, application for approval of a Transfer of certificates pursuant to Subpart Q of the Board's Rules of Practice, requests that the Board disclaim jurisdiction over the transfer of certificates of public convenience and necessity held by R & B Air Travel to All Star Airlines, Inc. Conforming Application, motions to modify scope, And Answers may be filed by November 4, 1982.
Oct. 7, 1982	41038	Pan Air International, Inc., c/o Edwin O. Bailey, Kirkland & Ellis, 1776 K Street, N.W., Washington, D.C. 20006. Application of Pan Air International, Inc. pursuant to Section 401(d)(3) of the Act And Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity to engage in interstate and overseas charter air transportation and for approvals of certain common control and interlocking relationships under Sections 408(a)(5) and 409(a)(6) or an exemption from the latter provisions. Conforming Application, motions to modify scope and Answers may be filed by November 4, 1982.
Oct. 7, 1982	41039	Pan Air International, Inc., c/o Edwin O. Bailey, Kirkland & Ellis, 1776 K Street, N.W., Washington, D. C. 20006. Application of Pan Air International, Inc. pursuant to Section 401 (d)(3) of the Act requests permanent authority to engage in charter foreign air transportation of passengers, property and mail as follows: "Between any point in any State of the United States or the District of Columbia or any territory or possessions of the United States, and (a) any point in Canada; (b) any point in Mexico; (c) any point in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands and any other foreign place in the Gulf of Mexico or the Caribbean Seas; (d) any point in Central or South America; (e) any point in Australia, Indonesia, or Asia as far west as longitude 70° east by a transpacific routing; and (f) any point in Greenland, Iceland, the Azores, Europe, Africa and Asia as far east as, and inlcuding India. Conforming Application, motions to modify scope, and Answers may be filed by November 4, 1982.
Oct. 8, 1982	41043	Republic Airlines, Inc., Hartsfield Atlanta International Airport, Atlanta, Georgia 30320. Application of Republic Airlines, Inc. and Republic Airlines West, Inc., requests pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, that the certificate authority of Republic Airlines West be transferred to Republic effective on January 1, 1983. Conforming Applications, motions to modify scope and Answers may be filed by November 4, 1982.
Oct. 7, 1982	40987	Taino International Airways, Inc., c/o George Volsky, 1522 K Street, N.W., Suite 1030, Washington, D.C. 20005. Application of Taino International Airways, Inc. hereby amends its application, to add certain parties to Taino's original service list, as required by CAB Order 82-9-124. Conforming Applications, motions to modify scope and Answers may be filed by November 4, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-28555 Filed 10-15-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41035]

Dominion Intercontinental Airlines, Inc., Fitness Investigation; 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., October 13, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-28552 Filed 10-15-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40837 and 40838]

Sun Country Airlines Inc. Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge John N. Vittone. Future communications should be addressed to him.

Dated at Washington, D.C., October 12, 1982.

Elias G. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-28553 Filed 10-15-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41032]

Jet USA Airlines Fitness Investigation; Notice of Assignment of Proceeding

This proceeding has been assigned to Chief Administrative Law Judge Elias C. Rodriguez. Future communications should be addressed him.

Dated at Washington, D.C., October 13, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-28556 Filed 10-15-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Countervailing Duty Investigation; Wool From Argentina

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are

initiating a countervailing duty investigation to determine whether manufacturers, producers or exporters of wool in Argentina receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigation proceeds normally, we will announce our preliminary determination on or before December 15, 1982.

EFFECTIVE DATE: October 18, 1982.

FOR FURTHER INFORMATION CONTACT: Leon McNeil, 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) 377–5496.

SUPPLEMENTARY INFORMATION:

Petition

On September 21, 1982, we received a petition from the National Wool Growers Association, Inc. on behalf of the U.S. wool industry. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that the manufacturers, producers, or exporters of wool in Argentina receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act).

Since Argentina is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and wool is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten material injury to the U.S. industry in question.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on wool, and we have found that the petition meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Argentina of wool, as specified in the "Scope of Investigation" section of this notice, receive benefits that constitute subsidies within the meaning of section 771 (5) of the Act. If the investigation proceeds normally, we will make our preliminary determination by December 15, 1982.

Scope of Investigation

The product covered by this investigation is wool, finer than 44s, not on the skin, from Argentina. The imported merchandise is currently provided for in items 306.3132, 306.3152, 306.3172, 306.3253, 306.3273, 306.3334, 306.3354 and 306.3374 of the *Tariff Schedules of the United States Annotated* (TSUSA).

Allegations of Subsidies

The petitioner alleges that manufacturers, producers, or exporters in Argentina of wool receive the following benefits that constitute bounties or grants: "Reembolso"—tax rebate on exports, pre-financing of exports through dollar-indexed pesos, export incentives for exports leaving from Patagonia, financial reorganization aids, multiple exchange rates and state-subsidized incentives for agriculture. We will investigate to determine if these programs provide countervailable benefits.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

October 12, 1982.

[FR Doc. 82-28512 Filed 10-15-82; 8:45 am]

BILLING CODE 3510-25-M

Management-Labor Textile Advisory Committee; Public Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Management-Labor Textile Advisory Committee was established by the Secretary of Commerce on October 18, 1961 to advise U.S. Government officials on problems and conditions in the textile and apparel industry and furnish information on world trade in textiles and apparel.

TIME AND PLACE: November 16, 1982 at 1:00 p.m. The meeting will take place at the Main Commerce Building, Room 4830, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

AGENDA: (1) Review of imports trends, (2) Implementation of textile agreements, (3) Report on conditions in the domestic market, and (4) Other business.

PUBLIC PARTICIPATION: The meeting will be open to public participation to the extent time is available. The public may file written statements with the Committee before or after the meeting. Approximately 30 seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, Office of the Deputy Assistant Secretary for Textiles and Apparel, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202/377–3737.

DATED: October 8, 1982.

Walter C. Lenahan,

Acting Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 82-28511 Filed 10-15-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

[Modification No. 5 to Permit No. 71]

Marine Mammal Permit Applications

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 71 issued to the Northwest and Alaska Fisheries Center, National Marine Fisheries Service, 2725 Montlake Boulevard, East, Seattle, Washington 98112, on January 25, 1975 (40 FR 4325), as modified on October 6, 1975 (40 FR 198); February 26, 1979 (44 FR 13060); December 21, 1979 (44 FR 77229); and October 2, 1980 (45 FR 67404), is further modified as stated below.

Section A–1 is modified by adding:

"d. Up to 2 Pacific harbor seals (*Phoca vitulina richardii*) may be captured, radio- and flipper-tagged, recaptured, and released as described in the modification request.

e. Up to 30 California sea lions (*Zalophus californianus*) may be captured, restrained, marked, radio- and flipper-tagged, food sampled by stomach lavage or enema, and released as described in the modification request."

Section A–2 is modified by deleting A–2d.

Section A is modified to reduce the number of animals authorized to be killed by replacing A–3 with:

"3. The following marine mammals may be taken by killing as described in the application and modification requests:

a. Up to 450 California sea lions (*Zalophus californianus*)

b. Up to 8 Pacific harbor seals (*Phoca vitulina richardii*)

c. Up to 20 Northern sea lions (*Eumetopias jubatus*)"

This modification becomes effective upon publication in the **Federal Register.**

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300

Whitehaven Street, NW., Washington, D.C.;

Regional Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE., Seattle, Washington 98115; and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: October 8, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-28557 Filed 10-15-82; 8:45 am]

BILLING CODE 3510-22-M

[Proposed Modification to Permit No. 347(P77W)]

Marine Mammal Permit Applications

Notice is hereby given that the Southwest Fisheries Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, California 92038, has requested a modification of Permit No. 347 issued on July 25, 1981 (46 FR 38950) under the authority of 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).

The Permit Holder is requesting to take California sea lions for tagging and release by using hoop nets or gillnets around breakwaters or buoys. Animals so captured will be a part of the quota of 1600 California sea lions to be captured, tagged and released authorized in the Permit.

Concurrent with the publication of this Notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of the modification to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification request 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 November 16, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular modification request would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in the modification 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 modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: October 12, 1982.

R. B. Brumsted,

Acting Director, Office of Marine Mammals & Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-28558 Filed 10-15-82; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget

DOC has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.

Title: Service Annual Survey.

Type of Request: New.

Burden: 12,049 respondents; 2008 reporting hours.

Needs and Uses: The Service Annual Survey is the annual source of service receipts data. These data are used by the Federal Government for computation of the national accounts and for economic policy decisions and by private industry for marketing analysis.

Affected Public: Establishments and organizations which are primarily egaged in service activities.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Timothy Sprehe, 395-4814.

Agency: Bureau of the Census.

Title: Survey of Housing Starts, Sales and Completions.

Type of Request: Extension.

Burden: 8,750 respondents; 4,650 reporting hours.

Needs and Uses: The information collected is needed to determine how many and what kinds of new residential buildings are being built and/or sold. Housing starts and sales are important economic indicators.

Affected Public: Builders of single-family houses and/or apartment buildings.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Timothy Sprehe,395-4814.

Agency: Bureau of Economic Analysis.

Title: Survey of U.S. Travelers Visiting Canada.

Type of Request: Extension.

Burden: 30,000 respondent; 2,000 reporting hours.

Needs and Uses: Secures data on the expenditiures of U.S. residents for travel to Canada. Used for the preparation of the international travel accounts of the U.S. balance of payments accounts.

Affected Public: Drivers of automobiles with U.S. plates and family heads or individual travelers entering Canada by other means.

Frequency: Other (U.S. Customs officers distribute one each ½ hour).

Respondent's Obligation: Voluntary.

OMB Desk Officer: Timothy Sprehe,395-4814.

Agency: Bureau of Economic Analysis.

Title: Expenditures of United States Travelers in Mexico.

Type of Request: Extension.

Burden: 5,000 respondents; 500 reporting hours.

Needs and Uses: Secures data on the expenditures of U.S. travelers returning from Mexico to the United States. Used for the preparation of the international travel accounts of the U.S. balance of payments account.

Affected Public: U.S. citizens (family heads and individuals returning to the United States from Mexico.)

Frequency: Quarterly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Timothy Sprehe 395-4814.

Agency: Bureau of Economic Analysis.

Title: Travel Questionnaire for U.S. Residents Returning from Trips Abroad.

Type of Request: Extension.

Burden: 25,000 respondents; 2,083 reporting hours.

Needs and Uses: Secures data on the travel expenditures of U.S. travelers returning from abroad. Used for the preparation of the international travel accounts of the U.S. balance of payments accounts.

Affected Public: U.S. citizens (family heads and individuals) returning to the United States from abroad.

Frequency: Quarterly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Timothy Sprehe, 395-4814.

Agency: Bureau of Economic Analysis.

Title: Survey of Visitor's Travel Expenses in the United States.

Type of Request: Extension.

Burden: 4,000 respondents; 267 reporting hours.

Needs and Uses: Secures data on the travel expenditures of foreign visitors in the United States. Used for the preparation of international travel accounts of the U.S. balance of payments accounts.

Affected Public: Foreigners, (family heads and individuals) visiting the United States from overseas.

Frequency: Quarterly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Timothy Sprehe, 395-4814.

Agency: Bureau of Economic Analysis.

Title: Receipt and Shipment of United States and Mexican Currency Between U.S. Banks and Foreigners.

Type of Request: Extension.

Burden: 20 respondents; 40 reporting hours.

Needs and Uses: Secures data on receipts and shipments by U.S. commercial banks.

near the border with Mexico, of U.S. and Mexican currency. These data are collected for the Bureau of Economic Analysis through the Federal Reserve System. Used for the preparation of international travel accounts of the U.S. balance of payments accounts.

Affected Public: Banks in Federal Reserve Districts 11 and 12 dealing in Mexican currency transactions.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Timothy Sprehe, 395–4814.

Agency: Bureau of Economic Analysis.

Title: Follow-up Schedule of Expenditures for Property, Plant, and Equipment of U.S. Direct Investments Abroad.

Type of Request: Revision.

Burden: 1,300 respondents; 3,900 reporting hours.

Needs and Uses: Secures two years of data on property, plant, and equipment expenditures of majority-owned foreign affiliates of U.S. companies—an estimate for the current year and a projection for the following year. Used for the preparation of the international investment accounts of the United States.

Affected Public: U.S. corporations having foreign affiliates.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Timothy Sprehe, 395–4814.

Agency: Bureau of Economic Analysis.

Title: Plant and Equipment Expenditures, Plant and Equipment Expenditures Supplement (Form BE–452 and BE–452S).

Type of Request: Extension.

Burden: 4,500 respondents; 18,000 reporting hours.

Needs and Uses: The survey reports are used in preparing estimates of actual and planned investment in new structures and equipment for nonagricultural business, firms, professionals, and nonprofit organizations. The results are used by business and public officials in assessing near-term economic activity.

Affected Public: Manufacturing companies.

Frequency: Quarterly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Timothy Sprehe, 395–4814.

Agency: Bureau of Economic Analysis.

Title: Plant and Equipment Expenditures Annual Supplement (Form BE–452A).

Type of Request: Extension.

Burden: 4,500 respondents; 2,250 reporting hours.

Needs and Uses: The survey reports are used in preparing estimates of actual and planned investment in new structures and equipment for nonagricultural business. Used by business and public officials in assessing near-term economic activity.

Affected Public: Manufacturing business.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Timothy Sprehe, 395–4814.

Agency: Bureau of Economic Analysis.

Title: Structures and Equipment Expenditures Annual Supplement (Form BE–456A).

Type of Request: Extension.

Burden: 7,500 respondents; 3,750 reporting hours.

Needs and Uses: The survey reports are used in preparing estimates of actual and planned investment in new structures and equipment for nonagricultural business. The results are used by business and officials as economic indicators.

Affected Public: Nonmanufacturing business.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Timothy Sprehe, 395–4814.

Agency: Bureau of Economic Analysis.

Title: Structures and Equipment Expenditures (Nonprofit) (Form BE–456).

Type of Request: Extension.

Burden: 9,000 respondents; 18,000 reporting hours.

Needs and Uses: The survey reports are used in preparing estimates of actual and planned investment in new structures and equipment for nonagricultural business. Data is used by business and public officials as economic indicators.

Affected Public: Nonmanufacturing organizations (professional and nonprofit).

Frequency: Quarterly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Timothy Sprehe, 395–4814.

Agency: Bureau of Economic Analysis.

Title: Structures and Equipment Expenditures (Form BE–456).

Type of Request: Extension.

Burden: 9,000 respondents; 18,000 reporting hours.

Needs and Uses: The survey reports are used in preparing estimates of actual and planned investment in new structures and equipment for nonagricultural business. Used by business and public officials in assessing near-term economic activity.

Affected Public: Nonmanufacturing business firms.

Frequency: Quarterly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Timothy Sprehe, 395–4814.

Agency: Economic Development Administration.

Title: Employment Data of Recipient or Other Party Connected with EDA Assistance.

Type of Request: Extension.

Burden: 150 respondents; 1,200 reporting hours.

Needs and Uses: Data collected is needed to evaluate personnel and employment procedures to determine whether employers are in compliance with civil rights laws and regulations.

Affected Public: Usually organizations with at least 50 employees.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Timothy Sprehe, 395–4814.

Agency: International Trade Administration.

Title: Foreign Availability Information.

Type of Request: New.

Burden: 500 respondents; 500 reporting hours.

Needs and Uses: The Export Administration Act of 1979 requires the Office of Export Administration (OEA) to monitor and gather information on the foreign availability of commodities and technology subject to export controls. This form is a compilation of questions that will help determine the existence and state of the art of similar foreign commodity/technical data to U.S. commodities under export control. It will also be used by OEA to estimate the future availability of such foreign products under development.

Affected Public: Commercial exporters.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefit.

OMB Desk Officer: Ken Allen, 395–3785.

Agency: National Oceanic and Atmospheric Administration.

Title: Sea Grant Project Summary.

Type of Request: Extension.

Burden: 60 respondents; 240 reporting hours.

Needs and Uses: Information collected provides a summary of an individual project giving objectives, anticipated benefits and benefits identified to date and funding history. This information is entered into the National Research and Development record maintained by the Smithsonian and the Sea Grant Data Management File.

Affected Public: Colleges and other grantees.

Frequency: Annually.

Respondent's Obligation: Required to obtain or retain benefit.

OMB Desk Officer: Ken Allen, 395–3785.

Agency: National Oceanic and Atmospheric Administration.

Title: Yellowfin Tuna Certificate of Origin.

Type of Request: Extension.

Burden: 25 respondents; 240 reporting hours.

Needs and Uses: The certificate of origin is required with each imported shipment of species covered by the Marine Mammal Protection Act. This prevents shipments embargoed by the Department of State from being transshipped to a third nation and exported to the United States.

Affected Public: Export-Import firms.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Ken Allen, 395–3785.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 82–28514 Filed 10–15–82; 8:45 am]

BILLING CODE 3510–CW–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Levels for Certain Cotton and Man-Made Fiber Textile Products from the Republic of Singapore

October 8, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Granting increases for swing and carryforward from 1,155,000 pounds to 1,339,800 pounds for noncellulosic yarn, wholly of non-continuous filaments, in Category 604, and from 425,428 dozen to 480,733 dozen for men's and boys' woven cotton shirts in Category 340, produced or manufactured in Singapore and exported during the twelve-month period which began on January 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 59926), and May 13, 1982 (47 FR 20654)).

SUMMARY: The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 21, 1981, as amended, between the Governments of the United States and the Republic of Singapore provides, among other things, for percentage increases in certain specific category ceilings during an agreement year (swing) and for the borrowing of designated amounts from the succeeding year's level with the amount used being deducted from the level in the succeeding year (carryforward). Pursuant to the terms of the bilateral agreement, the import restraint levels established for Categories 340 and 640 are being increased for the twelve-month period which began on January 1, 1982 and extends through December 31, 1982.

EFFECTIVE DATE: October 18 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 December 18, 1981, there was published in the *Federal Register* (46 FR 61687) a letter dated December 15, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specific categories of cotton, wool, and man-made fiber textile products, including categories 340 and 604, produced or manufactured in Singapore and exported to the United States during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982. In accordance with the flexibility provisions of the bilateral agreement, the United States Government is increasing the levels of restraint for cotton and man-made fiber textile products in Categories 340 and 604. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the levels to the designated amounts.

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 18, 1982

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner: On December 15, 1981, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, during the twelve-month period beginning on January 1, 1982 and extending through December 31, 1982 of cotton, wool, and man-made fiber textile products in certain specified categories, produced or manufactured in Singapore, in excess of designated levels of restraint. The Chairman further advised you that the levels of restaint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 21, 1981, as amended, between the Governments of the United States and the Republic of Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on October 18, 1982, the twelve-month levels of restaint established for cotton and man-made fiber textile products in Categories 340 and 604 to the following:

Category and Adjusted Twelve-Month Level of Restraint [2]

340, 480,733 dozen
604, 1,339,800 pounds

The actions taken with respect to the Government of Republic of Singapore and with respect to imports of cotton and man-made fiber textile products from Singapore 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,

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82–28513 Filed 10–15–82; 8:45 am]

BILLING CODE 3510–25–M

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 21, 1981, as amended, between the Governments of the United States and the Republic of Singapore which provide, in part, that: (1) Within the aggregate and applicable group limits of the agreement, specific levels and sublevels of restaint may be exceeded by designated percentages; (2) specific levels may be increased for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The levels of restraint have not been adjusted to reflect any imports after December 31, 1981.

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Bonus Awards Schedule for Senior Executive Service (SES)

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice of Schedule for Awarding Bonuses to SES members.

SUMMARY: The Defense Logistics Agency Plans to grant performance awards to SES members on or about 9 November 1982.

EFFECTIVE DATE: 20 October 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Herbert W. Johnson, Employee Development Specialist, Workforce Effectiveness and Development Division, Defense Logistics Agency, Department of Defense, Cameron Station, Alexandria, Virginia 22314. (202) 274–6049 or 274–6035.

Colonel James R. Graves, U.S.A.,

Deputy Staff Director, Personnel.

[FR Doc. 82–28564 Filed 10–15–82; 8:45 am]

BILLING CODE 3620–01–M

Office of the Secretary

Privacy Act of 1974; Systems of Records: Amendments

AGENCY: Office of the Secretary, Defense.

ACTION: Amendment of a notice for a system of records.

SUMMARY: The Office of the Secretary of Defense proposes to amend the notice for a system of records subject to the Privacy Act of 1974. The changes to the system notice are set forth below, followed by the system notice as amended in its entirety.

DATES: These amendments shall become effective on November 17, 1982.

FOR FURTHER INFORMATION CONTACT: Norma Cook, Privacy Act Officer, ODASD(A), Room 5C-315, The Pentagon, Washington, D.C. 20301. Telephone: 202/695-0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense (OSD) system notices for systems of records subject to the Privacy Act of 1974, Title 5 United States Code, Section 552a (Pub. L. 93-579; 88 Stat. 1896 *et seq.*) have been published in the **Federal Register** at:

FR Doc. 82-674 (47 FR 2544) January 18, 1982.

FR Doc. 82-3758 (47 FR 6462) Febuary 12, 1982.

FR Doc. 82-21537 (47 FR 34441) August 9, 1982.

FR Doc. 82-23920 (47 FR 38574) September 1, 1982.

FR Doc. 82-25638 (47 FR 41156) September 17, 1982.

FR Doc. 82-25636 (47 FR 41162) September 17, 1982.

FR Doc, 82-27105 (47 FR 43416) October 1, 1982.

The final rule exempting those portions of this system which fall within 5 U.S.C. 552a(u)(5) was published in FR Doc. 82-27406 (47 FR 44117), October 6, 1982.

A new system report as required by 5 U.S.C. 552a(o) was submitted on September 2, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

October 13, 1982.

DMRA&L 02.0

SYSTEM NAME:

Educator Application Files.

SYSTEM LOCATION:

Manual and automated records are maintained at the Teacher Recruitment Section, Personnel Division, Department of Defense Dependents Schools (DoDDS), Hoffman Building I, 2461 Eisenhower Avenue, Alexandria, Virginia 22331 and manual records at the six DoDDS regional personnel offices. A terminal is located in the Hoffman Building complex. Automated records are maintained at the main computer site which is operated by the Service Bureau Company (SBC) located in Columbus, Ohio.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Prospective teachers applying for positions within the DoDDS system and current DoDDS teachers and eduactors applying for either interregional transfers or positions in the DoDDS Educator Career Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Prospective Teachers: Files contain all papers and forms relating to the individual's application for employment to include Personal Qualification Statement (SF 171), Supplemental Application of Employment with DoDDS (DS Form 5010), Professional Evaluation, DoDDS (DS Form 5011), DoDDS-Application Index (DS Form 5012), interviewer's worksheets, official college transcripts, copy of teaching certificates, copy of birth certificate, and correspondence to or concerning the applicant.

Interregional Transfer Applicants: Files contain all papers and forms relating to the individual's application. A coded worksheet developed by the regional staff is provided to the central personnel office for processing (remainder of material retained at the region). also included are miscellaneous worksheets and correspondence relating to the application.

Educator Career Program Applicants: Files contain all paper and forms relating to the individual's application to include: DoDDS Educator Career Program Application (DS Form 5080), DoDDS Assessment of Potential (DS Form 5081), DoDDS Educator Career Program Rating Sheet (DS Form 5082), and miscellaneous worksheets and correspondence relating to the application.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

20 U.S.C. 902, 903 and 931.

PURPOSE(S):

Teacher Recruitment Section and Regional Offices: To determine qualifications and make selections of candidates for vacant positions within the DoDDS system (including new teachers, interregional transfers, and Educator Career Program positions), to review types of experience, educational background, evaluation of previous employers, professional credentials, interviewers' ratings.

Department of the Army, Air Force, and Navy Staff agencies and Commands: To complete processing of hired individuals, to obtain Office of Personnel Management National Agency Check, medical examination, passports; to arrange transportation and shipment/storage of household goods; and to provide gaining Civilian Personnel Offices necessary documention for placing individual on rolls.

Any individual's records in a system of records might be transferred to any Component of the Department of Defense having a need to know in the performance of official business.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The SBC which operates the automated system.

Records may be disclosed to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders are stored at the DoDDS personnel office or regional offices; some files are supported by automated files which are maintained on disks and/or tapes at the central computer site.

RETRIEVABILITY:

The manual files are filed alphabetically by name. The automated records are indexed by name or system assigned number (assigned chronologically upon input). Also, any combination of data in the automated file can be used to select individual records. Only authorized individuals (i.e., personnel staffing specialists) are provided user identification numbers and passwords to access the system via terminal.

SAFEGUARDS:

Paper records are maintained in files which are accessible only to authorized personnel.

a. *Description of automated process.* Current hardcopy records of information and disks are maintained in the DoDDS personnel office where access can be controlled. The office is locked after normal duty hours and building is secured by a private security force. Hardcopy records of interregional transfer applicants and a portion of the Career Educator applicants are maintained in the regional offices in locked cabinets and/or locked offices where access can be controlled and which are locked after normal duty hours. Approved special requests for data can be supported by ad hoc inquiry. Any combination of data can be

used to select individual records for special processing.

b. *Physical safeguards.* A high-speed remote batch terminal, used for this system, is located in the DoDDS personnel office. The office is secured after normal duty hours to preclude unauthorized access. Access to the personnel terminal and all hardcopy records are controlled by office personnel. Access to automated data files by terminal is controlled by the use of a user ID and password system. The central computer site is owned and operated by the SBC which has a complex security system. The site is guarded 24 hours a day, year-round, and employs a system of electronic locks, alarm systems, closed-circuit television, and intercom devices to preclude access by unauthorized personnel. All visitors are registered, escorted, and accounted for at all times. SBC has a back-up power supply so that the system will remain on-line during power shortages. Back-up tapes are run daily, weekly, and monthly and stored in fireproof vaults. A second copy of monthly tapes is stored in an off-site vault with 24-hour security.

c. *Remote terminal access.* Access to the terminal is controlled by the use of user identification numbers and passwords. The passwords are initially assigned by SBC; however, the user is immediately instructed to change it to something only known to him/her. Only through a complex internal checking system, can authorized SBC personnel access the password in the event it is lost or forgotten by the user. The password can be changed as frequently as desired and is now changed every 6 months or upon the departure of employee which has knowledge of it.

d. *Storage Media.* Hardcopy files are stored in the personnel office or in regional offices. Disks used in the personnel office are also stored there. Data retained by SBC is on disks and magnetic tape.

e. *Risk analysis.* The main computer site is adequately secure for storage of personal information. SBC is bound to uphold all provisions of the Privacy Act in accordance with GSA contract procedures. The terminal is protected so that unauthorized access to information can be prevented.

RETENTION AND DISPOSAL:

Prospective Teachers: Records are retained for recruitment period (no more than 1 year). For nonselected applicants, portions are returned to applicant for future use and portions are destroyed unless the applicant has indicated a desire to reapply in which case portions of the file are retained until the next recruitment period. Records of selected applicants are forwarded to the Departments of the Army, Air Force, and Navy as appropriate for processing.

Interregional Transfer Applicants: File is retained for 1 year and destroyed.

Career Educator Program Applicants: Applicants are retained for 2 years (unless updated by applicant) and destroyed.

Automated Records: Back-up tapes at SBC are erased every 6 months via complete overwriting. Archive tapes after release by user are degaussed. When released by user, all bytes used for data which are on disk are automatically reset to 0 before anyone may use the storage space. Disks used on the terminal in the personnel office are erased when no longer needed and reused (i.e., never leave the office and are never used by another system).

SYSTEM MANAGER(S) AND ADDRESS:

Ms. Marilee Sprenkle, Chief, Teacher Recruitment Section, Office of Dependents Schools, 2461 Eisenhower Avenue, Alexandria, Virginia 22331, telephone (202) 325–0885.

NOTIFICATION PROCEDURE:

Information may be obtained from: Chief, Teacher Recruitment, DoD Dependents Schools, Room 120, 2461 Eisenhower Avenue, Alexandria, Virginia 22331, Telephone: (202) 325–0885.

RECORD ACCESS PROCEDURES:

Requests from individuals for their own files should be sent to the address indicated in "Notification Procedures" section, above. Written requests for information should contain the full name and address of the individual and a notarized signature.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR Part 286b, and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Information is obtained from the individuals concerned, current and past employers, and educational institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 U.S.C. 552a(k)(5). (See 32 CFR 286b (OSD Admin. Inst. No. 81)).

[FR Doc. 82-28509 Filed 10-15-82; 8:45 am]
BILLING CODE 3810-01-M

Privacy Act of 1974; Systems of Records: Amendments

AGENCY: Office of the Secretary, Defense.

ACTION: Amendments to a notice for a system of records.

SUMMARY: This notice makes several minor administrative amendments to a system of records maintained by the Office of the Secretary of Defense (OSD). The changes to the system are set forth below, followed by the system notice as amended in its entirety.

DATES: These amendments shall become effective on November 17, 1982.

FOR FURTHER INFORMATION CONTACT: Norma Cook, Privacy Act Officer, ODASD(A), Room 5C–315, The Pentagon, Washington, D.C. 20301. Telephone: 202/695–0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense (OSD) system notices for systems of records subject to the Privacy Act of 1974, Title 5 United States Code, Section 552a (Pub. L. 93–579; 88 Stat. 1896 *et seq.*) have been published in the **Federal Register** at:

FR Doc. 82–674 (47 FR 2544) January 18, 1982
FR Doc. 82–3758 (47 FR 6462) February 12, 1982
FR Doc. 82–21537 (47 FR 34441) August 9, 1982
FR Doc. 82–23920 (47 FR 38574) September 1, 1982
FR Doc. 82–25638 (47 FR 41156) September 17, 1982
FR Doc. 82–27105 (47 FR 43416) October 1, 1982

The proposed amendment is not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of an altered system report.

M. S. Healy,
OSD Federal Register Liaison Officer, Department of Defense.
October 13, 1982.

DMRAA&L 03.0

System name:

Employer Support File (PLEDGE) (47 FR 2544, January 18, 1982)

Changes:

System location:

Second paragraph, remove "Room 900, 1117 North 19th Street" and insert "Suite 206, 1735 N. Lynn St."

Categories of individuals covered by the system:

Delete entry under above heading and insert:

"Company name, self-employed individuals, individuals heading

companies bearing their names, the pledging officials representing various companies, or staff directors who have pledged to support the National Guard and Reserve Components.

Volunteer members of state and area support committees".

Categories of records in the system:

Delete entry under above heading and insert:

"Name, address, geographic location, and size of pledging company.

Name, address of state committee members."

Routine use (disclosure) of records maintained in the system, including the categories of users, uses, and the purpose of such uses:

Delete entire caption and insert:

Purpose(s):

In first paragraph, add as last sentence:

"Membership roster of state and area committees used for mailings, and routine business."

Internal users, uses and purposes:

Delete caption and insert:

Routine uses of records maintained in the system including categories of users and the purposes of such uses:

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Retrievability:

Add as second paragraph:

"Retrieved by state membership."

System manager(s) and address:

Remove "Room 900, 1117 North 19th Street" and insert "Suite 206, 1735 N. Lynn St."

Notification procedure:

Delete entry under above heading and insert:

"Information may be obtained from: Chairman, National Committee for Employer Support of the Guard and Reserve, Suite 206, 1735 N. Lynn St., Arlington VA 22209, Telephone: 202–696–5303."

Record access procedures:

First paragraph, remove "Room 900, 1117 North 19th Street" and insert "Suite 206, 1735 N. Lynn St."

DMRA&L 03.0

SYSTEM NAME:

Employer Support File (PLEDGE).

SYSTEM LOCATION:

Primary Location—National Guard Computer Center, 5600 Columbia Pike, Falls Church, VA 22041.

Hardcopy roster located at: National Committee for Employer Support of the Guard and Reserve, Suite 206, 1735 N. Lynn St., Arlington, VA 22209.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Company name, self-employed individuals, individuals heading companies bearing their names, the pledging officials representing various companies, or staff directors who have pledged to support the National Guard and Reserve Components.

Volunteer members of state and area employer support committees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, address, geographic location, and size of pledging company.

Name, address of state committee members.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136.

PURPOSE(S):

The purpose of the file is to assist in informing the public and encouraging employers to support the Guard and Reserve.

National Committee for Employer Support of the Guard and Reserve; used to answer inquiries from employees or prospective employees of companies concerning whether a company has pledged to support the Guard and Reserve; used by members of the state committees for employer support to assist Guard and Reserve members who are experiencing difficulties with companies that have pledged; used as a screening tool to prevent resolicitation of support from employers who have already pledged; used to supply state level organizations' lists of companies in states which have pledged; used to prepare speech and press release material mentioning companies that have pledged. Membership roster of state and area committees used to mailings, and routine business.

Any individual records in the system may be transferred to any component of the Department of Defense having a need-to-know in the performance of official business.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND PURPOSES OF SUCH USES:

Records may be disclosed to law enforcement or investigatory authorities for investigation and possible criminal prosecution, and civil court action, or regulatory order.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic computer tape.

RETRIEVABILITY:

Retrieved by company name, geographic location, or type of business.

Retrieved by state membership.

SAFEGUARDS:

Primary location is a TOP SECRET facility.

Hardcopy output is accessible to authorized personnel only during working hours; room is locked after hours and building has security guards.

RETENTION AND DISPOSAL:

Records are permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Chairman, National Committee for Employer Support of the Guard and Reserve, Suite 206, 1735 N. Lynn St., Arlington, VA 22209.

NOTIFICATION PROCEDURE:

Information may be obtained from: Chairman, National Committee for Employer Support of the Guard and Reserve, Suite 206, 1735 N. Lynn St., Arlington, VA 22209, telephone: (202) 696–5303.

RECORD ACCESS PROCEDURES:

Requests for information should be addressed to: Chairman, National Committee for Employer Support of the Guard and Reserve, Suite 206, 1735 N. Lynn St., Arlington, VA 22209.

Written requests should contain the name of the individual and/or employer, current mailing address and telephone number.

For personal visits, the individual should be able to provide some acceptable identification, such as driver's license.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR Part 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Information is supplied by employers who have pledged, from Dunn and Bradstreet, and from Census Data.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82-28515 Filed 10-15-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Energy Information Administration

Form EIA-826; Electric Utility Company Monthly Statement

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of Form EIA-826, "Electric Utility Company Monthly Statement."

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) announces Form EIA-826, "Electric Utility Company Monthly Statement," designed to supersede FERC Form No. 5 effective November 30, 1982. The EIA will implement Form EIA-826 to continue the data series.

DATES: Written comments must be submitted within 30 days of the publication of this notice.

ADDRESS: Comments should be sent to Mr. John Howie at the address lised immediately below.

FOR FURTHER INFORMATION CONTACT: Mr. John Howie (EI-541), Energy Information Administration, Department of Energy, Mail Station: 2F-021, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-5104.

SUPPLEMENTARY INFORMATION:

I. Current Action;
II. Differences between FERC Form No. 5 and Form EIA-826;
III. Long-Range Plans.

I. Current Action

The EIA announces Form EIA-826, "Electric Utility Company Monthly Statement," designed to supersede FERC Form No. 5 with the same title. The Federal Energy Regulatory Commission (FERC) is planning to discontinue FERC Form No. 5 effective November 30, 1982. At that time EIA will implement Form EIA-826 to continue the data series. Form EIA-826 is conditional upon approval by the Office of Management and Budget. EIA publishes the FERC Form No. 5 data and will continue with the Form EIA-826 data in the *Electric Power Monthly, Monthly Energy Review, Electric Power Annual, Annual Report to Congress, Quarterly Report to Congress,* and the *Short Term Energy Outlook.* These publications have extensive circulation and are used by electric utilities, industry, the general public, DOE, and other Federal and State government agencies. Also, the Department of Commerce uses the data collected in compiling the Gross National Product. The average respondent burden, defined as person-hours required to complete a form, is estimated to be one hour for the Form EIA-826. This is the same burden estimate as for the predecessor FERC Form No. 5. The data collected on both forms are identical.

II. Differences Between FERC Form No. 5 and Form EIA-826

The data collected on the Form EIA-826 and its predecessor FERC Form No. 5 are identical. The only differences in the data collections are:

A. The legal collection authority for the FERC Form No. 5 is the Federal Power Act. The collection authority for the Form EIA-826 is the Federal Energy Administration Act of 1974.

B. Respondents were requested to submit an original and two copies of the FERC Form No. 5. EIA will request respondents to submit only the original Form EIA-826.

III. Long-Range Plans

During 1983, the form will be reviewed consistent with EIA's objective of minimizing respondent burden. EIA plans to solicit comments on the form at a later date.

Issued in Washington, D.C., October 12, 1982.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 82-28496 Filed 10-15-82; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA DOCKET NO. 82-CERT-016]

Consolidated Edison Company of New York, Inc.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On September 1, 1982, Consolidated Edison Company of New York, Inc. (Con Edison), 4 Irving Place, New York, N.Y. 10003 filed with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 an application for certification of an eligible use of approximately 6.0 billion cubic feet of natural gas for a sixty (60) day period commencing November 1, 1982. The use of this natural gas is estimated to displace approximately 973,600 barrels of residual fuel oil (0.3 percent sulfur), approximately 7,900 barrels of No. 2 fuel oil (0.2 percent sulfur), and approximately 42,100 barrels of kerosene (0.1 percent sulfur) at six of Con Edison's steam and electric generating stations located in New York City: Astoria in Queens; East River in Manhattan; Narrows in Brooklyn; Ravenswood in Queens; Waterside in Manhattan; and East 60th Street in Manhattan.

The eligible seller is Equitable Gas Company, 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219. The gas will be transported by Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77251; Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., P.O. Box 2511, Houston, Texas 77252 and Texas Eastern Transmission Corporation, P.O. Box 2521, Houston, Texas 77001. Notice of that application was published in the **Federal Register** (47 FR 41801, September 22, 1982) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

Con Edison has in effect other certifications by the ERA, as listed below, which authorize purchases of 30 billion cubic feet of natural gas from various eligible sellers for use at the steam and electric generating stations named in this application.

Docket No.	Volume (Bcf)	Effective	Expires
81-CERT-025	2.20	12/03/81	12/02/82
81-CERT-026	21.00	12/24/81	12/23/82
82-CERT-006	5.00	04/06/82	10/31/82
82-CERT-014	1.80	08/27/82	11/09/82
Total	30.00		

The ERA has carefully reviewed Con Edison's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Con Edison's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual certification is available for public inspection at the ERA, Natural Gas Branch, Docket Room, Room 6144, RG-631, 12th & Pennsylvania Avenue, NW., Washington, D.C., 20461, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., October 7, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-28488 Filed 10-15-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. SA82-24-000]

Odessa Natural Gas Co., a Division of El Paso Hydrocarbons Company; Application for Adjustment

October 13, 1982.

On May 24, 1982, Odessa Natural Gas Company, a Division of El Paso Hydrocarbons Company (Odessa) filed with the Federal Energy Regulatory Commission an Application for adjustment under Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), wherein Odessa sought relief from § 284.123(b)(1)(ii) to use rates for intrastate transportation services that are on file with the Texas Railroad Commission for services under Section 311 of the NGPA.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure.

Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the Federal Register.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28487 Filed 10-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. G-6591-000, et al.]

Conoco Inc., et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

October 13, 1982.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 27, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-6591-000, D, Sept. 30, 1982	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Tennessee Gas Transmission Company, Rincon Field, Starr County, Texas.	(1)	
G-11083-001, Sept. 30, 1982	Do	Texas Eastern Transmission Corporation, Cabeza Creek Field, Goliad County, Texas.	(2)	14.73
CI66-470-001, D, Oct. 1, 1982	Sun Exploration and Producing Company, (formerly Sun Oil Company), P.O. Box 20, Dallas, Texas 75221.	Arkansas Louisiana Gas Company, Akroma Area, Haskell, Latimer, LeFlore and Pittsburg Counties, Oklahoma.	(3)	
CI67-1603-000, Sept. 21, 1982	General American Oil Company of Texas, Meadows Building, Dallas, Texas 75206.	United Gas Pipe Line Company, Bayou St. Vincent Field, Assumption Parish, Louisiana.	(4)	15.025
CI69-814-001, Sept. 27, 1982	Forest Oil Corporation, 1500 Colorado National Building, 950 17th Street, Denver, Colorado 80202.	Columbia Gas Transmission Corporation, Blocks 273 and 292 Fields, Eugene Island Area, Offshore Louisiana.	(4)	15.025
CI69-814-002, Sept. 27, 1982	Do	Columbia Gas Transmission Corporation, Blocks 272 and 292 Fields, Eugene Island Area, Offshore Louisiana.	(4)	15.025
CI74-276-000, Sept. 24, 1982	CNG Producing Company, One Canal Place, Suite 3100, New Orleans, Louisiana 70130.	Texas Gas Transmission Corporation, Eugene Island Area Blocks 272 and 292, Offshore Louisiana.	(4)	15.025
CI77-38-001, Sept. 30, 1982	Mobil Oil Exploration & Producing Southeast Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Texas Eastern Transmission Corporation, West One-Half of Eugene Island Block 333 Field, Federal Offshore Louisiana.	(3)	15.025
CI80-118-001, Sept. 27, 1982	Do	United Gas Pipe Line Company, Bayou St. Vincent Field, Assumption Parish, Louisiana.	(4)	15.025
CI80-298-001, C, Sept. 27, 1982	Exxon Corporation, P.O. Box 2180, Houston, Texas 77001.	Columbia Gas Transmission Corporation, High Island Block A-286, Offshore Texas.	(5)	14.73
CI81-66-001, Sept. 23, 1982	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, Sabine Pass Block 18, Offshore Texas.	(4)	14.73
CI81-373-001, Oct. 1, 1982	Phillips Petroleum Company, 336 Home Savings and Loan Bldg., Bartlesville, Oklahoma 74004.	Arkansas Louisiana Gas Company, West Hunter Field, Garfield County, Oklahoma.	(4)	14.73
CI82-309-002, Sept. 16, 1982	Amerada Hess Corporation, 1200 Milam, 6th Floor, Houston, Texas 77002.	Texas Eastern Transmission Corporation, South Pass Area, South Pass Block 89 Field, Offshore Louisiana.	(4)	15.025

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI82-428-000, A, Sept. 22, 1982	Amerada Hess Corporation, 1200 Milam, 6th Floor, Houston, Texas 77002.	Transcontinental Gas Pipe Line Corporation, Block 10, Eugene Island Area, Offshore Louisiana.	(1)	15.025
CI82-434-000, A, Sept. 20, 1982	Cities Service Company, P.O. Box 300, Tulsa, Oklahoma 74102.	El Paso Natural Gas Company, Justis Field, Lea County, New Mexico.	(2)	14.73
CI82-435-000 (CI77-511), B, Sept. 21, 1982.	Napeco Inc., 122 South Michigan Avenue, Chicago, Illinois 60603.	Natural Gas Pipeline Company of America, BiCentennial (7850) Field, Goliad County, Texas.	(3)	
CI82-436-000 A, Sept. 29, 1982	Mesa Petroleum Co., One Mesa Square, P.O. Box 2009, Amarillo, Texas 79189.	Northern Natural Gas Company, a Division of Inter-North Inc., Matagorda Island Area, Block 624, Offshore Texas.	(10)	14.73
G-3313-001, D, Oct. 4, 1982	Diamond Shamrock Corporation (Successor to The Shamrock Oil and Gas Corporation), P.O. Box 631, Amarillo, Texas 79173.	Northern Natural Gas Company, Sec. 21 (except the east 444 acres), Block A, Day Land and Cattle Co. Survey, Hutchinson County, Texas and SW/4 Sec. 3, Block R-2, D&P R.R. Co. Survey, Hutchinson County, Texas.	(11)	
CI64-946-000, C, Oct. 4, 1982	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Michigan Wisconsin Pipeline Company, Quinlan N.W. Field, Woodward & Dewey Counties, Oklahoma.	(12)	14.65
CI68-1274-000, D, Oct. 4, 1982	Phillips Petroluem Company, 336 Home Savings and Loan Bldg., Bartlesville, Oklahoma 74004.	Panhandle Eastern Pipe Line Company, Section 14-26N-15W, Woods County, Oklahoma.	(13)	
CI73-728-002, D, Oct. 4, 1982	Cities Service Company, P.O. Box 300, Tulsa, Oklahoma 74102.	Tennessee Gas Pipeline Company, South Half (S/2) and Northwest Quarter (NW/4) of East Cameron Block 33, Offshore Louisiana (OCS G-2127).	(14)	
CI83-1-000, A, Oct. 1, 1982	Total Petroleum Inc., One Allen Center, Suite 2950, Houston, Texas 77002.	Southern Natural Gas Company, Mustang Island Block 755, Offshore Texas.	(15)	14.73
CI83-2-000, B, Oct. 1, 1982	Jake L. Hamon, 611 The Petroleum Building, Midland, Texas 79701.	El Paso Natural Gas Company, Burton Flat Field, Eddy County, New Mexico.	(16)	
CI83-3-000, A, Oct. 4, 1982	Transco Exploration Company, P.O. Box 1396, Houston, Texas 77251.	Transcontinental Gas Pipe Line Corporation, High Island Area, Block A-563 Field, Offshore Texas.	(17)	14.73
CI83-4-000 (G-18174), B, Oct. 4, 1982.	Texaco Inc., P.O. Box 60252, New Orleans, Louisiana 70160.	United Gas Pipe Line Company, Welsh Field, Jefferson Davis Parish, Louisiana.	(18)	
CI83-5-000, E, Oct. 4, 1982 [19]	Multistate Oil Properties, N.V. (Successor In Interest To Cheyenne Petroleum Company), P.O. Box 2511, Houston, Texas 77001.	Northern Natural Gas Company, Mocane-Laverne Field, Ellis County, Oklahoma.	(20)	14.65
CI83-6-000, E, Oct. 4, 1982 [19]	Multistate Oil Properties, N.V. (Successor In Interest To John L. Cox, *et ux*), P.O. Box 2511, Houston, Texas 77001.	Northern Natural Gas Company, Mocane-Laverne Field, Ellis County, Oklahoma.	(20)	14.65
CI82-414-000, F, Sept. 7, 1982	Monsanto Oil Company (Partial Succ. In Interest to Texas American Oil Corp. and Monsanto Company), 1300 Post Oak Tower, 5051 Westheimer, Houston, Texas 77056.	Natural Gas Pipeline Company of America, Rodgers Field, Ward County, Texas.	(21)	14.65
CI83-13-000, B, Oct. 7, 1982	BYS, Inc., 3003 LBJ Freeway, Suite 206, Dallas, Texas 75234.	Tennessee Gas Pipeline Company, Seven Sisters (2200) Field, Duval County, Texas.	(22)	

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[1] The last wells on Conoco Inc. lease Nos. 23620 and 26255 have been plugged and abandoned and the leases have reverted to the lessor(s) due to lack of production.

[2] pplicant is filing under Rollover Contract dated September 9, 1982.

[3] Sun released rights to leases because all economically recoverable reserves had been depleted.

[4] Applicant is filing to add additional delivery points.

[5] Applicant is filing to add deeper gas reservoirs to the basic contract by amendment dated January 11, 1979.

[6] Applicant agrees to accept a permanent Certificate of Public Convenience and Necessity covering the subject sale conditioned in accordance with the Natural Gas Policy Act of 1978 and the Commission's Regulations under said Act.

[7] pplicant is filing under Gas Purchase Contract dated August 23, 1982.

[8] Applicant is filing under Gas Purchase Contract dated June 20, 1949; Ratified February 1, 1961.

[9] The B. J. Luker No. 2 Well has been depleted and there are no remaining economically producible reserves. The well was plugged on June 17, 1982.

[10] Applicant is filing under Gas Purchase Agreement dated April 14, 1982.

[11] Seller files this application contingent upon the Commission's approval of J. M. Huber Corporation's application for abandonment of service in Docket No. CI82-411-000.

[12] Applicant is filing under Gas Sales Contract dated January 14, 1964 amended by Supplemental Gas Purchase Agreement dated June 2, 1982.

[13] Deemed uneconomical to connect.

[14] The first half reserves have been produced and the subject contract has been cancelled by an agreement dated August 27, 1982, which covers the sale of the second half of reserves.

[15] Applicant is filing under Gas Purchase Contract dated September 1, 1981.

[16] Wells no longer produce against El Paso's line pressure, and it is not economical to install compression. Gas will be sold to an intrastate pipeline, who is currently taking Exxon's share of gas from the wells into a low pressure line.

[17] Applicant is willing to accept a certificate conditioned upon the maximum applicable rate as allowed by the NGPA.

[18] Wells depleted.

[19] Applicant acquires this property as of December 1, 1979.

[20] Applicant is filing under Gas Purchase and Sales Agreement dated June 6, 1975.

[21] Applicant is filing to continue service of predecessor's Texas American Oil Corporation and Monsanto Company previously authorized in Docket No. CS67-36, and Atlantic Richfield Company and Monsanto Company in Docket No. CI68-691.

[22] The BYS, Inc. No. 2 Humble-Dowdy Fee well is rapidly approaching the economic limit, gas revenue equals operating costs.

[FR Doc. 82-28529 Filed 10-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF80-16-000]

Boott Mills and Proprietors of Locks and Canals on Merrimack River; Certification of Qualifying Status of a Small Power Production Facility by Operation of Law

October 14, 1982.

On July 31, 1980, Boott Mills and Proprietors of the Locks and Canals on Merrimack River (Applicant) filed an application for Commission certification of qualifying status of a small power production facility pursuant to § 292.207 of the Commission's rules.

Notice of the application was published in the **Federal Register** on August 22, 1980.[1] On September 2, 1980, the Massachusetts Municipal Wholesale Electric Company filed a petition to intervene in the proceeding. On September 17, 1980, Applicant filed a motion for an order tolling time for Commission issuance of an order pursuant to § 292.207(b)(5). The Commission did not issue any order taking action on the application within 90 days of the filing application as specified under § 292.207(b)(5).

[1] 45 FR 56136.

The facility is the Lowell Hydroelectric Project (FERC Project No. 2790), located at the Pawtucket Dam on the Merrimack River in Lowell, Massachusetts. The project includes a proposed 15 megawatt hydroelectric power plant and existing hydro generating stations which have a combined capacity of 7.915 megawatts. Thus, total electric power production capacity of the facility will be 22.915 megawatts.

No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Pursuant to § 292.207(b)(5) of the Commission's rules, the application filed

by Boott Mills and Proprietors of the Locks and Canals on Merrimack River on July 31, 1980 is granted as a matter of law.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28526 Filed 10-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-3-000]

Carolina Power & Light Co.; Filing

October 13, 1982.

The filing Company submits the following:

Take notice that on October 1, 1982, Carolina Power & Light Company (CP&L) tendered for filing changes in its Agreement with French Broad Electric Membership Corporation (Customer). Customer plans to install and operate two 1.5 megawatt turbine generators in a low-head hydroelectric generating facility at its Capitola Dam Site on the Marshall Point of Delivery. Company will supply reserve capacity, energy associated with reserve capacity, deficiency energy, and supplemental service. Supplements to the Agreement are proposed to be effective on November 15, 1984.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28527 Filed 10-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-10-000]

Central Maine Power Co.; Filing

October 13, 1982.

The filing Company submits the following:

Take notice that on October 4, 1982, Central Maine Power Company (Central Maine) tendered for filing a Notice of Cancellation of FERC Rate Schedule No. 62, Third Revised Volume 1 between Central Maine and Carrabassett Light and Power Company (Carrabassett).

Central Maine proposes an effective date of December 1, 1981.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28528 Filed 10-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-7-000]

Connecticut Light & Power Co.; Filing October 13, 1982

The filing Company submits the following:

Take notice that on October 1, 1982, the Connecticut Light and Power Company and Western Massachusetts Electric Company ("the Companies") on October 1, 1982, jointly filed a notice of cancellation of the following three rate schedules under a March 20, 1978 exchange agreement among the Companies in Docket No. ER79-494:

Boston Edison Company
Rate Schedule FERC No. 122;
Western Massachusetts Electric Company
Rate Schedule FERC No. 164;
The Connecticut Light and Power Company
Rate Schedule FERC No. 190.

The rate schedules are to be cancelled because they are no longer being utilized by the Companies. The Companies ask waiver of the Commission's notice requirements in order to allow the cancellation to take effect on October 1, 1982.

Copies of this filing have been served on the Massachusetts Department of Public Utilities and the Connecticut Department of Public Utilities Control.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before October 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28516 Filed 10-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-537-000]

Consolidated Gas Supply Corp.; Application

October 14, 1982.

Take notice that on September 17, 1982, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP82-537-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 2, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 384.214 or 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by

Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28530 Filed 10-15-82; 8:45 am]

BILLING CODE 6712-01-M

[Docket No. CP82-553-000]

Florida Gas Transmission Co.; Application

October 14, 1982.

Take notice that on September 27, 1982, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP82-553-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 2, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28531 Filed 10-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-4-000]

Florida Power & Light Co.; Filing

October 13, 1982.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL), on October 1, 1982, tendered for filing a document entitled Amendment Number Eight to Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and City of Vero Beach.

FPL states that under Amendment Number Eight, FPL will transmit power and energy for City of Vero Beach in the implementation of its interchange agreement with Utilities Commission, City of New Smryna Beach.

FPL requests waiver of the Commission's Regulations be granted and that the proposed Amendment be made effective immediately. FPL states that copies of the filing were served on The City Manager, City of Vero Beach.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28517 Filed 10-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-5-000]

Florida Power & Light Co.; Filing

October 13, 1982.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL) on October 1, 1982, tendered for filing a document entitled Amendment Number Thirteen to Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and Utilities Commission, City of New Smyrna Beach.

FPL states that under Amendment Number Thirteen, FPL will transmit power and energy of the Utilities Commission, City of New Smyrna Beach (New Smyrna) as is required by New Smyrna in the implementation of its interchange agreement with the City of Vero Beach.

FPL requests that waiver of the Commission's Regulations be granted and that the proposed Amendment be made effective immediately. FPL states that copies of the filing were served on the Director of Utilities, Utilities Commission, City of New Smyrna Beach.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28518 Filed 10-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-1-000]

Georgia Power Co.; Filing

October 13, 1982.

The filing Company submits the following:

Take notice that Georgia Power Company (Georgia Power) on October 1, 1982 tendered for filing proposed changes in its FERC Electric Tariff, Original Volume No. 2 (partial requirements service). Based on the twelve-month period ended December 31, 1983, the proposed changes would increase revenues from jurisdictional partial requirements service by $23,932,000. The filing contains proposed Rate Schedule PR-7 which would replace Rate Schedule PR-6 (partial requirements). Georgia Power requests an effective date of October 1, 1982.

Georgia Power asserts that its costs have escalated steadily since the filing of its PR-6 rates, resulting in a large increase in the revenue required from wholesale service. The data submitted with Georgia Power's filing allegedly demonstrate that PR-6 rates do not provide a fair return on Georgia Power's wholesale service.

Georgia Power states that copies of the filing were served upon all of its jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR §§385.211, 385.214). All such motions or protests should be filed on or before October 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28532 Filed 10-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-14-000]

Kansas Power & Light Co.; Filing

October 13, 1982.

The filing Company submits the following:

Take notice that The Kansas Power and Light Company and Missouri Public Service Company on October 4, 1982, tendered for filing proposed changes in its Federal Energy Regulatory Commission-Electric Service Tariff No. 84.

The filing of Amendment 1, Electric Interconnection Agreement provides for the construction by The Kansas Power and Light Company of a 161 kV transmission line east from Stranger Creek Substation to meet a similar line being constructed by Missouri Public Service Company west from near Platte City, Missouri to meet on the west bank of the Missouri River. The construction of the transmission line is to be completed by April 1, 1983. The interconnection will allow for improved service and promote savings for customers of both utilities.

Copies of the filing were served upon Kansas Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[Docket No. ER83-12-000]

Kentucky Utilities Co.; Filing

October 13, 1982.

The filing Company submits the following:

Take notice that on October 4, 1982, Kentucky Utilities Company (KU) tendered for filing an Agreement, dated July 1, 1982, between KU and Big Rivers Electric Corporation. The Agreement sets out, among other things, conditions of interconnecting the two systems, future interconnection points, transactions under various type Service Schedules including the Schedules, etc.

KU states no transactions under any of the Schedules are planned for the next 12 months and therefore no billings were included.

Copy of the filing was sent to Big Rivers and the Commonwealth of Kentucky Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28520 Filed 10-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-11-000]

Kentucky Utilities Co.; Filing

October 13, 1982.

The filing Company submits the following:

Take notice that on October 4, 1982, Kentucky Utilities Company (KU) tendered for filing a letter agreement, dated August 25, 1982, between KU and Tennessee Valley Authority (TVA). The letter sets out, among other things, provisions for the delivery and receipt of economy energy between the parties.

KU states no transactions are planned for the next 12 months and therefore no bilings are included.

Copies of the filing were sent to TVA and the Commonwealth of Kentucky Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 26, 1982. Protests will be considered by the Commisson in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28533 Filed 10-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-532-000]

Michigan Consolidated Gas Co.; Application

October 14, 1982.

Take notice that on September 16, 1982, Michigan Consolidated Gas Company, 500 Griswold Street, Detroit, Michigan 48226, filed in Docket No. CP82-532-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 2, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 384.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28534 Filed 10-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-539-000]

Mid Louisiana Gas Co.; Application

October 14, 1982.

Take notice that on September 20, 1982, Mid Louisiana Gas Company (Applicant), 300 Poydras Street, New Orleans, Louisiana 70130, filed in Docket No. CP82-539-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and services, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 2, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28535 Filed 10-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-15-000]

Mississippi Power & Light Co.; Filing

October 13, 1982.

The filing Company submits the following:

Take notice that on October 5, 1982, Mississippi Power & Light Company (MP&L) tendered for filing an executed Agreement for Transmission of Power between MP&L). and Tennessee Valley Authority (TVA). MP&L agrees to deliver for TVA's account at a point in MP&L's 115 KV system near Ludlow, Mississippi, a portion of the power and energy requirements of Central Power Association (Association), a wholesale power customer of TVA.

MP&L requests an effective date of June 7, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon TVA, the Association, and the Mississippi Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 27, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[Docket No. ER83-6-000]

Niagara Mohawk Power Corp.; Filing

October 13, 1982.

The filing Company submits the following:

Take notice that Nigara Mohawk Power Corporation (Niagara), on October 1, 1982, tendered for filing as a rate schedule, an agreement between Niagara and Rochester Gas and Electric Corporation (Rochester) dated July 20, 1982.

Niagara presently has on file an agreement with Rochester dated December 26, 1968. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule F.E.R.C. No. 58. This new agreement is being transmitted as a supplement to the existing agreement, and supersedes Supplement No. 2.

The December 26, 1968 agreement is for the use of Niagara's transmission facilities by Rochester for the purpose of connecting Rochester's Gina Nuclear Plant into the New York Cross-State transmission system. The July 20, 1982 agreement revises the rate to be paid by Rochester for the use of Niagara's facilities.

Niagara requests an effective date of October 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Rochester Gas and Electric Corporation and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before October 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28522 Filed 10-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-530-000]

Pacific Gas Transmission Co.; Application

October 14, 1982.

Take notice that on September 16, 1982, Pacific Gas Transmission Company, 245 Market Street, Room 1422, San Francisco, California 94105, filed in Docket No. CP82-530-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 2, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 384.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28536 Filed 10-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-8-000]

Public Service Company of Colorado; Filing

October 13, 1982.

The filing Company submits the following:

Take notice that Public Service Company of Colorado (PSCo) on October 4, 1982, tendered for filing proposed changes in its FERC Electric Service Tariff No. 16. PSCo states that the proposed changes are the addition of new members to the Inland Power Pool.

The additional members to the Inland Power Pool are:

1. City of Farmington, New Mexico
2. Arizona Public Service Company
3. Arizona Electric Power Cooperative
4. Deseret Generation and Transmission
5. Western Area Power Administration, Boulder city area

Copies of this filing were served upon all parties to the Inland Power Pool Agreement and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commmission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28537 Filed 10-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-9-000]

Public Service Company of New Hampshire; Filing

October 13, 1982.

The filing Company submits the following:

Take notice that on October 4, 1982, the Public Service Company of New Hampshire (PSNH) tendered for filing a revision to Rate Schedule FERC No. 50 which provides for an additional wholesale for resale delivery point to the New Hampshire Electric Cooperative, Inc. in Chester, NH. An effective date of December 1, 1982 is requested.

Copies of the filing were served upon the New Hampshire Electric Cooperative and the New Hampshire Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before October 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28523 Filed 10-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-535-000]

Texas Eastern Transmission Corp.; Application

October 14, 1982.

Take notice that on September 17, 1982, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP82-535-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and services, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 2, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28538 Filed 10-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-534-000]

Transwestern Pipeline Co.; Application

October 14, 1982.

Take notice that on September 17, 1982, Transwestern Pipeline Company (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP82-534-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and services, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 2, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28539 Filed 10-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-13-000]

Vermont Electric Power Company, Inc.; Filing

October 13, 1982.

The filing Company submits the following:

Take notice that on October 4, 1982, Vermont Electric Power Company, Inc. (Vermont) tendered for filing the following rate schedule: "Substation Participation Agreement" dated as of December 1, 1981, between Vermont and Citizens Utilities Company.

Vermont states that this agreement is the same as Rate Schedule F.E.R.C. No. 236 but now includes Citizens Utilities Company as a party for facilities located at Vermont's Irasburg Substation on the same terms and conditions as the other three parties to the agreement.

Vermont further states that since revenues received under this rate schedule will be credited to the State of Vermont under Vermont's charges to the State under the Power Transmission Contract dated June 13, 1957 (F.E.R.C. Rate Schedule No. 1), there will be no change in Vermont's overall rate of return. No cost of service studies were prepared in connection with the derivation of this rate.

Vermont requests an effective date of December 1, 1982.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 27, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28524 Filed 10-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EF81-5021-000]

Western Area Power Administration; Order Disapproving Rates and Granting Intervention

Issued: October 12, 1982.

On December 29, 1980, as supplemented on March 17, 1981, the Assistant Secretary for Resource Applications of the Department of Energy (DOE) [1] filed a request for confirmation and approval on a final basis of rates and charges for the sale of hydroelectric power from the Western Area Power Administration's (WAPA) Colorado River Storage Project (CRSP).[2] The proposed schedules or rates include: Rate Schedule SP-F1 (Wholesale Firm Power Service) and Rate Schedule SP-FP1 (Wholesale Peaking Power Service). These schedules provide for an increase in the composite rate (capacity and energy) from 6.55 mills/kwh to 7.89 mills/kwh, or 20.5 percent. Approval is requested for the period commencing on January 23, 1981, when the rates were placed in effect on an interim basis, and extending through January 22, 1986.

Notice of this filing was published in the **Federal Register** on January 27, 1981, with responses due on or before February 9, 1981. On February 9, 1981,[3] the Colorado River Energy Distributors Association (CREDA), a non-profit Colorado membership corporation comprised of preference customers, preference customer organizations, and state agencies located in the Colorado River Basin states, filed a protest and petition to intervene; CREDA members purchase over ninety percent of the CRSP power marketed by WAPA.

CREDA requests permission to intervene, asks the Commission to find that the rates violate the applicable statutory standards, and urges the Commission to disapprove and remand the rates. Alternatively, CREDA asks that should the Commission choose not to grant the relief requested, the Commission stay its confirmation and approval pending a hearing and investigation to be conducted on an expedited basis. CREDA adds that WAPA should have adopted a stepped rate increase rather than the present rate increase.

CREDA contends that there are two issues which alone moot the need for any rate increase. First, CREDA argues that CRSP's annual revenue requirement improperly includes costs not yet incurred for projects not yet built. Second, CREDA argues that the support for WAPA's rate increase rests on certain erroneous assumptions which lead to an understatement of the amounts of energy and capacity expected to be sold and thus an overstatement of the need for increased revenues.

On April 20, 1981, WAPA responded to CREDA's petition to intervene. WAPA objects to CREDA's allegations and urges the Commission to confirm and approve the rate increase. On May 12, 1981, CREDA filed an answer to WAPA's comments and renewed its request that the Commission remand the rate increase.[4]

On July 23, 1982, the Estes Valley Improvement Association filed a protest in opposition to the requested rate increase but did not petition to intervene. Like CREDA, they object to the inclusion in rates of costs associated with future participating projects.

Discussion

Initially, we find that participation in this proceeding by CREDA is in the public interest. Consequently, we shall grant the petition to intervene.

The authority delegated to the Commission by the Secretary of Energy under DOE Delegation Order No. 0204-33 is that of confirming and approving on a final basis or disapproving rates developed by the Assistant Secretary. The Commission previously has determined that its role ultimately could be viewed as in the nature of an appellate court; to affirm, reverse, or remand the rates submitted to it for final

---

[1] The Assistant Secretary for Resource Applications was granted authority to develop and file rates with this Commission by DOE Delegation Order No. 0204-33. 43 Fed. Reg. 60636 (1978).

Subsequently, effective February 24, 1981, the Secretary of Energy transferred DOE's power marketing responsibilities to the Assistant Secretary for Conservation and Renewable Energy. As used herein, the term "Assistant Secretary" shall refer to either as the context warrants.

[2] DOE Rate Order No. WAPA-4.

[3] Two volumes of exhibits were filed on February 11, 1981, and an errata was filed on February 20, 1981.

[4] On March 2, 1981, CREDA filed a request asking that the Commission apply its ex parte rules to this proceeding 18 CFR 385.2201. CREDA also asks that it be informed of any prohibited ex parte communications and that such communications should lead to a requirement that the communicator show cause why his claim or interest should not be adversely affected as a result. On May 1, 1981, WAPA filed a letter charging that there have been prohibited ex parte communications between the Commission's advisory staff and WAPA's customers; WAPA requests that an investigation be undertaken. For the purpose of this proceeding and until such time as we establish rules specific to applications by power marketing agencies, we believe that section 385.2201 of the Commission's Rules of Practice and Procedure provides appropriate guidance in this regard. *See* 18 CFR 385.2201. As to WAPA's allegations, we believe upon our examination into this matter that they are without merit and that no improper ex parte communications have taken place.

review.[5] In order for the Commission to discharge this review function properly, it must be apparent from the record before the Commission that WAPA's program of rate schedules and the Assistant Secretary's decision have a rational basis and are consistent with statutory requirements. Although these statutory standards, as embodied primarily in the Colorado River Storage Project Act, are unclear, they seem to anticipate in this instance that rates be set so as to recover the costs of operation, maintenance, replacement of, and emergency expenditures for the CRSP facilities and participating projects; to repay the costs of each facility or participating project or separable feature thereof assigned to power, water supply, or, with respect to storage units, irrigation, within fifty years of completion; [6] and to apportion the excess among the appropriate states to repay the construction costs of participating projects allocable to irrigation also within fifty years of completion. Moreover, the power plants and transmission lines authorized to be built are to be operated so as to produce the greatest amounts of power and energy that can be sold at firm power and energy rates and the planning for and use of the net power revenues should make the fullest practicable use of the water of the upper Colorado River system.[7]

CREDA objects to the inclusion in CRSP's revenue requirement of costs associated with future participating projects.[8] CREDA contends that the language and legislative history of the Colorado River Storage Project Act (CRSP Act) as well as DOE's own regulations support the removal of these projects from the power repayment study.[9] WAPA responds that to conclude that these projects should be excluded from the power repayment study would thwart what WAPA contends to be an essential purpose of the CRSP Act by failing to provide for an accumulation of excess revenue to finance future development of the resources of the upper Colorado River Basin.[10] According to WAPA, DOE's regulations similarly offer little support for CREDA's analysis. Although the regulations on their face would seem to forbid the inclusion of costs associated with future participating projects in developing the revenue requirement, they also provide that departures are permitted if specifically approved by the Secretary or authorized by statute.[11] As noted by WAPA, the Assistant Secretary has in this instance expressly authorized a departure from the regulations purportedly in order to further irrigation assistance and the general intent of the CRSP Act.[12] Moreover, WAPA suggests that the CRSP Act sanctions such departures by providing for the accumulation of excess revenues to finance future projects.

In light of the materials before us, the pleadings and analyses of the parties, as well as our own analysis, we cannot find for the reasons noted below that the instant rates should be confirmed and approved on the basis of the record before us.

We agree that the CRSP Act contemplates the comprehensive development of the resources of the upper Colorado River Basin and that the Act also appears to contemplate the accumulation of power revenues in the Upper Colorado River Basin Fund in excess of operating needs to assist in the repayment of the Federal investment in these facilities.[13] The collection of these revenues in advance of any Federal investment assures that the unassigned excess power revenues are adequate to repay the Federal investment as required within the time provided by the CRSP Act. Nevertheless, although agreeing in principle that precollection may be permissible, we do not believe that precollection for every future participating project is proper. While certain projects appear likely to be built, other projects may, in fact, never be built. To permit the precollection of costs associated with these latter projects, would not comport with the applicable statutory standards and would yield rates in excess of those permitted by the noted statutes. The record before us, however, contains no basis for distinguishing between any of the future project costs. Accordingly, we cannot conclude that WAPA and the Assistant Secretary have established a rational basis for the rates that comport with the applicable statutory standards. We would, however, permit the precollection of specific, identified costs associated with particular, identified future participating projects and particular, identified separable features of such projects upon a good faith showing as to each such project or feature that the Bureau of Reclamation, which constructs, owns, and operates these various facilities, reasonably expects these projects or features to be built. Evidence of such reasonable expectation might consist of, for example, development plans or contractual commitments for these projects or features. WAPA has not made that showing here, though. The dollars associated with each project or separable feature have not been identified on this record nor has there been presented any clear indication that WAPA reasonably expects that each project or separable feature whose costs are reflected in the instant rates will, in fact, be built.

CREDA also has identified three assumptions underlying the power repayment study and the rate increase which are, according to CREDA, in error. CREDA first contends that WAPA included certain unidentified future water depletions which would reduce projected generating capability and improperly reduce projected revenue. Given the strong possibility of further development in the West and the concurrent need for water, WAPA's projections of additional water depletions do not appear to be unreasonable. They comport with the forecasting techniques mandated by DOE's regulations,[14] and we believe that they likewise comport with sound business principles. As to the five-year forecasting window set forth in DOE's regulations,[15] the Assistant Secretary has, as noted above, the authority to provide for exceptions to the regulations and has done so here. We cannot conclude that the Assistant Secretary's decision in this regard was improper.

CREDA also contends that WAPA erred in determining available capacity by relying upon lower quartile annual water conditions rather than an average water year. We believe that WAPA's decision to use a lower quartile water year is not adequately supported in the record now before us. The record demonstrates that, historically, WAPA has been able to sell almost all of its

[5] *See, e.g., Bonneville Power Administration*, Docket No. EF80-2011 (November 21, 1980); *Bonneville Power Administration*, Docket No. E-9563 (December 1, 1980); *Southeastern Power Administration*, Docket No. EF79-3011 (April 3, 1981).

[6] This is to include interest on the balance of the investment in the power and water supply features of each such facility or project, or separable feature thereof.

[7] *See*, 43 U.S.C. 485h(c), 620d, 620f, 620*i* (1976). *See* S. Rep. No. 1950, 84th Cong., 2d Sess. (1956); H.R. Rep. No. 1087, 84th Cong., 1st Sess. (1956).

[8] Although these projects have been authorized by Congress, construction has not yet begun nor is it clear from the record before us that they ever will be built.

[9] *See*, 43 U.S.C. 620 *et. seq.* (1976); DOE Order No. RA 6120.2.

[10] *See*, 43 U.S.C. 620, 620d(e), 620*i* (1976).

[11] *See*, DOE Order No. RA 6120.2 ¶ 1.

[12] DOE Rate Order No. WAPA-4.

[13] *See*, note 7 *supra*. Moreover, we note that the Assistant Secretary is authorized to depart from the otherwise applicable regulations. *See* note 11 *supra*.

[14] DOE Order No. RA 6120.2 ¶ 10(a).

[15] DOE Order No. RA 6120.2 ¶ 7(b) 10(c).

available capacity and there is no adequate rationale provided for the assumption that this will not continue to be the case. Absent sufficient justification demonstrating that WAPA will be unable to market its capacity, we are unable to ratify WAPA's unsubstantiated concern over future sales as a basis for using a lower quartile water year and we would expect WAPA instead to use an average water year.

As to the third assumption which CREDA challenges, we again believe that there is merit to CREDA's argument. CREDA states that WAPA failed to include the additional capacity available from rewinding and uprating certain generators at the Glen Canyon power plants; WAPA has included in its power repayment studies the costs of the rewinding but not the resultant revenues. We believe that there should be a matching of costs and revenues and that the increased capacity as well as the attendent revenues should have been included in WAPA's power repayment study; [16] it was improper not to have done so.

Accordingly, for the reasons noted above, we cannot conclude on the basis of the record before us that the filed rate increase should be confirmed and approved but rather we find that the rates should be disapproved and we would expect to see these various matters addressed and corrected when WAPA redevelops and submits substitute rates to the Commission.[17]

The Commission Orders

(A) The rates and charges identified in this order are hereby disapproved.

(B) The Assistant Secretary shall submit substitute rates with adequate support within one hundred and twenty (120) days of this order.

(C) CREDA's petition to intervene in this proceeding is hereby granted subject to the Commission's rules and regulations; *Provided, however,* that participation by such intervenor shall be limited to the matters set forth in its petition to intervene; and *provided, further,* that the admission of such intervenor shall not be construed as recognition that it might be aggrieved by any order of the Commission in this proceeding.

[16] WAPA's April 1979 Proposed Power Rate Adjustment brochure appears to recognize the error of not including the revenues related to the rewinding. *See* WAPA Colorado River Storage Project and Participating Projects Proposed Power Rate Adjustment, at 60 (April 1979).

[17] As we are disapproving the rates before us, we need not address the question of the stepped rate increase sought by CREDA.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission. Commissioner Sousa concurred with a separate statement attached.

Kenneth F. Plumb,

Secretary.

Issued: October 12, 1982.

Sousa, Commissioner, *concurring:*

While I agree that the history of the Colorado River Storage Project Act indicates an intent to allow some precollection of revenues to be applied to future project costs, I take a somewhat more restrictive view of the future project definition than that which appears in the Order. The language found on pages 5 and 6 could arguably permit the precollection of revenues for distant projects which may never be constructed. Precollection would be allowed as long as there was a good faith belief that a project would someday be constructed. The experience in projecting demand in the Pacific Northwest (as evidenced by the recent abandonment of partially constructed nuclear plants) should guide us in placing an outer limit on "good faith" projections. I intend to consider such a limit in future WAPA filings.

A. G. Sousa,

Commissioner.

[FR Doc. 82-28540 Filed 10-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-2-000]

Wisconsin Electric Power Co.; Filing

October 13, 1982.

The filing Company submits the following:

Take notice that Wisconsin Electric Power Company (WEP) on October 1, 1982, tendered for filing proposed changes in its rates and charges for sales for resale to its wholesale customers. The proposed changes would increase wholesale rates in two steps. The first proposed increase is $1,950,348 or 3.0% on a calendar year 1983 basis and the proposed second step increase is $3,771,944 or 5.8% on a calendar year 1983 basis. Both amounts are stated as increases above the settlement rates agreed to in Docket No. ER82-347-000.

WEP requests that the first step increase becomes effective on November 30, 1982 and the second step increase becomes effective on December 1, 1982.

Copies of the filing have been served upon the Company's jurisdictional customers, the Michigan Public Service Commission and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motion or protests should be filed on or before October 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28525 Filed 10-15-82; 8:45 am]

BILLING CODE 6717-01-M

Office of the Secretary

Uranium Hexafluoride; Separative Work Charges, and Base Charges for Natural Uranium

The Department of Energy (DOE) hereby announces changes in the base charges for uranium in the form of uranium hexafluoride (UF_6). Accordingly, the notice entitled, "Uranium Hexafluoride: Separative Work Charges, and Base Charges for Natural Uranium," as published in the **Federal Register** on September 29, 1977, (42 FR 51636) as amended most recently by notice published on December 4, 1981, (46 FR 59299) is further amended by deleting paragraph 2 and inserting the following paragraph in lieu thereof:

2. *Base Charges for Natural Uranium*

(a) The base charge for natural uranium furnished on other than a short-notice, one-time basis, is $32.20 per pound of contained U_3O_8 in the form of concentrate and $89.50 per kg of contained uranium in the form of UF_6.

(b) The base charge for natural uranium furnished on a short-notice, one-time basis, is $37.30 per pound of contained U_3O_8 in the form of concentrate and $103.10 per kg of contained uranium in the form of UF_6.

Effective Date: This notice is effective October 18, 1982.

Dated: October 5, 1982.

Shelby T. Brewer,

Assistant Secretary for Nuclear Energy.

[FR Doc. 82-28497 Filed 10-15-82; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Colorado River Storage Project; Proposed Adjustment of Transmission and Power Rates

AGENCY: Western Area Power Administration, DOE.
ACTION: Notice of Proposed Adjustment of Transmission and Power Rates.

SUMMARY: The Western Area Power Administration (Western) is proposing to adjust the Colorado River Storage Project (CRSP) firm and nonfirm transmission rates and CRSP firm and peaking power rates. The proposed adjustments would increase the firm transmission rate from the present $6.60 to $10.27 per kilowatt-year and the nonfirm transmission rate from the present 1.0 to 2.0 mills per kilowatthour. The firm and peaking power adjustment would increase the monthly capacity charge from $1.655 to $2.15 per kilowatt and the energy charge from 4.0 to 5.0 mills per kilowatthour. For contract violations involving unauthorized overruns, the rate would continue to be 10 times the basic rate. A brochure will be distributed to all CRSP customers and other interested parties, and information and comment forums will be held in accordance with the current regulations for public participation in general rate adjustments. Information in support of the need for the proposed rate adjustments is explained in detail in the brochure.

DATES: The effective date of the rate adjustments is estimated to be the beginning of the April 1983, billing period. Interested persons will be afforded an opportunity to consult with and make comments to Western during the consultation and comment period, which begins on the date of publication of this notice and ends 90 days thereafter. Western will outline the reasons for the rate increases at a public information forum which will be held: November 16, 1982, 9 a.m., Tri-Arc Travel Lodge, Gold Field Room, 161 West 600 South, Salt Lake City, Utah.

The public will be afforded an opportunity to comment orally or in wiritng on the proposed rate increases at a public comment forum which will be held: December 16, 1982, 9 a.m., Hotel Utah, Bonneville 2 Room, South Temple at Main Street, Salt Lake City, Utah.

Written comments may be submitted at the comment forum or may be submitted to the address below, but should be received at that address by the end of the consulation and comment period.

FOR FURTHER INFORMATION CONTACT: Mr. Albert M. Gabiola, Area Manager, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147, Telephone: (801) 524–5493.

SUPPLEMENTARY INFORMATION: Power and transmission rates for CRSP are established pursuant to the Department of Energy Organization Act of August 4, 1977 (42 U.S.C. 7101 et seq.); Colorado River Storage Project Act (43 U.S.C. 620 et seq.); the Reclamation Act of 1902 (43 U.S.C. 372 et seq.), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c); and the acts specifically applicable to the project or system involved.

The Secretary of Energy delegated to the Assistant Secretary for Conservation and Renewable Energy, by Delegation Order No. 0204–33, effective January 1, 1979 (43 FR 60636, December 28, 1978), as amended March 19, 1981 (46 FR 25426, May 7, 1981), the authority to develop, acting by and through the Administrators, and to confirm, approve, and place in effect on an interim basis, power and transmission rates for the five power marketing administrations; and to the Federal Energy Regulatory Commission the authority to confirm, and approve, on a final basis, or to disapprove such rates.

Procedures for public participation in power and transmission rate adjustments have been published in the Code of Federal Regulations at 10 CFR Part 903. Corrections and amendments thereto were published in the January 22, 1981, **Federal Register** (46 FR 6864) and in the May 7, 1981, **Federal Register** (46 FR 25426).

Availability of Information

All brochures, studies, comments, letters, memorandums, and other documents made or kept by Western for the purpose of developing the proposed rate are and will be available for inspection and copying at the Salt Lake City Area Office.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the rate adjustment for CRSP power relates to nonregulatory services provided by Western.

Under 5 U.S.C. 601(2), rates or services of particular applicability are not considered "rules" within the meaning of the act. Since the proposed rate for CRSP power is of limited applicability and is being set in accordance with specific legislation under particular circumstances, Western believes that no flexibility analysis is required.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969 (NEPA) and the Department of Energy (DOE) regulations published in the **Federal Register** on February 23, 1982 (47 FR 7976), Western conducts environmental evaluations of certain rate and allocation actions. Under the DOE regulations, Western will make an evaluation and determination of the possible environmental impacts of the proposed rate adjustments. After an administrative determination is made of what level documentation under NEPA is required, a memorandum will be prepared explaining the basis for that determination.

Determination Under Executive Order 12291

The Department of Energy has determined that this is not a major rule because it does not meet the criteria of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981). Western has an exemption from sections 3, 4, and 7 of Executive Order 12291.

Conclusion

Following the consultation and comment period and after consideration of comments received, the Assistant Secretary for Conservation and Renewable Energy will issue a rate order confirming and approving the rates to be placed in effect on an interim basis and promptly submit such rates to the Federal Energy Regulatory Commission for confirmation and approval on a final basis.

Issued in Golden, Colorado, October 8, 1982.

Robert L. McPhail,
Administrator.

[FR Doc. 82–28489 Filed 10–15–82; 8:45 am]
BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPRM–FRL 2230–4]

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 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers, Office of Standards and Regulations, Information Management Section (PM–223), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, telephone (202) 382–2742 or FTS 382–2742.

SUPPLEMENTARY INFORMATION:

Air Programs

• Title: Stage I Vapor Recovery Inspection Form (EPA) ID 0097).

Abstract: EPA conducts inspections of gasoline dispensing facilities (primarily service stations) to determine their compliance with state implementation plans. Station personnel provide only identification information; the balance of the information is obtained from the inspection. The inspections are a continuing effort involving approximately 2,500 different facilities a year.

Respondent: Operators of gasoline dispensing facilities (e.g. service stations) and drivers of gasoline delivery trucks.

• Title: Vehicle Owner's Manual and Warranty Statement (EPA ID 0101).

Abstract: Manufacturers of light-duty vehicles and trucks (both domestic and foreign) submit owners' manuals and warranty statements to EPA prior to offering their vehicles for sale. EPA uses these materials to determine whether manufacturers are providing the information and warranties required by the Clean Air Act.

Respondent: Manufacturers of light-duty vehicles and trucks (both domestic and foreign).

• Title: Motor Vehicle Tampering Survey (EPA ID 0114).

Abstract: Contractor or EPA personnel inspect approximately 2,500 vehicles per year to determine trends in tampering and fuel switching practices. Inspectors ask motorists waiting in line for state motor vehicle safety inspections to participate in a voluntary five-minute inspection for the survey. EPA and state and local officials use the information to assess their anti-tampering and anti-fuel switching programs.

Respondent: Motorists.

• Title: Request for Testing Exemption (EPA ID 0115).

Abstract: Commercial vehicle service facilities and fleet operators who wish to perform test-vehicle-modification work involving tampering may apply for an exemption to Section 203(a) of the Clean Air Act. The application information is used by EPA to monitor and audit exemption holders to ensure that their test programs are operated as proposed.

Respondent: Commercial vehicle service facilities and fleet operators.

• Title: Unleaded Gasoline Field Inspection (EPA ID 0182).

Abstract: Inspectors visit approximately 15,000 retail outlets annually to obtain observational data to determine compliance with Federal regulations (40 CFR 80). Identification data, such as name and address of the facility, are obtained from the owner/operator. The data are used to determine the need for enforcement action. If action is taken, the form is submitted as evidence.

Respondent: Retail sellers of motor fuel, fleet users of motor fuel.

• Title: Environmental Assessment Data Systems (EADS) (EPA ID 0565).

Abstract: EPA provides EADS with data collected on discharges to the environment from energy and industrial processes. EPA uses the data to support control technology research and development. The data and data analyses are also used by EPA regional offices and state and local environmental agencies to characterize source discharges and to determine control requirements.

Respondent: EPA contractors and EPA program offices.

Emergency Response Program

• Title: State Contingency Plans (EPA ID 0327).

Abstract: State Contingency Plans are documents submitted by states wishing to particpate in immediate removal cooperative agreements under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA). The information provides for the coordination of the total response to an environmental emergency. It is used by EPA, along with other factors, in evaluating to what extent a state can manage immediate removal actions under the Superfund program. The recommended approach calls for the state to list response organizations, command and communications structures, priorities, response resources, and a system for evaluating potential incidents.

Respondent: State or local governments.

• Title: Cooperative Agreement for Immediate Removal Implementation (EPA ID 0943).

Abstract: Under the immediate removal program, EPA and capable states enter into cooperative agreements, which authorize the states to respond to hazardous substances releases and to be compensated for allowable expenses with Superfund money. The agreements identify the roles to be assumed by EPA and by the state, thereby establishing the basic relationship between them.

Respondent: State or local governments.

Hazardous Waste Program

• Title: Submission of Annual Reports by Hazardous Waste Generators and Treatment, Storage, and Disposal Facilities (EPA ID 0976).

Abstract: Owners or operators of hazardous waste treatment storage and disposal facilities must submit an annual report containing information on location, amount and description of hazardous waste handled. This information is collected to define the population of the regulated community and to expand the Agency's information base for rulemaking purposes.

Respondent: Businesses or other institutions.

Toxics Program

• Title: Toxic Substances Control Act Inspection Related Forms (EPA ID 0163).

Abstract: The four forms are used by Agency personnel in conducting scheduled and non-scheduled inspections. The first two forms are used as a record of scheduled and non-scheduled inspections. The remaining two forms are used by companies to declare information collected during inspections as confidential business information under section 14(c) of the Toxic Substances Control Act.

Respondent: Companies involved in the manufacturing, processing or distributing of chemical substances.

Water Programs

National Pollutant Discharge Elimination System (NPDES)

• Title: Discharge Monitoring Report (EPA ID 0229).

Abstract: Facilities discharging any pollutant into national waters must obtain an NPDES permit and submit a Discharge Monitoring Report at least annually. Effluent data is submitted on a standard form to EPA and state regulatory agencies for determining permit compliance and for program management and evaluation.

Respondent: Businesses, publicly owned treatment works, and other institutions.

Other Programs

• Title: Laboratory Performance Evaluation (EPA ID 0234).

Abstract: EPA receives analytical data from NPDES permittees and laboratories and uses this data to make regulatory decisions and valuations. The respondents are evaluated annually using a set of analytical performance samples to determine their capability to produce valid data.

Respondent: Major NPDES permittees (businesses, publicly owned treatment works and other institutions) and laboratories.

• Title: Construction Grant Program—State Project Priority Lists (EPA ID 0844).

Abstract: Sections 106, 204 (a) and (b), 208 and 303 of the Clean Water Act require the states to develop a methodology and rank their needed wastewater treatment works in order of priority for grants. These lists, submitted annually, will assure that the highest priority projects receive first preference for federal grants.

Respondent: State water pollution control agencies.

Comments on this notice should be sent to:

David Bowers, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223), 401 M Street, SW., Washington, D.C. 20460
and
Geoffrey White, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, D.C. 20503.

Dated: October 1, 1982.

C. Ronald Smith,

Director, Office of Standards and Regulations.

[FR Doc. 82-28501 Filed 10-15-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51435; TSH FRL 2229-7]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of twenty five PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 83-1, 83-2, 83-3, 83-4, 83-5, 83-6 and 83-7; December 29, 1982.

PMN 83-8, 83-9, 83-10 and 83-11; January 1, 1983.

PMN 83-12, 83-13, 83-14, 83-15, 83-16, 83-17, 83-18, 83-19 and 83-20; January 2, 1983.

PMN 83-21 and 83-22; January 3, 1983.

PMN 83-23, 83-24 and 83-25; January 4, 1983.

Written comments by:

PMN 83-1, 83-2, 83-3, 83-4, 83-5, 83-6 and 83-7; November 29, 1982.

PMN 83-8, 83-9, 83-10 and 83-11; December 2, 1982.

PMN 83-12, 83-13, 83-14, 83-15, 83-16, 83-17, 83-18, 83-19 and 83-20; December 3, 1982.

PMN 83-21 and 83-22; December 4, 1982.

PMN 83-23, 83-24 and 83-25; December 5, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51435]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St. SW., Washington, D.C. 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, D.C. 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

PMN 83-1

Importer. Confidential.

Chemical. (G) Polyhalogenated aromatic alkylated hydrocarbon.

Use/Import. (G) Contained use. Import range: 5,000-1,000,000 kg/yr.

Toxicity Data. Acute oral: > 2 g/kg; Skin irritation: Slight irritant; Eye irritation: Non-irritant; Ames Test: Non-mutagenic; Skin sensitization: Non-sensitive; LC_{50}, 48 hrs: 400 mg/1.

Exposure. Processing and use: dermal.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land. Disposal by incineration.

PMN 83-2

Manufacturer. Confidential

Chemical. (G) Polymer of styrene, substituted styrene, and substituted methacrylate salt.

Use/Production. (G) Minor component of a formulation used by commercial customers. Prod. range: 1,500-3,000 kg/yr.

Toxicity Data. Acute oral: > 3,000 mg/kg; Acute dermal: > 1,000 mg/kg; Skin irritation: Slight irritant; Eye irritation: Non-irritant.

Exposure. Manufacture and processing: minimal dermal and inhalation, a total of 40 workers, up to 2 hrs/da, up to 50 da/yr.

Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83-3

Manufacturer. Confidential.

Chemical. (G) Disubstituted propane.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Potential: dermal, inhalation, eye and ingestion, 2 workers per 8 hr/shift, up to 10 min/batch.

Environmental Release/Disposal. Disposal by incineration and landfill.

PMN 83-4

Manufacturer. Confidential.

Chemical. (G) Substituted propene.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Potential: dermal, inhalation, eye and ingestion, 2 workers per 8 hr/shift, 1 hr/batch.

Environmental Release/Disposal. Disposal by incineration and landfill.

PMN 83-5

Manufacturer. Confidential.

Chemical. (G) Substituted alkanoic acid ester.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Potential: dermal, inhalation, eye and ingestion, 2 workers per 8 hr/shift, 40 min/batch.

Environmental Release/Disposal. Disposal by incineration and landfill.

PMN 83-6

Manufacturer. Confidential.

Chemical. (G) Substituted lactam.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Potential: dermal, inhalation, eye and ingestion, 2 workers per 8 hr/shift, 40 min/batch.
Environmental Release/Disposal. No release. Disposal by incineration and landfill.

PMN 83–7

Manufacturer. Confidential.
Chemical. (G) Substituted lactam.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Potential: dermal, inhalation, eye and ingestion, 2 workers per 8 hr/shift, 30 min/batch.
Environmental Release/Disposal. No release. Disposal by incineration and landfill.

PMN 83–8

Manufacturer. E.I. du Pont de Nemours and Company, Inc.
Chemical. (G) Substituted alkysulfonic acid.
Use/Production. (S) Emulsion polymerization surfactant. Prod. range: 6,000–12,000 kg/yr.
Toxicity Data. Acute oral: 2,150 mg/kg; Acute inhalation: > 2.7 mg/1; LC_{50} 96 hr: > 3,200 parts per million (ppm); LC_{50}, 48 hr: 320 ppm.
Exposure. Dermal and inhalation, a total of 4 workers, up to 150 da/yr.
Environmental Release/Disposal. 1,000–10,000 kg/yr released to air and water. Disposal by approved landfill.

PMN 83–9

Manufacturer. E.I. du Pont de Nemours and Company, Inc.
Chemical. (G) Substituted alkyl polysulfide.
Use/Production. (S) Site-limited process intermediate. Prod. range: 3,000–10,000 kg/yr.
Toxicity Data. Acute oral: > 5.0 g/kg; Skin irritation: Non-irritant; Eye irritation: Non-irritant.
Exposure. None.
Environmental Release/Disposal. 100–1,000 kg/yr released to land. Disposal by approved landfill.

PMN 83–10

Manufacturer. E.I. du Pont de Nemours and Company, Inc.
Chemical. (G) Substituted urea.
Use/Production. (G) Fuel additive. Prod. range: Confidential.
Toxicity Data. Acute oral: 886 mg/kg; Skin irritation; Mild irritant; Eye irritation: Mild irritant; LC_{50} 96 hr: 67.5 mg/1.
Exposure. Manufacture and processing: dermal and ingestion, a total of 2 workers per shift.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83–11

Manufacturer. Wilmington Chemical Corporation.
Chemical. (S) Oxirane [(phenyl methoxy) methyl]-.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and disposal: dermal and inhalation, a total of 4 workers, up to 24 hrs/da, up to 15 da/yr.
Environmental Release/Disposal. 10–100 kg/yr released to air 24 hrs/da, 15 da/yr with 1,000–10,000 kg/yr to water 1 hr/da, 5 da/yr. Disposal by publicly owned treatment works (POTW).

PMN 83–12

Manufacturer. Confidential.
Chemical. (G) 2,7-Naphthalenedisulfonic acid, 4-amino-3-[[4-[[4-[(2,4-diamino-5-methylphenyl)azo]phenyl]substituted] phenyl]azo]-5-hydroxy-6-(substituted phenbyl)azo-, sodium salt.
Use/Production. (S) Industrial dye. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and use: dermal, a total of 2 workers, up to 8 hrs/da.
Environmental Release/Disposal. No release.

PMN 83–13

Manufacturer. Confidential.
Chemical. (G) Amine modified dimethylpolysiloxane.
Use/Production. (S) Protective coating ingredient. Prod. range: Confidential.
Toxicity Data. Ames Test: Negative; COD: 1.15; LC_{50} 24 hr (fathead minnow): 4,200 mg/1; Bioxidation, % of COD: Day 5–26, Day 10–27, Day 15–32, Day 20–47.
Exposure. Manufacture and processing: eye, a total of 32 workers, up to 8 hrs/da, up to 260 da/yr.
Environmental Release/Disposal. No release. Disposal by plant waste treatment or incineration.

PMN 83–14

Manufacturer. Confidential.
Chemical. (G) Metal salt of sulfur analog of hydroxyalkyl carbonic acid.
Use/Production. (S) Ore processing chemical. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–15

Manufacturer. Confidential.
Chemical. (G) A polymer of methacrylic acid derivatives, a substituted alkane and a vinylaromatic compound.
Use/Production. (G) Contained use. Prod. range: Confidential.
Toxicity Data. Acute oral: > 5 g/kg; Acute dermal: > 5 g/kg; Skin irritation: Slight irritant; Eye irritation: Slight irritant.
Exposure. Manufacture, processing and use: dermal, inhalation and eye, a total of 8 workers, up to 8 hrs/da, up to 40 da/yr.
Environmental Release/Disposal. More than 10,000 kg/yr released to land. Disposal by approved landfill.

PMN 83–16

Manufacturer. Confidential.
Chemical. (G) Polymer of acrylate and methacrylate monomers and vinyl aromatic compounds.
Use/Production. (G) Open use. Prod. range: Confidential.
Toxicity Data. Acute oral: > 5 g/kg; Acute dermal: > 5 g/kg; Skin irritation: Slight irritant; Eye irritation: Inconsequential.
Exposure. Manufacture, processing, use and disposal: dermal and occular, a total of 58 workers, up to 7 hrs/da, up to 180 da/yr.
Environmental Release/Disposal. 1,000–10,000 kg/yr released to water .25 hr/da, 135 da/yr with 1,000–10,000 kg/yr to land. Disposal by POTW and approved landfill.

PMN 83–17

Manufacturer. Confidential.
Chemical. (G) Fatty acids, substituted aromatic esters, alkali metal salts.
Use/Production. (G) Component of commercial and consumer products. Prod. range: Confidential.
Toxicity Data. Acute oral: >5 g/kg; Acute dermal: >0.8 g/kg; Skin irritation: Mild irritant; Eye irritation: Mild irritant; Acute inhalation: >300 mg/m^3; LC_{50}: >1,000 mg/l; Skin sensitization: Non-sensitive; 28-Day Subchronic Percutaneous Toxicity: No systemic toxicity; Skin corrosivity: Non-corrosive.
Exposure. Dermal, inhalation and eye.
Environmental Release/Disposal. Confidential. Disposal by POTW and approved landfill.

PMN 83–18

Manufacturer. Confidential.
Chemical. (G) di(disubstitutednaphthyl)polyheterocycle.
Use/Production. Confidential. Prod. range: 10–100 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and disposal: dermal and inhalation, a total of 232 workers, up to 24 hrs/da, up to 335 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and

land with 10–100 kg/yr to water. Disposal by POTW and approved landfill.

PMN 83–19

Manufacturer. Confidential.
Chemical. (G) Substituted benzoic acid.
Use/Production. (G) Site-limited intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: 5.7 g/kg; Skin irritation: Mild irritant; Eye irritation: Minimal irritant; Ames Test: Non-mutagenic.
Exposure. Manufacture: dermal and inhalation.
Environmental Release/Disposal. Minimal release to water. Disposal by incineration.

PMN 83–20

Manufacturer. Confidential.
Chemical. (G) Substituted phenoxy toluene.
Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: 3.8 g/kg; Skin irritation: Mild irritant; Eye irritation: Minimal irritant; Ames Test: Non-mutagenic.
Exposure. Manufacture: dermal and inhalation.
Environmental Release/Disposal. Minimal release to water. Disposal by incineration.

PMN 83–21

Manufacturer. Hach Company.
Chemical. (G) Trisubstituted azo naphthol disulfonic acid.
Use/Production. (S) Consumer and industrial analytical reagent. Prod. range: .25–2.0 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: oral and dermal, a total of 4 workers, up to 4 hrs/da, up to 2 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water. Disposal by POTW.

PMN 83–22

Manufacturer. Confidential.
Chemical. (G) Pentasubstituted pentanamide.
Use/Production. (G) Minor constituent in an article for commercial and consumer use. Prod. range: 200–400 kg/yr.
Toxicity Data. Acute oral: >3,000 mg/kg; Acute dermal: >1,000 mg/kg; Skin irritation: Slight irritant; Eye irritation: Non-irritant.
Exposure. Manufacture and processing: minimal dermal and inhalation, a total of 20 workers, up to 2 hrs/da, up to 10 da/yr.
Environmental Release/Disposal. No release. Disposal by biological treatment system and incineration.

PMN 83–23

Manufacturer. Confidential.
Chemical. (G) Substituted phenol.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. Acute oral: 1,000–2,500 mg/kg; Skin irritation: Non-irritant; Eye irritation: Moderate irritant; Ames Test: Negative; Skin sensitization: Non-sensitive.
Exposure. Potential: dermal, inhalation, eye and ingestion.
Environmental Release/Disposal. Disposal by all applicable regulations.

PMN 83–24

Manufacturer. Confidential.
Chemical. (G) Substituted pyridine.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. Acute oral: Males—3,000–5,000 mg/kg, females—1,000–3,000 mg/kg; Skin irritation: Moderate irritant; Eye irritation: Severe irritant; Skin sensitization: Extremely sensitive.
Exposure. Potential: dermal, inhalation, eye and ingestion, a total of 2 workers per 8 hr/shift, 860 manhrs.
Environmental Release/Disposal. Disposal by all applicable regulations.

PMN 83–25

Manufacturer. Confidential.
Chemical. (G) Substituted pyridine.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. Acute oral: Crude—> 1,000 mg/kg, Distilles—> 500 mg/kg; Acute dermal: Crude–5,000 mg/kg, Distilled—> 5,000 mg/kg; Skin irritation potential: Moderate irritant; Eye irritation: Mild irritant; Inhalation: Irritant; Dermal absorption: Readily absorbed; Skin sensitization: Non-sensitive.
Exposure. Potential: dermal, inhalation, eye and ingestion, a total of 2 workers per 8 hr/shift, 1,980 manhrs.
Environmental Release/Disposal. Disposal by all applicable regulations.

Dated: October 8, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82–28504 Filed 10–15–82; 8:45 am]
BILLING CODE 6560–50–M

[OPTS–59100A; TSH FRL 2229–8]

Polymer of Alkyl and Heteromonocyclic Amines and an Alkanedioic Acid; Approval of Test marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM–82–47) under section 5 of the Toxic Substances Control Act (TSCA) on September 3, 1982. Notice of receipt of the application was published in the **Federal Register** of September 17, 1982 (47 FR 41167). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on October 7, 1982.

FOR FURTHER INFORMATION CONTACT: Rachel S. Diamond, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–203, 401 M St., SW., Washington, D.C. 20460, (202–382–3734).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not in the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register.** If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On September 3, 1982, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application, submitted by Diamond Shamrock Corporation, was assigned test marketing exemption number TM–82–47. The submission is for a new chemical described generically as a polymer of alkyl and

heteromonocyclic amines and an alkanedioic acid. The submitter claimed the specific chemical identity and process information as confidential business information. A maximum of 10,000 kilograms (kg) will be manufactured, formulated into a blend, and test marketed to no more than 44 potential formulators for use an epoxy hardener, for a test marketing period not to exceed 9 months.

A notice published in the **Federal Register** of September 17, 1982 (47 FR 41167) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did not receive any comments concerning the application.

EPA has established that the test marketing of the new chemical substance described in TM–82–47 will not present any unreasonable risk of injury to health or the environment under the specific conditions set out in the application. Dermal irritation is the only significant health effect expected, and the 12 workers who may be exposed to the new chemical during manufacture and processing are expected to wear protective clothing, including eye protection and gloves. Individuals using the final product will be exposed to low concentrations of the new chemical, and only for brief period of time. Although the TME substance, in its unpolymerized form, could potentially be toxic to fish, release of unpolymerized material to aquatic environments during manufacture, processing, and use is unlikely.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The applicant must maintain records of the date(s) of shipment(s) to to the customers and the quantities shipped in each shipment, and must make these records available to EPA upon request.

3. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.

4. The production volume of the new substance may not exceed the quantity of 10,000 kg described in the test marketing exemption application.

5. The test marketing activity approved in this notice is limited to a 9-month period commencing on the date of signature of this notice by the Director of the Office of Toxic Substances.

6. The number of workers exposed to the new chemical should not exceed that specified in the application and the exposure levels and duration of exposure should not exceed those specified in the application.

The Agency reserves the right to rescind its decision to grant this exemption should any information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: October 7, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 82–28503 Filed 10–15–82; 8:45 am]

BILLING CODE 6560–50–M

[A–6–FRL 2228–4]

Region 6; Final Agency Action on a PSD Permit for TEX–USS Corporation

Notice is hereby given that on April 16, 1981, Region 6 of the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD–TX–336, to the TEX–USS Corporation for approval to construct a high density polyethylene facility located at Strang and Highway 225 in La Porte, Harris County, Texas, pursuant to 40 CFR 52.21. On May 19, 1981, the PACE Company Consultants and Engineers, Incorporated petitioned the Administrator on behalf of TEX–USS for review of the PSD permit.

Because a petition for review was filed with the Administrator, the issuance of the permit was no longer a final agency action and the PSD permit for TEX–USS was not effective. *See* 40 CFR 124.15(b)(2). The petition for review was denied by the Administrator on July 19, 1982. Pursuant to 40 CFR 124.19(f)(1), a final permit decision on PSD–TX–336 was issued by Region 6 on September 15, 1982.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD–TX–336 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. 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.

Copies of all of the materials concerning PSD–TX–336 are available for public inspection upon request at the following location: Environmental Protection Agency, Region 6, Air and Waste Management Division, Air Branch, First International Building, 1201 Elm Street, Dallas, Texas 75270.

For further information contact: Mr. Allyn Davis (214) 767–2730.

Date: September 27, 1982.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 82–28502 Filed 10–15–82; 8:48 am]

BILLING CODE 6560–50–M

[A–9–FRL 2206–8]

Federal Assistance Limitations; State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On September 10, 1982, the Governor of California signed into law legislation which allows for the implementation of a vehicle inspection and maintenance (I/M) program in the federally designated urban nonattainment areas of the State. EPA, by this action, announces removal of the limitations on federal funding assistance in the State of California. These limitations applied to funds provided under the Surface Transportation Assistance Act and the Clean Water Act pursuant to Sections 176(a) and 316(b) of the Clean Air Act. EPA is taking this action because the State of California, by adopting the legal authority to implement an I/M program, is making reasonable efforts to submit a nonattainment area plan revision that considers each of the elements of Section 172 of the Clean Air Act.

EFFECTIVE DATE: This action is effective October 8, 1982.

FOR FURTHER INFORMATION CONTACT: Jerry Clifford, State Liaison Section (A–2–2), Air Programs Branch, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974–7655.

SUPPLEMENTARY INFORMATION:

Background

The 1977 Clean Air Act Amendments (Act) required states to submit by January 1, 1979, nonattainment area plans that insured attainment of the National Ambient Air Quality Standards by December 31, 1982. For areas that demonstrated they could not attain the ozone (03) or carbon monoxide (CO)

standards by the 1982 deadline, even with the implementation of all reasonably available control measures, Section 172(a)(2) of the Act allowed EPA to extend the attainment deadline to no later than December 31, 1987.

States that received an extension of the 03 or CO deadline were required by Section 172(b)(11) to submit specific measures in their 1979 nonattainment plan. One such measure is a schedule for implementation of a vehicle emission control inspection and maintenance (I/M) program, along with evidence that the state has legal authority to implement and enforce that program.

The basic statutory, regulatory and policy criteria for EPA's review of the 1979 NAPs have been summarized and discussed in the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas (44 FR 20372, April 4, 1979) and its supplements (44 FR 38583, July 2, 1979; 44 FR 50371, August 28, 1979; 44 FR 53761, September 17, 1979; and 44 FR 67182, November 23, 1979).

Sections 176(a) and 316(b) of the Act provide that in certain situations funds related to highways and increased sewage treatment capacity be withheld. The Act requires withholding highway funds unless (1) there was an acceptable nonattainment plan in place to deal with the air pollution problem, or (2) the state was making reasonable efforts to develop such a plan. Further, the Act authorizes withholding sewage treatment funds under the same circumstances. The EPA policy and procedures for implementing Sections 176(a) and 316(b) were published in the **Federal Register** on April 10, 1980 and August 11, 1980, respectively (45 FR 24692; 45 FR 53382).

Six areas in California requested extensions of the 03 and/or CO standards beyond December 31, 1982 and were required to include I/M legal authority in their 1979 NAPs. These six areas are the San Diego Air Basin, South Coast Air Basin, San Francisco Bay Area Air Basin, Ventura County portion of the South Central Coast Air Basin, Sacramento Metropolitan Area and the Fresno County portion of the San Joaquin Valley Air Basin.

The 1979 nonattainment plan for these six areas failed to include evidence, as required under Section 172(b)(10), of legal authority to implement and enforce an I/M program. On June 16, 1980, EPA informed the Governor of California that EPA was initiating the procedures to impose the funding limitations under Sections 176(a) and 316(b) of the Act. Because the California Legislature failed to adopt adequate I/M legal authority, EPA took final action on December 12, 1980 (45 FR 81746) to impose the limitations affecting federal funding assistance for highways and sewage treatment works for these six areas of the State. The funding limitations affected the award of federal funds authorized under the Surface Transportation Assistance Act and the Clean Water Act.

California's I/M Legislation

During the 1981 and 1982 legislative sessions, efforts to obtain I/M legal authority were successful. Senate Bill 33 (SB–33) was introduced on December 2, 1980 and passed the California Legislature on August 27, 1982. The Governor signed the bill into law on September 10, 1982.

SB–33 authorizes a biennial motor vehicle I/M program in federally designated urban nonattainment areas of California. The legislation becomes effective January 1, 1983 and vehicle inspections will begin as soon as practicable. All vehicles 20 years old or newer are required to be inspected every other year except motorcycles, diesels and heavy-duty vehicles. The I/M program is decentralized with privately operated garages, licensed by the Department of Consumer Affairs, performing the tests and repairs. The legislation directs the Department of Motor Vehicles to require vehicle owners subject to the program to submit a certificate of compliance biennially along with the vehicle registration application.

EPA Findings

Based upon California's adoption of the legal authority to implement a biennial vehicle I/M program in the required six urban nonattainment areas of the State, EPA has determined that California is now making reasonable efforts to submit a nonattainment plan that considers each of the elements in Section 172 of the Act. EPA, by this notice, removes the federal funding assistance limitations imposed pursuant to Sections 176(a) and 316(b) of the Act. This action removes the funding contraints affecting both the Secretary of Transportation's approval of federally funded highway projects and the California State Water Resources Control Board's approval of federally funded sewage treatment works projects in the six affected areas of California.

Regulatory Process

Although EPA indicated in past **Federal Register** notices that an opportunity for public comment on this action would be provided, the present circumstances justify immediate action. EPA provided an opportunity to comment on the criteria for implementing the funding limitations in the September 8, 1980 **Federal Register** notice proposing to impose the funding limitations. Comments were received and responded to in the December 12, 1980 **Federal Register** final notice. EPA indicated in the final notice that California "will actually have to adopt adequate I/M legal authority in order for the Administrator to be able to find that the State is making sufficient efforts to justify lifting the restrictions now being imposed." (45 FR 81751). California has now adopted the legal authority which EPA indicated was necessary to justify lifting the restrictions. The enacted legislation was subject to public debate and scrutiny, and the enactment itself is a clear matter of public record. Therefore, the purposes of the proposed rulemaking notice and opportunity for public comment originally contemplated by EPA have been achieved. Moreover, EPA believes that it is in the public interest to remove the funding limitations as soon as possible. Consequently, EPA is proceeding to expedite the removal of the limitations with this final notice.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any response are available for public inspection at the EPA Region IX office (see address above).

Pursuant to the provisions of 5 U.S.C. Section 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities.

Under the Clean Air Act, any petition for judicial review of this action must be filed in the United States Court of Appeals for the Ninth Circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements.

(Secs. 110, 172, 176(a), 301(a) and 316 of the Clean Air Act, as amended (42 U.S.C. 7410, 7502, 7506(a), and 7616))

Dated: October 8, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 28622 Filed 10–15–82; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

Shipping Conditions in the Miami/Venezuela Trade; Filing of Petition

Coordinated Caribbean Transport, Inc. (Petitioner) has petitioned the Federal Maritime Commission to

investigate certain alleged discriminatory actions against Petitioner by the Government of Venezuela in the trade between Miami, Florida and Venezuela. It is alleged that the denial by the Government of Venezuela of the right of Petitioner's United States-flag vessel to participate in the carriage of certain cargoes designated as "reserve" or "exonerated" for carriage by Venezuelan-flag vessels or vessels of "associated lines" has (1) created special conditions unfavorable to shipping in the foreign commerce of the United States which result from foreign laws, rules, or regulations within the purview of section 19 of the Merchant Marine Act, 1920 (46 U.S.C. 876) and (2) resulted in the imposition of unfair and discriminatory burdens within the purview of section 26 of the Shipping Act, 1916 (46 U.S.C. 825).

Petitioner requests that the Commission institute an investigation into the matters alleged and issue regulations pursuant to 46 CFR Part 506 as would be necessary and appropriate. It is requested that such regulations include the suspension of the tariffs of all Venezuelan-flag carriers and the tariffs of all carriers accorded the status of "associate line" under Venezuelan law.

In order for the Commission to make a thorough evaluation of Petitioner's allegations, interested persons are requested to submit views, arguments or data on the petition no later than November 19, 1982. Responses shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in an original and 15 copies. Responses shall also be served on counsel for petitioners:

Richard W. Kurrus, Esq., Murrus and Dyer, 1055 Thomas Jefferson St. NW., Washington, D.C. 20007.

Copies of the petition are available for examination at the Washington, D.C., office of the Commission, 1100 L Street NW., Room 11101, and at the Commission's District Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, Puerto Rico.

Francis C. Hurney,

Secretary.

[FR Doc. 82-28508 Filed 10-15-82; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 82-46]

General Motors Corp. v. Costa Line Cargo Services, Inc. and Costa Amatori S.P.A.; Filing of Complaint and Assignment

Notice is given that a complaint filed by General Motors Corporation and Costa Line Cargo Services, Inc. and Costa Amatori S.P.A. was served September 22, 1982. Complainant alleges that respondents have subjected it to an overcharge of rates for ocean transportation.

This proceeding has been assigned to Administrative Law Judge William Beasley Harris. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 82-28476 Filed 10-15-82; 8:45 am]

BILLING CODE 6730-01-M

[Commission Order No. 104]

Internal Procedures Governing the Processing of Agreements

A new Commission Order No. 104 has been adopted by the Commission as set forth below, to be effective January 1, 1983.

Internal Procedures Governing the Processing of Agreements

Contents

Section 1. Purpose

1.01 The purpose of this order is to establish internal responsibilities and requirements for the processing of agreements which are submitted ot the Commission for approval pursuant to section 15 of the Shipping Act, 1916 (46 U.S.C. 814).

Section 2. Policy

2.01 To provide a uniform and standardized procedure for the processing of agreements.

2.02 To recognize that the public is entitled to final Commission acton on section 15 applications within a reasonable time.

2.03 To establish a standard and orderly procedure for contacts between the public and the Commission (including its staff), in accordance with the guidelines set forth in 46 CFR Part 522, with respect to agreements filed for approval.

2.04 To provide a means for the public to determine the status of pending applications for approval of section 15 agreements.

Section 3. Filing and Initial Processing

3.01 Agreements and any supporting statements filed therewith shall be delivered to the Secretary of the Commission, who shall date stamp them when received. In the event the requisite number of copies of the documents have not been filed, the Secretary shall within three (3) work days notify the filing agent of the deficiency and shall hold the copy or copies received until the requisite number of copies have been submitted. When additional copies are received, the Secretary shall date stamp all copies with the current date which date shall be considered the filing date. If the requisite number of copies have not been submitted within thirty (30) days of such notification, the Secretary shall return the agreement to the filing agent.

3.02 When all requisite documents have been received, the Secretary shall within two (2) work days transmit the documents to the Bureau of Agreements.

3.03 The Bureau of Agreements shall immediately examine the documents to determine whether the following requirements are met:

(1) Letter of transmittal:

a. states that the agreement is filed pursuant to section 15 (46 CFR 522.3)

b. provides a concise statement of the content of the agreement (46 CFR 522.3)

c. requests the Commission to approve the agreement (46 CFR 522.3).

(2) Agreement:

a. is signed by each of the parties, or by an authorized representative (46 CFR 522.3)

b. indicates under each signature, the name, position and authority of the signor (46 CFR 522.3)

c. if a modification, meets the form requirements (46 CFR 522.4).

(3) If a supporting statement is filed with the Agreement, it should:

a. be signed by a party, or authorized representative (46 CFR 522.5)

b. state the reason, or refer to a Commission order, which caused the making of the agreement (46 CFR 522.5).

c. where necessary, state how the agreement is justified (46 CFR 522.5).

Section 4. Preliminary Actions

4.01 Within three (3) work days of the receipt of an agreement with supporting documents, if any, from the Secretary under section 3.02, the Bureau of Agreements shall:

(1) If the documents submitted are deficient in any of the requirements set forth in section 3.03, transmit to the Secretary a notice of rejection (Form A).

(2) If the documents meet the requirements set forth in section 3.03: (a) enter the agreement in the section 15 agreement log, assign an agreement number, stamp the number on all copies of the agreement and acknowledge acceptance of the agreement to the filing agent by letter (Form B), returning a numbered copy of the agreement; and (b) prepare a notice for the **Federal Register** (Form C), which notice shall allow twenty (20) days for filing of protests or comments unless otherwise directed by the Secretary.

4.02 Within three (3) work days of receipt, the Secretary shall examine the notice prepared in accordance with subsection 4.01(2) (b), shall make any necessary corrections, shall forward the notice to the **Federal Register**, and transmit copies to the Commission District offices for public file.

Section 5. Consultation and Development of Additional Facts

5.01 Within ten (10) work days of the filing of an agreement, the Director, Bureau of Agreements shall schedule a meeting with the Managing Director, the General Counsel and the Director, Office of Regulatory Policy and Planning, or their representatives, to consider the policy, legal and economic issues, if any, presented by the agreement; *provided, however,* that this section shall not apply to an agreement which is subject to action under section 12, *infra.*

5.02 The Director, Bureau of Agreements may request the Director, Office of Regulatory Policy and Planning to prepare a data package. The package shall be developed and returned to the Director, Bureau of Agreements within thirty (30) work days. The Office of Regulatory Policy and Planning shall clearly mark information that must be maintained on a confidential basis.

Section 6. Ex Parte Considerations

6.01 The Commission will consider only facts regularly presented and facts of which the Commission may take official notice. Oral communications concerning section 15 actions shall not be received nor used in preparing memoranda. Written communications shall be returned unless filed in accordance with this Order and 46 CFR Part 522.

Section 7. Status Inquiries

7.01 Interested persons, including parties to the agreement, commentators, or protestants, may determine the status of a section 15 application by making inquiry to the Office of the Secretary.

Section 8. Memorandum to the Commission

8.01 After analysis of the agreement and any supporting statement, protest, comment, reply or other information permitted by this Order and 46 CFR Part 522, the Director, Bureau of Agreements shall recommend the agreement for approval, conditional approval, conditional disapproval, investigation and hearing or other appropriate action and shall transmit to the Secretary a memorandum containing such analysis and recommendation within ninety (90) days of the **Federal Register** notice. The memorandum shall be accompanied by the agreement and any documents filed pursuant to 46 CFR Part 522.

Section 9. Action by the Commission

9.01 Upon receipt of a memorandum prepared in accordance with section 8, the Secretary shall schedule the matter for Commission meeting or circulate the matter for action under the notation procedure pursuant to Commission Order 84. If the Commission does not act upon the agreement at the scheduled meeting, the Secretary shall reschedule the matter at a meeting designated by the Commission.

Section 10. Preparation, Circulation and Issuance of Document Effecting Commission Decision

10.01 After the Commission has considered the recommendation and taken action on the agreement, the Commission shall direct the preparation of an appropriate document effecting its decision. A document approving, conditionally approving or conditionally disapproving the agreement shall, unless the Commission directs otherwise, be prepared by the General Counsel. A document referring the agreement to formal hearing or further hearing, including an order to show cause, shall, unless the Commission directs otherwise, be prepared by the Director, Bureau of Hearings and Field Operations (Hearing Counsel). A document effecting a Commission decision on an agreement shall be circulated to the Commission for approval within twenty (20) work days of the date of the Commission action.

10.02 Within five (5) work days after circulation of a draft document to the Commission, each Commissioner shall inform the General Counsel/Hearing Counsel, in writing, with copies to all Commissioners, of his or her approval, conditional approval (indicating the changes in the draft requested), or disapproval of the draft document.

10.03 Within two (2) work days of the receipt of the last required action by a Commissioner, the General Counsel/Hearing Counsel shall transmit the draft document to the Secretary.

10.04 Within two (2) work days of receipt from the General Counsel/Hearing Counsel, the Secretary shall sign the approved document effecting the Commission decision on the agreement and forward that document to the Director, Bureau of Agreements for preparation of a letter of transmittal.

10.05 Within two (2) work days of receipt, the Director, Bureau of Agreements shall return the approved document effecting the Commission's decision, together with the letter of transmittal.

10.06 Within one (1) work day of receipt, the Secretary shall sign the transmittal letter and mail it, together with the document effecting the Commission's decision on the agreement, to the agreement's filing agent.

Section 11. Petition for reconsideration

11.01 A petition for reconsideration of a Commission decision on an agreement which conforms to the requirements of 46 CFR 502.261 shall, depending upon whether factual/policy or legal issues are raised thereby, be referred by the Secretary either to the General Counsel or the Director, Bureau of Agreements for action. Within twenty-five (25) work days of the time provided for filing a reply to the petition under 46 CFR 502.262, the General Counsel/Director, Bureau of Agreements shall transmit to the Secretary a memorandum analyzing the petition and reply, if any, and making an appropriate recommendation.

11.02 Within five (5) work days of receipt, the Secretary shall circulate the memorandum of the General Counsel/Director, Bureau of Agreements under

the notation procedure pursuant to Commission Order 84 or shall schedule the matter for a Commission meeting.

Section 12. Action on Delegated Authority

12.01 If the approval of an agreement is within the scope of the decisional authority delegated to the Director, Bureau of Agreements, by section 8 of Commission Order 1 (Revised), an appropriate recommendation using delegated action Form D with order or letter of approval attached, shall be executed and transmitted to the appropriate responsible official within thirty (30) days of expiration of **Federal Register** notice.

12.02 A recommendation, using delegated action Form E, that the Director, Bureau of Agreements, determine, under delegated authority, pursuant to section 8.03 of Commission Order 1 (Revised), that an agreement is not subject to the requirements of section 15, shall be referred to the General Counsel for legal clearance. Within five (5) work days of receipt, the General Counsel shall act on the recommendation and forward the recommendation with appropriate notation to the Director, Bureau of Agreements.

12.03 Upon receipt of an executed delegated action, the Secretary shall verify that such authority exists, and if the matter is in proper form, the Secretary shall, within five (5) work days, sign and serve the order or letter indicating the delegated action taken.

Alan Green, Jr.,

Chairman.

Form A

Federal Maritime Commission

In Re: [Short Title]

(Notice of rejection)

The referenced agreement] has been submitted with the Federal Maritime Commission for approval pursuant to section 15 of the Shipping Act, 1916 (46 U.S.C. § 814).

A preliminary examination of the agreement reveals that the agreement is not acceptable for processing because of the reasons indicated below:

( ) 1. No transmittal letter (or improper transmittal letter (46 CFR 522.3).

( ) 2. Agreement not signed by each of the parties and/or fails to set forth the name, position, and authority of the signer (46 CFR 522.3).

( ) 3. Not in proper form for modifications (46 CFR 522.4).

Therefore, pursuant to section 15 of the Shipping Act, 1916, and § 522.8(a) (46 CFR 522.8) parties are hereby notified that the agreement is rejected.

Secretary.

Form B

(Letter of Acknowledgement)

Dear :

This will acknowledge receipt of your letter of . by which you submitted, for section 15 approval, . The agreement (stamped copy enclosed) has been assigned Federal Maritime Commission Number and this number is to be used when referring to this agreement.

You will be advised in a letter communication of the action taken.

Very truly yours,

Office of ,

Bureau of Agreements.

Enclosure.

Form C

Federal Maritime Commission

(Notice of Agreements Filed)

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 30 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.6 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below. [For each agreement set forth the following:]

1. FMC Number;
2. Short Title of the agreement;
3. Parties;
4. Synopsis;
5. Filing agent-name and address.

Form D

Memorandum

TO: Director, Bureau of Agreements.
FROM: Chief, Office of ———.
SUBJECT: Approval of Agreement Pursuant to Delegated Authority.

Agreement No. ———.
Agreement Name: ———.
Date filed: ———.
FRN Period: ——— Protests: Yes [ ] No [ ]

Environmental Analysis:

[ ] Categorically Exempt (46 C.F.R. ——);
[ ] Finding of No Significant Impact (Notice expired ———);
[ ] Environmental Impact Statement.

Recommendation

It is recommended that the subject agreement be:

[ ] Approved
[ ] Conditionally Approved (See attached Order)

under authority delegated to the director, Bureau of Agreements, in Commission Order No. 1, Section ———.

(Description of Agreement)

(See attached copy of FRN.)

The effect of the agreement provisions are:

[ ] retroactive
[ ] not retroactive

[ ] The agreement has been filed for approval, notwithstanding its exempt status as specified in 46 CFR ———.

[ ] The subject agreement meets the criteria for approval expressed in 46 CFR ———.

[ ] An appropriate Order is attached.

Comment

——— Date ——.

Chief, Office of ———.

Analyst: ——— Date ——.

Examination of this agreement fails to show it to be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers or ports or between exporters from the United States and their foreign competitors, detrimental to the commerce of the United States, contrary to the public interest or violative of the Shipping Act, 1916.

Approved: ——— Date ——.

Director, Bureau of Agreements.

Attachments:

[ ] Agreement;
[ ] Order;
[ ] FRN;
[ ] Other: ———.

(NEW AGREEMENT)

Federal Maritime Commission

(Order)

Virginia Ports Authority/ABC Container Line (Agreement No. T–)

The above-captioned agreement between the Virginia Ports Authority (Authority) and ABC Container Line (ABC) provides for the lease by Authority to ABC of certain paved premises located at ——— to be used for the storage and handling of containers, trailers and chassis. The Commission finds that Agreement No. T– meets the standards for approval pursuant to section 15 of the the Shipping Act, 1916.

Therefore, it is ordered, That Agreement NO. T– is approved.

By the Commission.

Francis C. Hurney,

Secretary.

Form D

(Amendment)

Federal Maritime Commission Order

Amendment to U.S. East Coast/Brazil Southbound Pooling and Equal Access Agreement (Agreement No. ——)

The above-captioned agreement amends Agreement No. —— by reapportioning the pool shares of the individual member lines.

Having given due consideration to the effects of approval, the Commission finds that Agreement No. —— meets the standards for approval pursuant to section 15 of the Shipping Act, 1916.

Therefore, it is ordered, That Agreement No. —— is approved.

By the Commission.

Francis C. Hurney,

Secretary.

United States Government Memorandum

Federal Maritime Commission

To: Director, Bureau of Agreements
Date:
From: Chief, Office of ——
Subject: Not Subject Determination

Agreement No. ——
Agreement Name: ——
Date Filed: ——

Recommendation

It is recommended that the subject agreement be found not subject to the provisions of section 15, Shipping Act, 1916, under authority delegated to the Director, Bureau of Agreements, in Commission Order No. 1, section 8.03.

Description of Agreement ——

Basis for Determination ——

[ ] The subject agreement meets the criteria for a not subject finding under section 15, Shipping Act, 1916, and § 530.5(d)( ) of the Commission regulations.
[ ] An appropriate letter is attached.
Comment ——

Prepared by: —— Date ——
(Analyst)
Reviewed by: —— Date ——
Chief, Office of
—— Date ——
General Counsel
Legally Sufficient: [ ] Yes [ ] No *
* Explanation: ——
[ ] Approved [ ] Disapproved *
—— Date ——
Director, Bureau of Agreements.
* Explanation: ——

Dear Mr. ——:

This is to advise that Agreement No. —— between —— and —— submitted under letter of —— has been determined not to be subject to section 15 of the Shipping Act, 1916.

You are advised, however, that should the agreement be amended in any respect, the Commission should be notified immediately so that a determination can be made whether such amendment brings the agreement within the scope of section 15.

The authority to make this decision is vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), November 12, 1981, section 8.03.

Very truly yours,

——

Director, Bureau of Agreements.

[FR Doc. 82-28562 Filed 10-15-82; 8:45 am]
BILLING CODE 6730-01-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 Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Florida National Banks of Florida, Inc.*, Jacksonville, Florida; to acquire 80 percent of the voting shares or assets of Kingsley Bank, Orange Park, Florida. Comments on this application must be received not later than November 9, 1982.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Allied Bancshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares or assets of Allied Bank River Bend, Dallas, Texas. Comments on this application must be received not later than November 9, 1982.

2. *American Bancorporation, Inc.*, Longview, Texas; to acquire 100 percent of the voting shares or assets of Texas Bank & Trust in Wichita Falls, Wichita Falls, Texas. Comments on this application must be received not later than November 9, 1982.

Board of Governors of the Federal Reserve System, October 12, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-28469 Filed 10-15-82; 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. *Gulf State Bancorp*, Carrabelle, Florida; to become a bank holding company by acquiring 80 percent of the voting shares of Gulf State Bank of Franklin County, Carrabelle, Florida. Comments on this application must be received not later than November 12, 1982.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Grinnell Bancshares, Inc.*, Grinnell, Iowa; to become a bank holding company by acquiring 88 percent of the voting shares of Grinnell State Bank, Grinnell, Iowa. Comments on this application must be received not later than November 12, 1982.

C. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *First Charlestown Corporation*, Charlestown, Indiana; to become a bank holding company by acquiring 80 percent of the voting shares of First Bank of Charlestown, Charlestown, Indiana. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Comments on this application must be received not later than November 12, 1982.

Board of Governors of the Federal Reserve System, October 12, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-28470 Filed 10-15-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Application Announcement for Grants for Residency Training in General Internal Medicine or General Pediatrics

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for Fiscal Year 1983 Grants for Residency Training in General Internal Medicine or General Pediatrics are now being accepted under the authority of Section 784, Title VII of the Public Health Service Act, as amended by the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35.

Section 784 authorizes the award of grants to schools of medicine and osteopathy, public and private nonprofit hospitals, or other public or private nonprofit entities for planning, developing and operating approved residency training programs which emphasize the training of residents for the practice of general internal medicine or general pediatrics. In addition, Section 784 authorizes assistance in meeting the cost of supporting residents who are participants in any such program, and who plan to specialize or work in the practice of general internal medicine or general pediatrics.

To receive support, programs must meet the requirements of final regulations published in the **Federal Register** on August 1, 1980, Vol. 45, No. 150.

In the funding of approved applications, preference will be given to projects in which:

(1) Substantial training experiences are provided in settings where physician assistants or nurse practitioners, or both, are used as part of a health care team.

(2) Administrative and educational resources are coordinated for the use of a program of general internal medicine and a program of general pediatrics, which are both to be conducted within a single project.

(3) Substantial portions of a project are conducted in a primary medical care manpower shortage area(s) designated under Section 332 of the Public Health Service Act and in particular, one which is located in a Standard Metropolitan Statistical Area, as defined by the Office of Federal Statistical Policy and Standards, Department of Commerce; or in an area health education center funded at least in part, under Section 781(a) of the Act.

Requests for application materials and questions regarding grants policy should be directed to:

Grants Management Officer (D-28), Bureau of Health Professions, Health Resources and Services Administration, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: 301-436-6098.

Should additional programmatic information be requested, please contact:

Primary Care Graduate Medical Education Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Center Building, Room 3-44, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone 301-436-8581.

The deadline date for receipt of applicatons is November 22, 1982. Fiscal Year 1983 materials are being made available without final action on the Fiscal Year 1983 Budget. Therefore, adjustments and other changes may be necessary at a later date.

This program is listed at 13.884 in the *Catalog of Federal Domestic Assistance*. Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouses under the Office of Management and Budget Circular No. A-95.

Dated: October 7, 1982.

John H. Kelso,

Acting Administrator.

[FR Doc. 82-28506 Filed 10-15-82; 8:45 am]

BILLING CODE 4160-16-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Corrections

The following applications were incorrectly published under the non-fitness guidelines in the **Federal Register** of October 1, 1982, Volume No. OP1-168.

In these applications, applicant was only required to provide its fitness, willingness and ability to perform the requested service.

These applications may be protested only on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

MC 163902, filed September 17, 1982. Applicant: PEGGY BOYLE, 613 Runyon Ave., Piscataway, NJ 08854. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572-5551.

MC 121811 (Sub-12), filed September 16, 1982. Applicant: McCLELLAN'S ENTERPRISES, INC., P.O. Box 1327, Tifton, GA 31794. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237, (404) 477-1525.

The rest of the publication remains the same.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Chandler not participating.)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-28477 Filed 10-15-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP3-155]

Motor Carriers; Permanent Authority Republications of Grants of Operating Rights Authority Prior To Certification; Notice

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 petition for leave to intervene must be filed with the Commission within 30 days after the date of this **Federal Register** notice addressing specifically the issue(s) indicated as the purpose for republication.

Agatha L. Mergenovich,

Secretary.

MC 135705 (Sub-16) (Republication), filed August 27, 1981, published in the **Federal Register** issue of September 15, 1981, and republished this issue. Applicant: MELROSE TRUCKING CO., INC., 2672 So. Robertson Rd., Casper, WY 82604. Representative: Kim Melrose (same address as applicant), (307) 265-1277. A Decision of the Commission, Review Board Number 1, decided December 17, 1981 and served January 7,

1982 and a Decision of the Commission, Division 2, Acting as an Appellate Division, decided March 11, 1982 and served March 26, 1982 finds on further consideration that the performance by applicant of the service as described herein will serve a useful public demand or need to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *commodities in bulk*, between those points in the United States in and west of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, and Louisiana, except Alaska and Hawaii; that applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to reflect applicant's actual grant of authority.

MC 138225 (Sub-14) (Republication), filed April 12, 1982, published in the **Federal Register** issue of May 6, 1982, and republished this issue. Applicant: HEDRICK ASSOCIATES, INC., R.R. #2, Box 10A2, Douglas Rd., Far Hills, NJ 07931. Representative: William P. Jackson, Jr., 3426 N. Washington, Blvd., P.O. Box 1240, Arlington, VA 22210, (703) 525–4050. A Decision of the Commission, Division 2, Acting as an Appellate Division, decided September 13, 1982 and served September 23, 1982, finds on further consideration that the performance by applicant of the service as described herein will serve a useful public demand or need to operate as a common, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting general commodities, between Kansas, Windsor, Ashmore, and Tower Hill, IL, Huntertown, Wallen, Laotto, Swan, Avilla, Gadsden, Toto, Tefft, Charlottesville, Greenfield, Philadelphia, Gem, Cumberland, Hebron, Denham, Plainfield, Clayton, Amo, Coatesville, Fillmore, Pennville, West Cambridge City, Hillsboro, Waynetown, and Covington, IN, Buzzards Bay, Sagamore, Sandwich, and Ludlow, MA, Clinton, Tekonsha, Homer, Concord, Spring Arbor, Centreville, Nottawa, Fairfax, Colon, Sherwood, and Union City, MI, Elm, Mt. Hope, Vernon, Rudeville, Highland Lakes, Blairstown, Marksboro, Greendell, Cranberry, Lake, Lake Lackawanna, Pompton Plains, Pemberton, and Ft. Dix, NJ, New Milford, Rosendale, High Falls, Rifton, Tillson, Williamsville, Gardiner, Modena, Lee, Blossvale, Lima, Malone, Constable, Trout River, Leicester, LaGrange, Groveland, Mt. Morris, Sonyea, Linden, Oneida Castle, Red Oaks Mill, Fishkill Plains, St. Andrew, Plattekill, Ilion, and Stafford, NY, Berwick, Ellis, Dresden, Cadiz, Patterson, Grant, Lisbon, Westerville, Galena, Sunbury, Centerburg, Bangs, Mount Liberty, Millwood, Phalanx, Garrettsville, Piney Fork, Pekin, Paris, Amsterdam, Wolf Run, Pattersonville, Augusta, Mechanicstown, Bergholz, Harrod, White Cottage, Moxahala Park, Roseville, Hepburn, Meeker, Big Island, New Lexington, Savona, Fort Jefferson, Germantown, Farmersville, Ingomar, West Alexandria, Trotwood, Brookville, Bachman, West Sonora, Eldorado, Glass Rock, Mt. Perry, Fultonham, East Fultonham, and Crooksville, OH, and Heilwood, Mountain Home, Strawberry Ridge, Eyers Grove, Pulaski, Spring City, Seiple, Upland, Carlton, Dimeling, Madera, Potts Run, Nanty Glo, Lilly, Alexandria, Mount Pleasant, Hepburnville, Woodland Park, Cochranton, Utica, Niles, New Providence, Garland, Pittsfield, Youngsville, Irving, Starkbrick, Waterford, Union City, Beaver Dam, Elgin, Spring Creek, Greason, Audubon, Newville, Oakville, Cornwall, Northwood, Vail, Bald Eagle, Port Matilda, Julian, Unionville, Wingate, South Bradford, Degolia, Custer City, Lewis Run, and Slatington, PA, on the one hand, and, on the other, points in the United States; that applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to give notice to those parties who have relied on the previous notice in the **Federal Register** of the application as published and may have an interest in, and would be prejudiced by the lack of proper notice to the authority granted to the extent it authorized classes A and B explosives, household goods and service to Alaska and Hawaii.

[FR Doc. 82-28497 Filed 10-15-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 303]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: October 12, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 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, conpliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Williams, and Higgins.

Agatha L. Mergenovich,

Secretary.

MC 107818 (Sub-113)X, filed September 24, 1982. Applicant: GREENSTEIN TRUCKING COMPANY, 280 N.W. 12th Ave., Pompano Beach, FL 33061. Representative: Martin Sack, Jr., 203 Marine National Bank Bldg., 311 W. Duval St., Jacksonville, FL 32202. Sub-102F certificate: Broaden (1) one-way authority to two-way radial authority, and (2) to countywide authority: Frazer, Conshohocken, and Royersford, PA (Chester and Mongomery Counties), Akron, Findlay, and Rossford, OH (Summit, Medina, Portage, Stark, Wayne, Hancock, and Wood Counties); Gadsden and Birmingham, AL (Jefferson, Shelby, St. Clair, and Etowah Counties).

MC 143876 (Sub-5)X, filed September 30, 1982. Applicant: CURLY'S DELIVERY SERVICE, INC., P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour (same adderss as applicant). Lead and Sub-1F: Broaden to "such merchandise as is dealt in or used by retail stores", by removing restriction "except food-stuffs, alcoholic beverages, plumbing fixtures and commodities in bulk" (lead) and by removing restriction "except foodstuffs and commodities in bulk", (Sub-1F); broaden facilities at Des Moines, IA, to Polk County, IA (lead and Sub-1F); broaden one-way to radial authority (Sub-1F).

MC 153047 (Sub-No. 3)X, filed September 7, 1982. Applicant: CANTLAY TRANSPORTATION, INC., 6106 Paramount Blvd., Long Beach, CA 90805. Representative: John C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017. Sub-2: (1) Broaden (a) liquid petroleum and liquid petroleum products, petroleum products, and rejected or contaminated shipments of petroleum and petroleum products to "petroleum and petroleum products"; (b) weed killing compounds, liquid animal feed supplement, liquid fertilizer solutions, nitrosyl chloride, liquid hydrogen, liquid oxygen, liquid nitrogen, liquid argon, and liquid helium to "chemicals and related products"; (c) liquified helium to "chemicals and related products"; (d) sugar, molasses, dried beet pulp, and dried beet pulp with molasses, and citrus juices to "food and related products"; and (e) bituminized fiber and indurated conduit to "paper and related products and electrical machinery or equipment"; (2) remove the following restrictions; in bulk, in tank vehicles; in shipper owned vehicles; in hopper-type vehicles; except asphalt and heavy oils requiring special heated equipment; except road oils and asphalts; except petroleum products which requires special equipment for the application of heat to facilitate unloading; except liquified petroleum gases; except petrochemicals; except chemicals residual fuel oils used in paving operations, asphalt, road oils and road emulsion; service to any on-rail bulk storage facility in AZ, except at Tucson, Cusa Grande, Coolidge, Gila Bend, Yuma, Buckeye, Mesa, Phoenix, Peoria, Wickenburg, Prescott, and Springerville, AZ; against the transportation of wax from Richmond, CA, to Phoenix, Tucson, and Benson, AZ, and points in Cochise County, AZ, within 20 miles of Benson; against the transportation of petroleum products from points in San Diego County, CA, to ports of entry on the U.S., Mexico Boundary line at San Luis, AZ, or within 20 miles thereof, and from San Diego, CA, to points in AZ within 15 miles of Yuma; against the transportation of petroleum lubricating oil, from El Segundo, CA, to Santa Rita, NM, and points within 25 miles thereof, and Gage, NM, and points within 10 miles thereof; shipments moving in the season April to September inclusive of each year; in foreign commerce only; and against the transportation of shipments moving to points which are not missile storage or missile launching sites, missile test facilities, or manufacturing plants producing liquid oxygen, liquid hydrogen, and liquid nitrogen; (3) allow service to all intermediate points and change one-way to two way authority, regular routes; (4) change one-way irregular routes to radial authority; and (5) replace plantsites and city-wide authority with county-wide authority: Los Angeles, CA (Los Angeles County); Salt Lake and Woods Cross, UT, and points within 10 miles of each (Salt Lake and Davis Counties); Colton and Niland, CA (San Bernardino and Imperial Counties); ports of entry at or near Andrade, Calexico, Tecate, and San Ysidro, CA, on the U.S.-Mexico Boundary line (ports of entry in CA, on the U.S.-Mexico Boundary line); Daggett, CA (San Bernardino County); Chico, CA (Butte County); Imperial, CA, and points within 10 miles thereof (Imperial County); Cleveland, OH (Cuyahoga County); Richmond, CA (Contra Costa County); Amarillo, TX (Potter County); Otis and Elkhart, KS (Rush and Morton Counties); Huntsville, AL (Madison County); Boron, Downey, Goldstone, San Diego and Torrence, CA (Kern, Los Angeles, San Bernardino and San Diego Counties); Boulder, CO (Boulder County); Cape Kennedy, FL (Brevard County); New Orleans, LA (Orleans County); Greenbelt, MD (Prince Georges County); Bethage, NY (Nassau County); Mississippi Test Facility in Hancock County, MS (Hancock County); Houston, TX (Harris County); Chandler and Phoenix, AZ (Maricopa County); Las Vegas, NV (Clark County); Fresno and Tulare, CA (Fresno and Tulare Counties); Sherman, TX (Grayson County); Hercules, CA (Contra Costa and Solano Counties); Indianapolis, IN (Marion County); Wichita, KS (Sedgwick County); Fedonia, AZ (Coconino County); ports of entry on the U.S.-Mexico Boundary line located at Nogales, AZ (ports of entry on the U.S.-Mexico Boundary line in AZ); Long Beach, CA (Los Angeles County); Portland, OR (Multnomah County); Seattle, Spokane, and Vancouver, WA (King, Spokane, and Clark Counties); Denver, CO (Denver County); Albuquerque, NM (Bernalillo County); and Sacramento, CA (Sacramento County).

[FR Doc. 82-28478 Filed 10-15-82; 8:45 am]

BILLING CODE 7035-01-M

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 had 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 Team Four at (202) 275-7669.

Volume No. OP4-357

Decided: October 12, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 71067 (Sub-11), filed September 24, 1982. Applicant: NATIONWIDE HORSE CARRIERS, INC., P.O. Box 99065, Louisville, KY 40299. Representative: Robert H. Kinker, 314 West Main St., P.O. Box 464, Frankfort, KY 40602, (502) 223-8244. Transporting *livestock, other than ordinary, and, in the same vehicle with such livestock, stable supplies and equipment used in their care and exhibition, mascots, attendants, trainers and exhibitors and their personal effects*, between points in the U.S. (except AK and HI).

MC 99567 (Sub-11), filed September 24, 1982. Applicant: KANE FREIGHT LINES, INC., P.O. Box 931, Scranton, PA 18501. Representative: William F. King, Suite 304, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312, (703) 750-1112. Transporting *food and related products and plastic and rubber articles*, between points in Campbell County, VA, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, VA, WV and DC.

MC 113106 (Sub-109), filed September 24, 1982. Applicant: THE BLUE DIAMOND COMPANY, 6201 Pulaski Hwy., Baltimore, MD 21205. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St. NW., Washington, DC 20005, (202) 296-3555. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between those points in the U.S. in and east of MN, IA, MO, OK, and TX.

MC 116806 (Sub-8), filed September 24, 1982. Applicant: HUTTON TRANSPORT, LIMITED, Rural Rt. No. 1, Lakeside, Ontario, Canada N0M 2G0. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49685-6301, (616) 941-5313. Transporting (1) *clay, concrete, glass, or stone products*, and *building materials*, between ports of entry on the International Boundary line between the U.S. and Canada, on the one hand, and, on the other, points in CT, DE, IA, ME, MA, MN, NJ, NH, RI, VT, and WI, and (2) *clay, concrete, glass, or stone products*, between points in WI, on the one hand, and, on the other, points in IN, IL, MI, MO, IA, and MN.

Note.—This decision has been made in accordance with the statutory provisions of the Bus Regulatory Reform Act of 1982 with great weight being given to the mandates set forth in the National Transportation Policy.

MC 134906 (Sub-13), filed September 27, 1982. Applicant: CAPE AIR FREIGHT, INC., P.O. Box 161, Shawnee Mission, KS 66201. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301, (404) 522-2322. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AL, GA, IL, IN, KS, KY, LA, MI, MS, MO, NY, OH, TN, WV, FL, TX, AR, OK, NC, SC, NJ, IA, and NE.

MC 146817 (Sub-15), filed September 20, 1982. Applicant: GEORGE CAVES, d.b.a. CAVES TRUCKING, P.O. Box 29357, Lincoln, NE 68529. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506, (402) 488-4841. Transporting *food and related products*, between points in the U.S. (except AK and HI).

MC 147547 (Sub-26), filed September 20, 1982. Applicant: R & D TRUCKING COMPANY, INC., P.O. Box 1054, Florence, AL 35630. Representative: Archie B. Culbreth, 2200 Century Parkway, Suite 570, Atlanta, GA 30345, (404) 321-1765. 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 150526 (Sub-5), filed September 20, 1982. Applicant: YARMOUTH LUMBER, INC., North St., Box 46, Yarmouth, ME 04096. Representative: William H. Phipps (same address as applicant), (207) 846-4853. Transporting *paper and paper products*, between those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada.

MC 150837 (Sub-2), filed September 23, 1982. Applicant: GREENWOOD TRUCKING LTD., R.R. #4, Hwy 12, Baraboo, WI 53913. Representative: Richard A. Westley, 406 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705-0086, (608) 238-3119. Transporting (1) *lumber and wood products*, and *building materials*, between points in IL, IN, LA, MI, MN, and WI; and (2) *machinery*, between points in Sauk County, WI, on the one hand, and, on the other, points in CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, and SD.

MC 153396 (Sub-3), filed September 20, 1982. Applicant: LOAD-IT, INC., 5211 Mitchell Bridge Rd., Dalton, GA 30720. Representative: Jack L. Schiller, 123-60 83rd Ave., Kews Gardens, NY 11415, (212) 263-2078. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, GA, NC, SC, and TN, on the one hand, and, on the other, points in AL, CA, CT, DE, FL, GA, IL, IN, KY, LA, MA, MD, ME, MI, MN, MS, NC, ND, NH, NJ, NY, OH, PA, RI, SC, SD, TN, TX, VA, VT, WV, WI, and DC.

MC 158096 (Sub-2), filed September 27, 1982. Applicant: BEST WAYS EXXPRESS, INC., 129 176th St. S., Suite 6, Spanaway, WA 98387. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421, (206) 383-3998. 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 Pierce Corporation, of Ft. Lupton, CO.

MC 160826, filed September 23, 1982. Applicant: TIGER'S LIMO SERVICE, 8114 Langdon St., Philadelphia, PA 19152. Representative: John J. Gallager, 1760 Market St., Suite 1100, Philadelphia, PA 19103, (215) 963-1555. Transporting *passengers and their baggage*, in special and charter operations, between Philadelphia, PA, on the one hand, and, on the other, points in NJ and NY.

MC 161416, filed September 28, 1982. Applicant: GOULET TRUCKING, INC., 27 South Maple St., Hadley, MA 01035. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, (413) 781-8205. Transporting *agriculture fertilizers*, between points in CT, NY, NH, ME, MA, RI, and VT.

MC 162407, filed September 20, 1982. Applicant: WILLIAM ARTHUR SMITH, d.b.a. W. A. SMITH TRUCKING COMPANY, P.O. Box 78, Alberta, VA 23821. Representative: W. A. Smith (same address as applicant), (804) 949-6144. Transporting *log homes*, between points in Brunswick County, VA, on the one hand, and, on the other, points in AL, DE, FL, GA, IN, KY, ME, NC, OH, PA, SC, TN, and WV, under continuing contract(s) with New England Log Homes, Inc., of Lawrenceville, VA.

MC 163986, filed September 24, 1982. Applicant: H. TRUCKING, INC., P.O. Box 313, Jerseyville, IL 62052. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846-6655. Transporting *metal products*, between points in IN, MO, IA, OK, KS, and IL.

For the following, please direct status inquiries to Team 5, 202–275–7289.

Volume No. OP5–210

Decided: October 7, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FF–388 (Sub-1), filed September 21, 1982. Applicant: RED BALL FORWARDERS, INC., 1333 Sadlier Circle, W. Dr., Indianapolis, IN 46206. Representative: Alan F. Wohlstetter, 1700 K St., NW, Washington, DC 20006, (202) 833–8884. To operate as a *freight forwarder* of *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 4928 (Sub-6), filed September 29, 1982. Applicant: VERNON REHA AND DENNIS REHA, d.b.a. REHA TRUCKING, 303 Hillcrest, Adair, IA 50002. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *metal buildings, complete, knocked down, or in sections,* between Adair, IA and points in Guthrie County, IA, on the one hand, and, on the other, points in AR, AL, CO, IL, IN, KS, MN, MO, NE, NM, OK, SD, TX, and WI.

MC 21259 (Sub-9), filed September 30, 1982. Applicant: GERTSEN CARTAGE CO., INC., 3000 Hirsch St., Melrose Park, IL 60160. Representative: Anthony C. Vance, Suite 301, 1307 Dolly Madison Blvd., McLean, VA 22101, 703–821–1305. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. (except AK and HI).

MC 96878 (Sub-10), filed September 24, 1982. Applicant: CONSOLIDATED TRANSFER AND WAREHOUSE CO., INC., 1251 Taney Rd., North Kansas City, MO 64116. Representative: Alfred L. King (same address as applicant), (816) 221–3411. Transporting *insulating materials* between Kansas City, KS, and points in Shawnee County, KS, on the one hand, and, on the other, points in KS, MO, AR, OK, TX, LA, MS, GA, AL, KY, TN, IL, IN, OH, MI, CO, WI, MN, UT, AZ, NM, IA, NE, ND, and SD.

MC 153788 (Sub-1), filed September 24, 1982. Applicant: G & G COMPANY, INC., State Highway 300, P.O. Box 5753, Longview, TX 75608. Representative: D. Paul Stafford, Suite 1125 Frito Lay Tower, P.O. Box 45538, Dallas, TX 75245, 214–358–3341. Transporting *rock, sand and gravel,* between points in Bossier, Caddo, and Webster Parrish, LA on the one hand, and, on the other, those points in TX on and east of Interstate Hwy. 35.

MC 158288 (Sub-6), filed September 27, 1982. Applicant: MONTANA CONSULTANTS, INC., d.b.a. TOMAHAWK TRANSPORTATION, INC., 5400 Laurel Road, Billings, MT 59101. Representative: David A. Sutherlund, 1150 Connecticut Ave., NW, Suite 400, Washington, DC 20036, (202) 452–6800. 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 Federal Cartridge Corporation of Anoka, MN, and its Divisions, Champion Target of Richmond, IN, and Hoffman Engineering of Anoka, MN.

MC 163909 filed September 27, 1982. Applicant: INDUSTRIAL MAINTENANCE & SERVICE CORPORATION, 1617 Willis Rd., Richmond, VA 23234. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, 703–629–2818. Transporting *those commodities which because of their size or weight require the use of special handling or equipment,* between points in NC, VA, and WV on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164039 filed September 30, 1982. Applicant: EQUINE EXPRESS, INC., 4031 Bach-Buxton Rd., Batavia, OH 45103. Representative: Norbert B. Flick, 2250 Beechmont Ave., Cincinnati, OH 45230, (513) 231–4831. Transporting *horses, other than ordinary, attendants and accessories,* between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–28482 Filed 10–15–82; 8:45 am]

BILLING CODE 7035–01–M

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. Speical Rule 251 was published in the **Federal Register** on 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. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. 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 had 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 become 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 Team 3, (202) 275–5223.

Volume No. OP3–154

Decided: October 8, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 22425 (Sub-13), filed September 23, 1982. Applicant: CODY EXPRESS, INC., 155 Lenox Street, Norwood, MA 02062. Representative: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181, (617) 235–5571. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 30374 (Sub-35), filed September 28, 1982. Applicant: TRI-STATE TRANSPORTATION CO., INC., Interstate Industrial Park, P.O. Box 488, Bellmawr, NJ 08033. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836–1144. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 146574 (Sub-7), filed September 24, 1982. Applicant: PARKER BROTHERS TRUCKING CORPORATION, 322 Bacon St., Lake City, MI 49651. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, (517) 482–2400. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 163954, filed September 22, 1982. Applicant: DWAYNE M. LAWSON, d.b.a. DWAYNE LAWSON TRUCKING, 1502 Carriage Hill Drive, Westminster, MD 21157. Representative: Edward N. Button, 635 Oak Hill Avenue, Hagerstown, MD 21740, (301) 739–4860. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 163974, filed September 23, 1982. Applicant: UNITED TRUCKER'S SERVICES, INC., 1385 Iris Dr., Conyers, GA 30208. Representative: Anthony L. Keenan (same address as applicant), (404) 922–3666. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 164004, filed September 27, 1982. Applicant: RELIABLE TRANSPORTATION ASSOCIATES, 5 Colorado Place, Huntington Station, NY 11746. Representative: Robert Castaldi (same address as applicant), (516) 673–1884. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–358

Decided: October 12, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 163767, filed September 9, 1982. Applicant: A & S TRANSPORTATION SERVICES, INC., 1124 W. Lincoln Hwy., P.O. Drawer 430, Coatesville, PA 19320. Representative: Samuel J. Storm, III (same address as applicant), (215) 384–3340. Transporting (1) as a *broker of general commodities* (except household goods), between points in the U.S., and (2) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 163987, filed September 24, 1982. Applicant: ROBERT LOUIS ERICKSON & MARGARET L. GROVER, d.b.a. E & G TRUCKING, 16822 SE May Valley Rd., Renton, WA 98056. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421, (206) 383–3998. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 163997, filed September 27, 1982. Applicant: RILEY'S COURIER AND LIMOUSINE SERVICES, INC., P.O. Box 360, Kearny, NJ 07032. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–211

Decided: October 7, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 116118 (Sub-8), filed September 27, 1982. Applicant: GARDINER'S EXPRESS, INC., MR 1 Moss Mill Road, Hammonton, NJ 08037. Representative: William C. Evans, Suite 1100, 1660 L St., NW., Washington, D.C. 20036, (202) 452–7430. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 135809 (Sub-11), filed September 28, 1982. Applicant: B–H TRANSFER CO., P.O. Box 151, Sandersville, GA 31082. Representative: J. Raymond Clark, 1225 Ninteenth St., NW., Ste. 350, Washington, D.C. 20036, 202–659–0770. Transporting (1) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), and (2) for and on behalf of United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 163748, filed September 7, 1982. Applicant: J. B. CLARK, 600 Cedar Creek Rd., Fayetteville, NC 28301. Representative: J. B. Clark (same address as above), (919) 323–3735. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–28481 Filed 10–15–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of

authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

MOTOR CARRIERS OF PROPERTY

Notice No. F-207

The following applications were filed in Region I:

Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 134806 (Sub-1-42TA), filed October 5, 1982. Applicant: B-D-R TRANSPORT, INC., Vernon Drive, P.O. Box 1277, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda, MD 20814. *Contract carrier:* irregular routes: *Stove boards and woodstove accessories* between Woodinville, WA, on the one hand, and, on the other, points, in ME, VT, NH, CT, MA, RI, NY, NJ and PA, under continuing contract(s) with Hearthshield Heat Safe, Inc., Woodinville, WA. Supporting shipper: Hearthshield Heat Safe, 13132 Northeast 177th Place, Woodinville, WA 98072.

MC 134806 (Sub-1-43TA), filed October 6, 1982. Applicant: B-D-R TRANSPORT, INC., Vernon Drive, P.O. Box 1277, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda, MD 20814. *Contract carrier:* irregular routes: *Smokestacks* between Greenfield, MA, on the one hand, and, on the other, points in CA, OR and WA under continuing contract(s) with Heat-Fab, Inc., Greenfield, MA. Supporting shipper: Heat-Fab, Inc., 38 Haywood Street, Greenfield, MA 01301.

MC 140950 (Sub-1-8TA), filed October 4, 1982. Applicant: BROOKVILLE TRANSPORT, LTD., 1170 Old Rothesay Road, St. John, New Brunswick, CD E2I 3V6. Representative: John C. Lightbody, Esq., Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. *Contract carrier:* irregular routes: *Fish products and fishing gear* between points on the International Boundary line between the U.S. and CD at ME, MI, NH, NY, and VT, on the one hand, and, on the other points in CT, FL, IN, MA, MD, MI, ME, NH, NJ, and PA under continuing contract(s) with Connors Bros. Ltd., Blacks Harbour, New Brunswick, CD. Supporting shipper: Connors Bros. Limited, Blacks Harbour, New Brunswick, CD E0G 1H0.

MC 164096 (Sub-1-1TA), filed October 5, 1982. Applicant: CRAIG & SON TRANSFER, LTD., 105 Hiawatha Drive, Brightwaters, NY 11718. Representative: Ira S. Lipsius, Schindel, Cooper & Farman, 225 West 34th Street, New York, NY 10122. *(1) Pottery* from TX, GA and CA to points in MD; and *(2) Display materials, assembled,* from the facilities of P.D.Q. Advertising, Inc. of Commack, Long Island, NY, to points in the U.S. (except AK and HI). Supporting shipper(s): Mid-Atlantic Pottery, Inc., P.O. Box 246, La Plata, MD 20646; P.D.Q. Advertising, Inc., 65 Mall Drive, Commack, Long Island, New York, 11725.

MC 164044 (Sub-1-1TA), filed October 6, 1982. Applicant: EXIMBEC INC., 2270-43 Ave Sud, Lachine, Quebec, CD H8T 2J8. Representative: Robert D. Gunderman, Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. *Precast concrete building components,* between ports of entry on the International Boundry line between the U.S. and CD in VT, on the one hand, and, on the other, Boston, MA. Supporting shipper: Prefac Concrete Corporation, 8501 Ray Lawson Boulevard, Ville d'Anjou, Quebec, CD H1J 1K6.

MC 148141 (Sub-1-4TA), filed October 4, 1982. Applicant: GOODY PRODUCTS, INC., 969 Newark Turnpike, Kearny, NJ 07032. Representative: William Jacobs (same as applicant). *Contract carrier:* irregular routes: *Insulating material: and material and equipment used in manufacture, distribution and application of insulating material,* from Belton, TX to all points in AL, and GA, under continuing contract(s) with Rockwool Industries, Inc. of Denver, CO. Supporting shipper: Rockwool Industries, Inc., P.O. Box 5170, Denver, CO 80217.

MC 164100 (Sub-1-1TA), filed October 5, 1982. Applicant: HANNAFORD TRUCKING COMPANY, 54 Hannaford Street, South Portland, ME 04106. Representative: Beth Dobson, Esq., Two Canal Plaza, P.O. Box 586, Portland, ME 04112. *Food and related products* between points in AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI. Supporting shipper(s): There are 6 statements in support attached to the application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 164099 (Sub-1-1TA), filed October 5, 1982. Applicant: NORTHERN RENTALS, INC., P.O. Box 2126, South Burlington, VT 05401. Representative: James M. Burns, 1365 Main Street, Suite 403, Springfield, MA 01103. *Petroleum and petroleum products,* between points in Albany and Rensselaer Counties, NY, Norfolk, Suffolk and Worcester Counties, MA, and Rockingham County, NH, on the one hand, and, on the other, points in MA, NH, NY, and VT, (except AK and HI). Supporting shipper(s): Champlain Oil Co., Inc., P.O. Box 2126, So. Burlington, VT 05401; City Service Co., 36 Washington St., Wellesley Hills, MA 02181; N. C. McCullock, Inc., South Street, Bethlehem, NH 03574; Fred's Plumbing & Heating, Inc., P.O. Box 17, Derby, VT 05829.

MC 164101 (Sub-1-1TA), filed October 4, 1982. Applicant: OPEN ROAD EXPRESS, INC., 40 Lafayette Street, Newark, NJ 07102. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *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 Nassau Suffolk Frozen Food Co., Inc., 286 Northern Blvd., Great Neck, NY 11021; Union Terminal Gold Storage Co., 12th & Provost St., Jersey City, NJ 07302; National Seaboard Terminal, Inc., 215 Coles St., Jersey City, NJ 07302; Champion Equipment Co., Inc., 50 Carbon Place, Jersey City, NJ; National Freezers, Inc., 1849 N.W. 1st Avenue, Miami, FL 33136; Bronx Refrigerating Co., Inc., 520-536 Westchester Ave., Bronx, NY 10455; International Building Products, Inc., 5300 Tchoupitoulas St., New Orleans, LA 70115; American Hoechst Corp., Rt. 202-206N, Somerville, NJ 08876; Frederick Wildman & Sons, Ltd., 21 East 69th St., New York, NY 10021; Arrow Group Industries, Inc., 100 Alexander Ave., Pompton Plains, NJ 07444; Ellison Inc., 153 Algiers St., Port Newark, NJ; Cape Cod Trading Corp.; Fishermans Wharf, Provincetown, MA; A.J. Graphics, Inc., 271 Passaic Ave., Fairfield, NJ 07006; Held Warehouse & Transportation Corp., Bldg. No. 202, Port Newark, NJ; Sonocraft Corporation, 360 W 31st St., New York, NY 10022;

Equitable Bag Co., Inc., 45–50 Van Dam St., Long Island City, NY 11101; Synfax Mfg. Inc., 441 Avenue P, Newark, NJ 07105; Super Star Italia, Inc., 215 Coles St., Jersey City, NJ 07302; Penn Warehouse Inc., 123 Pennsylvania Ave., South Kearny, NJ 07032; Scorpio Meat Inspection Service, Ltd., Shed 126, Tyler St., Port Newark, NJ 07114; Pacific Fruit Inc., 19 Rector St., New York, NY 10006; Ben Kozlof, Inc., 35 East Wacker Drive, Chicago, IL 60601; National Cold Storage Inc., 66 Furman St., Brooklyn, NJ 11201. Supporting Shipper(s): There are 23 statements which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 44373 (Sub-1–1TA), filed October 6, 1982. Applicant: RAGEN TRANSPORTATION COMPANY, INC., 860 Charles Street, Gloucester City, NJ 08030. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. *General commodities (except Classes A & B explosives, household goods, and commodities in bulk)* between points in NJ, NY, PA, on the one hand, and on the other, points in the U.S. in and east of MN, MO, IA, AK, and LA. Supporting shipper(s): A.F.G. Industries, Inc., P.O. Box 929, Kingsport, TN 37664; R. Fanelli & Sons, 8910 Ferry Ave., Camden, NJ; Thermoseal Glass Corp., 400 Water St., Gloucester, NJ 08030; H. Barron Iron Works, 317 Highland Blvd., Gloucester City, NJ 08030; Carlisle Tire & Rubber, 621 N. College St., Carlisle, PA 17013.

MC 142114 (Sub-1–13TA), filed October 5, 1982. Applicant: RETAIL EXPRESS, INC., 9 Stuart Road, Chelmsford, MA 01824. Representative: Frank M. Cushman, 36 South Main Street, Sharon, MA 02067. *Contract carrier:* irregular routes: *General commodities restricted to traffic being transported on behalf of the customers of Harbor Bay Warehouse Co., Inc.* between Jersey City, NJ, and all points in the contiguous U.S. under continuing contract(s) with Harbor Bay Warehouse Co., Inc., Jersey City, NJ. Supporting shipper: Harbor Bay Warehouse Co., Inc., 104 Harbor Drive, Jersey City, NJ 07305.

MC 151583 (Sub-1–3TA), filed October 5, 1982. Applicant: UTF CARRIERS, INC., Benson Road, Middlebury, CT 06749. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. *Contract carrier:* irregular routes: *General commodities, (except Classes A & B explosives, household goods, and commodities in bulk),* between points in the U.S. (except AK and HI), under continuing contract(s) with The Hoover Company, No. Canton, OH. Supporting shipper: The Hoover Company, 101 East Maple Street, No. Canton, OH 44720.

MC 148099 (Sub-1–1TA), filed October 4, 1982. Applicant: WILMINGTON CORP., 24 Industrial Way, Wilmington, MA 01887. Representative: Stanley A. Twarog, Esq., Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, PC., One Center Plaza, Boston, MA 02108. *General commodities (except commodities in bulk, commodities requiring the use of special equipment, malt beverages, frozen food and foodstuffs),* from the facilities of Associated Shippers, Inc. in St. Louis, MO, to shipper-designated facilities in the Los Angeles, CA Commercial Zone and shipper-designated facilities in the Boston, MA Commercial Zone. Supporting shipper: Associated Shippers, Inc., 1021 South 39th Street, St. Louis, MO 63110.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 164020 (Sub-II–1TA), filed September 28, 1982. Applicant: A & B CARTAGE & DELIVERY, INC., 1412 Winslow Ave., Chesapeake, VA 23323. Representative: Leonard A. Williams, P.O. Box 3114, Norfolk, VA 23514. *General commodities (except Classes A & B explosives, Hazardous waste, household goods as defined by the Commission and commodities in bulk) limited to shipments weighing 5,000 pounds or less,* between Norfolk, Portsmouth, Chesapeake, Newport News, Hampton and Virginia Beach, VA, on the one hand, and, on the other, points in Currituck and Dare Counties, NC. Supporting shipper(s): L. M. Sandler & Sons, Inc., 1224 Diamond Springs Rd., Virginia Beach, VA 23455.

MC 86690 (Sub-II–10TA), filed September 28, 1982. Applicant: BOND TRANSFER CO., INC., 1301 Towson St., Baltimore, MD 21230. Representative: Leonard W. Smith III (same address as above). Contract, irregular: *Paperboard, paper boxes, waste paper, scrap, and materials supplies and equipment used in the manufacture of paperboard;* between Baltimore, MD, White Hall, MD, Reading, PA, and points in: CT, DE, MA, ME, MD, NH, NJ, NY, NC, PA, RI, VA, VT, WVA, and DC for 270 days. An underlying eta seeks 120 days authority. Supporting shipper(s): Reading/White Hall Corporation, P.O. Box 8, White Hall, MD 21161.

MC 155851 (Sub-II–5TA), filed September 28, 1982. Applicant: BULL'S EYE EXPRESS, 68 East Road, Warren Center, PA 18851. Representative: John A. Sykas (same address as applicant). *General commodities, except in bulk,* from points in MA to points in the U.S. east of the MS River. Supporting shipper(s): Shoe Carton Corp., 105 Pleasant Valley St., Methuen, MA.

MC 158851 (Sub-II–6TA), filed September 28, 1982. Applicant: BULL'S EYE EXPRESS, R.D. #1, Box 68, Warren Center, PA 18851. Representative: John A. Sykas (same address as applicant). *Petroleum products, paints, sundries and other related products for industrial use (except in bulk, and in tank vehicles)* between Malden, MA and Karns City, PA, on the one hand, and, on the other, points in the U.S. Supporting shipper(s): Sterling-Clark-Lurton, 184 Commercial St., Malden, MA.

MC 156319 (Sub-II–1TA), filed September 30, 1982. Applicant: GALEN O. KING, d.b.a., G.O.K. TRUCKING, 4792 S. St. Rt. 53, Tiffin, OH 44883. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017. *Food products and materials, equipment and supplies used in the manufacture, sale and distribution of food products,* between points in Ottawa County, MI, Sandusky and Lucas Counties, OH, and Allegheny County, PA, on the one hand, and, on the other, points in the US, except AK and HI for 270 days. An underlying eta seeks 120 days authority. Supporting shipper: Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230.

MC 52861 (Sub-II–8TA), filed September 29, 1982. Applicant: WILLS TRUCKING, INC., 3185 Columbia Rd., Richfield, OH 44286. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. Contract Irregular: *Ammonium nitrate,* between Seneca, IL, on the one hand, and, on the other, Dover and Waynesburg, OH, under continuing contracts with Bob DeWire and Associates, Inc., of Dover, OH for 270 days. An underlying eta seeks 120 days authority. Supporting shipper: Bob DeWire and Associates, Inc., 331 E. Third St., Dover, OH 44622.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 145637 (Sub-3–7TA), filed October 1, 1982. Applicant: B&B EXPRESS, INC., P.O. Box 5552, Station B, Greenville, SC 29606. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *Such articles as are dealt in by drugstores,* between the facility of Schmid Products, at or near Anderson, SC, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting

shipper(s): Schmid Products Corp., Schmid Plaza, Anderson, SC 29624.

MC 163994 (Sub-3–1TA), filed October, 1, 1982. Applicant: BUNNELL WOOD PRODUCTS, INC., P.O. Box 1, 210 South State Street, Bunnell, FL 32010. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *(1) Lumber and (2) CO_2* Equipment (1) Between points in FL, GA and SC and (2) From Bunnell, FL to points in the U.S. Supporting Shipper: There are 6 supporting shippers. Their statements may be examined at the ICC Regional Office, Atlanta, GA.

MC 149433 (Sub-3–7TA), filed October, 1, 1982. Applicant: CARL O. BOONE, SR. d.b.a. BOONE EXPRESS, P.O. Box 114, Smyrna, TN 37167. Representative: Carl O. Boone, Sr. (same address as applicant). *Curtain rods, supplies and accessories, products used in the manufacture of the same; also iron and steel products,* between points in TN on the one hand and on the other, all states east of and including ND, SD, WY, CO, NM. Supporting shippers: Greer of Smyrna, Murfreesboro Rd., Smyrna, TN 37167; Parthenon Metal Works Inc., Hwy 41, LaVergne, TN 37086; McCann Steel Co., South 2nd St., Nashville, TN; Scotscraft Inc., Scottsville, KY 42164.

MC 164057 (Sub-3–1TA), filed October, 1, 1982. Applicant: LAMAR B. PRICE, Route 6, Box 194, Macon, GA 31201. Representative: Guy H. Postell, Suite 675, 3384 Peachtree Rd., NE., Atlanta, GA 30326. *Contract,* irregular, *Lumber, logs, sawdust, pulpwood, wooden pallets, bark and wood chips,* between the plantsite of Thompson Hardwoods, Inc., at or near Forsyth, GA, on the one hand, and, on the other, points in AL, FL, NC, SC, and TN, under continuing contract(s) with Thompson Hardwoods, Inc. Supporting Shipper: Thompson Hardwoods, Inc., P.O. Box 646, Hazelhurst, GA 31539.

MC 145726 (Sub-3–3TA), filed October, 1, 1982. Applicant: G. P. THOMPSON ENTERPRISES, INC., P.O. Box 146, Midway, AL 36053. Representative: Terry P. Wilson, 428 South Lawrence St., Montgomery, AL 36104. *Pipe and pipe accessories,* from the facilities of Crown Products Company, Inc. at Jacksonville, FL to points in AL, GA and SC. Supporting shipper: Crown Products Company, Inc., 6390 Phillips Highway, Jacksonville, FL 32216.

MC 145956 (Sub-3–8TA), filed September, 29, 1982. Applicant: TRANSMEDIC CARRIERS, INC., 1340 Indian Rocks Road, Belleair, FL 33516. Representative: Robert H. Kinker, 314 West Main St., P.O. Box 464, Frankfort, KY 40602. *Human plasma,* between facilities used by International Biological, Inc., a subsidiary of Nolan Enterprises, Inc., at Gainesville, FL and facilities used by Nolan Enterprises, Inc. at Dallas, TX, on the one hand and, on the other, all points in the U.S. (except AK and HI). Supporting shipper: Nolan Enterprises, Inc., 409 Maple Street, Birmingham, AL 35206.

MC 67866 (Sub-3–2TA), filed October 1, 1982. Applicant: FILM TRANSIT, INC., 3931 Homewood Road, Memphis, TN 38118. Representative: Warren A. Goff, 109 Madison Avenue, Memphis, TN 38103. *General Commodities, except Classes A and B explosives, household goods and commodities in bulk,* between points LA, AR, MS, AL and TN, points in Butler, Cape Girardeau, Dunklin, Mississippi, New Madrid, Pemiscot, Scott and Stoddard Counties, MO, points in KY and their commercial zones on and east of Interstate 75, points in Bay, Jackson, Washington, Holmes, Walton, Okaloosa, Santa Rosa, and Escambia Counties, FL, points in OK in and east of the Counties of Grant, Garfield, Kingfisher, Canadian, Grady, Stephens and Jefferson. Applicant intends to interline at Texarkana, AR; Nashville, TN; Jackson, MS; Shreveport, LA; and Oklahoma City, OK. The application is supported by 58 certificates of support which can be reviewed at the Regional Authority Center in Atlanta, GA.

The following applications were filed in Region 4; send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 146438 (Sub-4–10TA), filed October 4, 1982. Applicant: ETV, INC., P.O. Box 393, Comstock Park, MI 49321. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49685–0801. *Food and related products* between facilities of PET INCORPORATED, Frozen Foods Division, in DeKalb County, GA; Benzie County, MI; Grady County, OK; Franklin and Lehigh Counties, PA; St. Joseph County, IN; Jefferson County, KY; Berrien, Grand Traverse and Oceana Counties, MI; Greene County, MO; Franklin and Lehigh Counties, PA; Hamilton County, TN; Frederick County, VA; Berkeley and Jefferson Counties, WV on the one hand, and, on the other points in the United States (except AK and HI). Supporting shipper: Pet Incorporated, Frozen Foods Division, P.O. Box 392, St. Louis, MO 63166.

MC 147216 (Sub-4–4TA), filed October 4, 1982. Applicant: CARL KLEMM, INC. d.b.a. KLEMM TANK LINES, 1126 Terry Lane, DePere, WI 54115. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. *Contract* Irregular: *Kerosene or No. 1 heating oil* from Lemont, IL to points in IA and WI under continuing contract with South-West Wisconsin Petroleum, Inc. of Reedsburg, WI. Supporting Shipper: South-West Wisconsin Petroleum, Inc., 411 N. Walnut, Reedsburg, WI 53939.

MC 163055 (Sub-4–1TA), filed September 15, 1982. Applicant: FOUR STAR CONSTRUCTION, INC., 7500 Tower Ave., Superior, WI 54880. Representative: James D. Robinson, Jr., 1000 Torrey Bldg., Duluth, MN 55802. *General commodities (except classes A and B explosives, commodities in bulk and household goods),* between points in MN, OK, KS, NE, WY, SD, IA, MO, IL, IN, MI, and WI. Supporting Shipper: American Canadia Distribution Center, Inc., P.O. Box 6007, Duluth, MN 55806.

MC 163833 (Sub-4–1TA), filed September 14, 1982. Applicant: HAROLD SPLETTO, d.b.a. HOT SHOT SERVICE, Box 541, Dickinson, ND 58601. Representative: John O. Holm, 17 2nd Ave. West, Dickinson, ND 58601. *Contract,* irregular; *Oil well equipment, well heads, pipe hangers, valve and related parts* thereto, between points in ND and MT, under continuing contracts with FMC Corporation (Well Head Div.), Dickinson, ND and McEvoy, Division of Smith International of Dickinson, ND. Supporting Shipper: FMC Corporation (Well Head Div.), Dickinson, ND 58601.

MC 164047 (Sub-4–1), filed October 4, 1982. Applicant: EUGENE HOLSTIN, 17540 Mack Ave., Apt. 8, Grosse Pointe, MI 48230. Representative: Robert E. McFarland, 2855 Coolidge, Ste. 201A, Troy, MI 48084. *Contract,* irregular: *metal products* between Temperance, MI and the commercial zone thereof, on the one hand, and, on the other, points in OH, under a continuing contract or contracts with Rolled Alloys, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Rolled Alloys, Inc., 125 Sterns Rd., Temperance, MI 48182.

MC 164056 (Sub-4–1TA), filed October 1, 1982. Applicant: JOHN HOWARD SMITH, d.b.a. SMITH CARTAGE, 8748 S. Cicero, Oak Lawn, IL 60453. Representative: Michael Parisi, 5915 W. Irvin Park Road, Chicago, IL 60634. *Contract, Irregular: Finished plastic products* from Calumet Park, IL to Gary and Hammond, IN, Columbus, OH, Lansing and Holland, MI, *and raw plastic materials and molds* on return trips to Calumet Park, IL. Restricted to traffic under a continuous contract with shipper Blue Island Plastics, Inc., 1141 W. Vermont, Calumet Park, IL.

MC 164062 (Sub-4–1TA), filed October 4, 1982. Applicant: BIRCHWOOD TRANSPORT, INC., P.O. Box 639, Kenosha, WI 53141. Representative: Daniel R. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203. *Contract,* irregular: *Food and related products,* between Kenosha, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI) under continuing contract(s) with Kenosha Beef International, Inc., and its wholly owned subsidiary Birchwood Meat & Provision Co., Inc., both of Kenosha, WI. Supporting shipper(s): Kenosha Beef International, Inc., and Birchwood Meat and Provision Co., Inc., P.O. Box 639, Kenosha, WI 53141.

MC 164063 (Sub-4–1TA), filed October 4, 1982. Applicant: ARNESON WHOLESALERS, INC., 700 East Broadway, Viroqua, WI 54665. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Ice Melter, fertilizer, kitty litter, floor drying compounds, and such commodities as are distributed by, dealt in or used by retail stores* between Viroqua, WI, on the one hand, and, on the other hand, points in the U.S. (except AK and HI). Authority sought for 270 days. Underlying ETA seeks 120 days authority. Supporting shipper: Howard Johnson's Enterprises, Inc., Railroad Avenue, Viroqua, WI 54665.

MC 164074 (Sub-4–1), filed October 4, 1982. Applicant: MASTERCRAFT INDUSTRIES, INC., 120 West Allen Street, Rice Lake, WI 54868. Representative: James L. Nelson, 1821 University Ave., St. Paul, MN 55104. *Such commodities as are used in the processing, manufacture, and sale of dairy products,* from points in Lake County and Chicago, IL, Minneapolis, MN, and points in Clinton County, IA, to points in Barron County, WI. Supporting shipper: Gustafson Ice Cream & Dairy Co., 38 So. Main, Rice Lake, WI 54868.

MC 164075 (Sub-4–1), filed October 4, 1982. Applicant: LINER TRUCKING, INC., 500 Robbins Dr., Troy, MI 48084. Representative: John E. O'Brian (same as applicant). Contract, irregular: *Plastic Pickup truck bed liners*—between all points in the continental U.S. under continuing contract with supporting shipper. Supporting shipper: Durakon, Inc., 500 Robbins Dr., Troy, MI 48084.

The following applications were filed in Region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 88368 (Sub-5–17TA), filed October 5, 1982. Applicant: CARTWRIGHT VAN LINES, INC., 11901 Cartwright Avenue, Grandview, MO 64030. Representative: C. Max Stewart (same as applicant). *Import Shoes, Laces and Accessories and Displays therefor,* from Miami, FL to Omaha, NE. Supporting Shipper: Triangle National Corporation, 9984 "F" St., Omaha, NE 68127.

MC 121457 (Sub-5–2TA), filed October 4, 1982. Applicant: MERCURY TRANSPORTATION, INC., 8502 Miller Road #3, Houston, TX 77049. Representative: Harold H. Mitchell, Jr., P.O. Box 1295, Greenville, MS 38701. *Building materials, lumber or wood products, chemicals, and machinery used in the manufacture and distribution thereof,* between points in AR, LA, and TX. Supporting shipper: Georgia-Pacific Corporation, 133 Peachtree St., N.E., Atlanta, GA 30303.

MC 138627 (Sub-5–15TA), filed October 5, 1982. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Road, Omaha, NE 68114. *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 with National Steel Service Center, Inc. of Parsippany, NJ. Supporting shipper: National Steel Service Center, Inc., One Century Drive, Parsippany, NJ 07054.

MC 139182 (Sub-5–3TA), filed October 4, 1982. Applicant: ATLAS DELIVERY SERVICE, INC., P.O. Box 1514, Athens, TX 75751. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *Glass* from Corsicana, TX and Rogers, AR to AL, FL, GA, IL, IN, KY, LA, MI, MO, MS, NC, OH, OK, SC, TN and VA. Restricted to shipments originating at or destined to the facilities of Guardian Industries Corporation. Supporting shipper: Guardian Industries Corporation, 3801 S. Hwy. 287, Corsicana, TX 75110.

MC 142390 (Sub-5–1TA), filed October 5, 1982. Applicant: TRANSIT MOVING, INC., 2930 Industrial Park Road, Iowa City, IA 52240. Representative: Carl E. Munson, 469 Fischer Building, P.O. Box 796, Dubuque, IA 52001. Contract, irregular: *Chemicals,* from Bayonne, NJ, to Chicago, IL under continuing contract(s) with Crain Midwest Inc., Chicago, IL.

MC 160399 (Sub-5–2TA), filed October 5, 1982. Applicant: FIFE, INC., Hilton Road, P.O. Box 329, Keokuk, IA 52632. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. Contract; irregular; *iron and steel articles and nonferrous metals,* between Alton, Madison, Moline, Chicago, and Silvis, IL; St. Louis, MO; and Council Bluffs, Davenport, and Shenandoah, IA, on the one hand, and, on the other, points in AL, AR, IA, IL, IN, KS, KY, LA, MI, MN, MS, MO, NE, OH, OK, PA, TN, TX, and WI, under continuing contract(s) with Azcon Corporation, of Alton, IL. Supporting shipper: Azcon Corporation, P.O. Box 616, Alton, IL 62002.

MC 161453 (Sub-5–2TA), filed October 4, 1982. Applicant: PONDEROSA TRUCK SERVICE, INC., 702 E. 21st St., Room 26, Wichita, KS 67214. Representative: Charles J. Kimball, 1600 Sherman St., #665, Denver, CO 80203. *Such commodities as are used or dealt in by manufacturers and distributors of chimneys, and air cleaners, and materials, equipment and supplies used in the manufacture and distribution of the commodities named* between points in Sedgwick County, KS, on the one hand, and, on the other, points in NM, AZ, UT, NV, MT, WA, ID, IA, WI, IL, TX, GA, and OH. Supporting shipper: Metal-Fab, Inc., P.O. Box 1138, Wichita, KS 67201.

MC 161453 (Sub-5–3TA), filed October 4, 1982. Applicant: PONDEROSA TRUCK SERVICE, INC., 702 E. 21st St., Room 26, Wichita, KS 67214. Representative: Charles J. Kimball, 1600 Sherman St., #665, Denver, CO 80203. *Such commodities as are used or dealt in by manufacturers or distributors of freezing and cooling machines, refrigerators, evaporators, condensors and compressors,* between the facilities of Technical Systems, Inc. in Mayes County, OK and points in KS, CA, OR, WA, NV, ID, UT, and WY. Supporting shipper: Technical Systems, Inc., Mid-American Industrial District, Pryor, OK 74361.

MC 163408 (Sub-5-1TA), filed October 5, 1982. Applicant: WINGS TRANSPORTATION, INC., 32301st Avenue, Council Bluffs, IA 51501. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. (1) *Antifreeze, petroleum products, and car care products,* between the facilities of Warren Oil Co. at Council Bluffs, IA and Omaha, NE on the one hand, and on the other, all points in the U.S. (except AK and HI), and (2) *Adhesives and coatings, and materials and supplies used in the production thereof,* between the facilities of Eschem, Inc., Swift Adhesives & Coatings Division, at Omaha, NE on the one hand, and on the other, points in IA, IL, KS, MN, MO, OK, SD and TX. Supporting shipper(s): Warren Oil Co., Omaha, NE; and Eschem, Inc., Omaha, NE.

MC 163944 (Sub-5–1TA), filed October 4, 1982. Applicant: INTERCOASTAL TRUCKING, INC., 8000 Market Street,

Suite 200, Houston, TX 77029. Representative: Robert Berry (Same as applicant). *General commodities, (except Class A and B explosives and household goods as defined by the Commission),* between Harris County, TX, on the one hand; and points in Bexar, Brazoria, Cameron, Dallas, Jefferson, Nueces Counties, TX. and Calcasieu Parish, LA, on the other hand. Supporting shippers: Hanjin Container Lines, Ltd., 10555 Northwest Freeway, Houston, TX 77092; Winchester-Southern Agency, 521 North Belt, Houston, TX; Intercoastal Warehouse Corp., 1300 Lathrop, Houston, TX 77020; Oceans Int'l Corporation, 1314 Texas Avenue, 15th Floor, Houston, TX 77002.

MC 164068 (Sub-5–1TA), filed October 4, 1982. Applicant: KELLY CHAPLIN AND DON BULLARD d.b.a. CHAPLIN AND BULLARD TRUCKING, 3832 Cypress Avenue, Dallas, TX 75227. Representative: D. Paul Stafford, Suite 1125, Frito Lay Tower, P.O. Box 45538, Dallas, TX 75245. *Motorcycles, Lawn Mowers, All Purpose Engines, Garden Tillers, Water Pumps, Outboard Motors and Electric Generators* from Baton Rouge, LA to Dallas, TX and points within its commercial zone. Supporting shipper(s): Cyclerama, Inc., 3525 Love Freeway, Dallas, TX; North Texas Yamaha, Inc., d.b.a. Texas Honda-Yamaha, 2905 Forest Lane, Garland, TX; Martin's Honda, Inc., 520 West Airport Freeway, Irving, TX; Plano Honda-BMW, Inc., 1717 North Central Expressway, Plano, TX; C. P. L., Inc., 9311 LBJ Freeway, Dallas, TX.

MC 164095 (Sub-5TA), filed October 5, 1982. Applicant: BIG RED EXPRESS, INC., 67th & J Streets, Omaha, NE 68102. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. Contract carrier, irregular (1) *Food and related products,* from Omaha, NE to points in AL, AR, FL, GA, KY, LA, MD, MO, MS, NJ, NC, PA, SC, TN, VA and WV under continuing contract with Coasting Packing Company of Omaha, Inc.; and (2) *Such merchandise as is dealt in or used by retail and wholesale furniture stores,* from points in AL, AR, FL, GA, KY, LA, MD, MO, MS, NJ, NC, PA, SC, TN, VA and WV to Omaha, NE under continuing contract with Nebraska Furniture Mart; and (3) *Rubber and plastic products, metal products, furniture and fixtures, and chemicals (other than hazardous),* from points in the U.S. (except AK and HI) to Omaha, NE under continuing contract with Good-More Enterprises Company of Omaha, NE.

MC 164098 (Sub-5–1TA), filed October 5, 1982. Applicant: HAT'S TRUCKING INC., P.O. Box 700, Kentwood, LA 70444. Representative: William E. Hatcher, P.O. Box 382, Kentwood, LA 70444. Contract; irregular. *Meat, meat products and meat by-products in refrigerated trailers,* from Palestine, TX to points in the U.S. under continuing contract with Vernon Calhoun Packing Co., Inc., Palestine, TX.

MC 148496 (Sub-5–1TA), filed October 4, 1982. Applicant: O. W. SMITH TRANSPORT, INC., Route 3, Highway 71 North, DeQueen, AR 71832. Representative: Wm. Dean Overstreet, 1550 Tower Building, Little Rock, AR 72201. *Wood products (including treated and untreated wood products) lumber, plywood, posts, poles and other building materials* between points in AR, MS, TX, LA, AL, GA, FL, NC, and SC, on the one hand, and on the other, points and places in the states of TX, OK, KS, MO, IA, IL, MN, WI, OH and NY. Supporting shipper: Cox Lumber Co., Hot Springs, AR.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 164065 (Sub-6–1TA), filed October 4, 1982. Applicant: AAA PACKING-CRATING-SHIPPING, INC., 2455 E. 27th St., Vernon, CA 90058. Representative: Julius C. Giannini (same as applicant) *General commodities* (except Class A and B explosives) between points in AZ, CA, TX, WA, OR, UT, NM, NV, and CO for 270 days. Supporting shippers: There are 6 shippers. Their statements may be examined in the regional office listed above.

MC 164083 (Sub-6–1TA), filed October 4, 1982. Applicant: BELLA AND BELLA TRUCKING COMPANY, INC. 229 16th St., Madras, OR 97741. Representative: Hugan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841. *Contract carrier,* irregular routes, *building materials and supplies,* between points in the U.S. (except AK and HI), Under continuing contracts with Clowers Trucking and Trading Company, Inc., for 270 days. Supporting shipper: Clowers Trucking & Trading Co., 304 So. East Crestview Lane, Madras, OR 97741.

MC 164081 (Sub-6–1TA), filed October 4, 1982. Applicant: JOHN CLOWERS, d.b.a. CLOWERS TRUCKING, 304 South East Crestview Lane, Madras, OR 97741. Representative: Hugan R. H. Smith, 26 Kenwood Place, Lawrence, MA. 01841. *Contract Carrier,* over irregular routes, *building materials and supplies,* between points in the U.S. (except AK and HI), under continuing contract(s) with: Clowers Trucking and Trading Company, Inc., for 270 days. Supporting shipper: Clowers Trucking & Trading Co., Inc., 304 So. East Crestview Lane, Madras, OR 97741.

MC 164001 (Sub-6–1TA), filed October 1, 1982. Applicant: A. FRANK COWAN, d.b.a. FRANK COWAN TRUCKING, 5891 Kingston Wy., Murray, UT 84107. Representative: Bruce W. Shand, Ste. 280, 311 S. State St., Salt Lake City, UT 84111. *Contract carriage,* irregular routes, *food and related products,* between points in WA, MN, NE, KS, SD, and IA on the one hand, and on the other points in Salt Lake County, UT under a continuing contract(s) with Advantage Meat for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Advantage Meat, P.O.B. 27232, Salt Lake City, UT 84125.

MC 164103 (Sub-6–1TA), filed October 5, 1982. Applicant: G. D. EASTLICK, INC., 212 South 22nd Street, Billings, MT 59101. Representative: G. Derald Eastlick (same as applicant). *Food and Related Products* as dealt in by grocery and wholesale food distributors, except Classes A & B explosives, household goods and commodities in bulk between points in WA, OR, CA, UT, and ID on the one hand, and points in MT on the other, for 270 days. Supporting shippers: Continental-Keil, Inc., 1509 Monad Road, P.O.B. 31198, Billings, MT 59107. Associated Food Stores, Inc., 322 Plainview, Billings, MT 59103.

MC 140586 (Sub-6–1TA), filed October 5, 1982. Applicant: GOLDEN NORTH VAN LINES, INC., 7120 Hart St., Anchorage, AK 99502. Representative: J. G. Dail, Jr., P.O.B. LL, McLean, VA 22101. *Used household goods,* restricted to traffic for the account of the U.S. Government, between points in the U.S. including AK and HI. Supporting shippers: Mitchell Overseas Movers, Inc., Box 3–338, Anchorage, AK; and JPPSO–ANC, Elmendorf AFB, AK 99506.

MC 151837 (Sub-6–2TA), filed October 5, 1982. Applicant: NEIL HARRIS & LAJEAN HARRIS, a partnership, d.b.a. L & N TRUCKING, P.O.B. 2617, Idaho Falls, ID 83401. Representative: David E. Wishney, P.O.B. 837, Boise, ID 83701. *Contract carrier,* irregular routes: *lumber and wood products,* between points in the U.S., except AK and HI, under continuing contract(s) with Idaho Timber Corporation, for 270 days. Supporting shipper: Idaho Timber Corporation, P.O.B. 6767, Idaho Falls, ID 83707.

MC 153813 (Sub-6–4TA), filed October 4, 1982. Applicant: MIDWEST PACIFIC TRANSPORT, INC., 690 West Dalton, Coeur d'Alene, ID 83814. Representative: Bruce A. Wolf, 2120 Pacific Building, Third & Columbia Street, Seattle, WA

98104. *Contract Carrier*, Irregular routes: *Iron and Steel Products*, between points in WA, OR, CA, NV, ID, MT, WY, UT, AZ, NM, CO, MI, NY, and IN and points of entry and export between the U.S. and CD in WA, ID, MT, MI, and NY, for 270 days. Supporting shipper: Dominion Steel, 745 Fifth Avenue, New York, NY 10151.

MC 157487 (Sub-6–4TA), filed October 4, 1982. Applicant: NORM'S HAULING, LTD., POB 2378, Prince Albert, Sask. S6V 6Z1. Representative: Robert N. Maxwell, POB 2471, Fargo, ND 58108. *Fencing materials*, from the ports of entry on the International Boundary Line between the U.S. and Canada at points in MT and ND, to points in MT, ND, SD and WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: AALLCANN Wood Suppliers, Inc., POB 1597, Prince Albert, Sask. S6V 5T2.

MC 164105 (Sub-6–1TA), filed October 5, 1982. Applicant: SILVERDALE FUEL & TRANSFER, 4056 Comoe Trail N.E., Bremerton, WA 98310. Representative: Jim Pitzer, 15 S. Grady Way, Ste 321, Renton, WA 98055. *(1) Malt Beverages, and (2) Wine; in (1) From Fairfield and Los Angeles, CA and Portland, OR to Bremerton, WA, and in (2) From Modesto, Napa and San Jose, CA to Bremerton, WA* under continuing contract(s) with Puget Sound Beverage of Bremerton, WA, for 270 days. Supporting shipper: Puget Sound Beverage, 300 Wilks Ave., Bremerton, WA 98312.

MC 164104 (Sub-6–1TA), filed October 5, 1982. Applicant: SITTER'S TRANSPORT LIMITED, 406 1st Ave., Kindersley, Saskatchewan, S0L 1S0. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Contract*, Irregular: *uranium hexaflouride* from North Portal, ND International Boundaryline to Gore, OK or Metropolis, IL under continuing contract with Uranerz Exploration & Mining Ltd. of Saskatoon, CD and Uranerz Canada Ltd. of Saskatoon, CD for 270 days. An ETA seeks 120 days authority. Supporting shipper: Uranerz Exploration & Mining Ltd. 229 4th Ave., S. No. 204, Saskatoon, CD S7K4K3 and Uranerz Canada Ltd., 224 4th Ave., S. No. 206, Saskatoon, CD S7K5M5.

MC 147044 (Sub-6–1TA), filed October 4, 1982. Applicant: SOUTHWEST TRAILS, INC., 6510 Cherry Street, Long Beach, CA 90805. Representative: John C. Russell, 1545 Wilshire Boulevard, Suite 606, Los Angeles, CA 90017. *Contract carrier*, irregular routes: *petroleum greases*, in bulk, from Los Angeles County, CA to Kingman and Sahuarita AZ; Provo, UT and Denver, CO, for 270 days. Supporting shipper: Texaco, Inc., 4800 Fournace, Bellaire, Tx. 77401.

MC 163366, (Sub-6–1TA), filed October 6, 1982. Applicant: DONNA MURRAY, d.b.a. DAME TRANSPORTATION, 515 N.E. 8th St., Grants Pass, OR 97526. Representative: Lawrence M. Cobb, Esq., 5743 Power Inn Road Inn Road, Ste. A, Sacramento, CA 95824. *General commodities (except Class A and B explosives, hazardous wastes, and household goods)*, between points in CA on the one hand, and, on the other hand, Points in OR, WA and UT, for 270 days. An underlying ETA seeks 120 days. Supporting shippers: There are 6 shippers. Their statements may be examined at the Regional office listed above.

MC 163288 (Sub-6–2TA), Applicant: HARMONY TRANSPORT, INC., P.O.B. 9487, Yakima, WA 98909. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312. *Foodstuffs*, (1) From Sun Prairie, WI to points in AZ, CA, CO, NM, OR, TX, UT and WA, and (2) From Monroe, Madison, La Crosse, Plymouth, Jefferson and Kaukauna, WI to Phoenix, AZ; Los Angeles and Oakland, CA; Denver, CO; Omaha, NE; Reno, NV; Portland, OR; and Dallas, TX. for 270 days. Supporting shipper(s): Wisconsin Cheeseman, Inc., P.O. Box 1, Madison, WI 53701; Swiss Colony, Inc., 1112—7th Ave., Monroe, WI 53566.

MC 164143 (Sub-6–1TA), filed October 7, 1982. Applicant: KOCH OIL CO. LTD., Box 60088, Station d, Calgary, Alberta, CD T2P 2C7. Representative: Allen Munro (same as applicant). *Unrefined crude oil* in bulk tank trucks only, from ports of entry on the U.S.-Canadian border in MT to refineries or pipeline receiving points in MT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Dome Petroleum, Ltd., P.O.B. 200, Calgary, Alberta, CD T2P 2H8; and Holtman Enterprises, Ltd. P.O.B. 577 Brooks, Alberta, CD.

MC 164135 (Sub-6–1TA), filed October 6, 1982. Applicant: DENIS HAMMERSCHMIDT d.b.a. MC TRUCKING, 937 West Collins, Orange, CA 92667. Representative: Robert Fuller, 13215 E. Penn St., Ste 310, Whittier, CA 90602. *Mobile and modular homes, new and used*, between points in Los Angeles, Orange, Riverside, San Diego and San Bernardino Counties, CA, on the one hand, and, on the other, points in Maricopa, Mohave, Pima and Yuma Counties, AZ and Clark County, NV, for 270 days. Supporting shippers: Grove Homes, 13168 Harbor Blvd., Garden Grove, CA 92643. Paramount Homes, 13538 Excelsior, Santa Fe Springs, CA 90607.

MC 146909 (Sub-6–1TA), filed October 8, 1982. Applicant: PIONEER VAN LINES, INC., 1810 Park Place B, Seattle, WA 98101. Representative: J. G. Dail, Jr., Esq., P.O. Box LL, McLean VA 22101. Used household goods, for the United States Government, between points in the U.S., including AK and HI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are 6 shippers. Their statements may be examined in the Regional Office listed above.

MC 163100 (Sub-6–2TA), filed October 6, 1982. Applicant: ROBERT D. SCOTT d.b.a. SCOTT TRUCKING SERVICES, 7643 Shadyoak Dr., Downey, CA 90240. Representative: Lawrence V. Smart, Jr., 419 NW. 23rd Av., Portland, OR 97210 *Contract carrier:* Irregular routes: *Pulp, paper and related products*, between points in OR, WA, CA, MT, NV, ID, UT, CO, NM, WY, AZ, TX, OK, AR, KS, ND, SD, NE, MN, MO, IA and WI, for 270 days. Supporting shipper: Superior Transportation Systems, Inc., 9450 SW. Commerce Ct, Ste 400, Wilsonville, OR.

MC 164136 (Sub-6–1TA), filed October 6, 1982. Applicant: DOUGLAS H. WINN, an individual, d.b.a. D.H. WINN TRUCKING, P.O. Box 24, Lockford, CA 95237. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. *Contract carrier, irregular routes commodities in bulk*, between points in Amador County, CA and San Joaquin County, CA, on shipments having an immediately subsequent movement in Foreign Commerce, under continuing contracts with North American Refractories Co., Cleveland, OH, for 270 days. Supporting shipper: North American Refractories Co., Hannah Bldg., East 14th and Euclid, Cleveland, OH 44115.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-28483 Filed 10-15-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30019]

Rail Carriers; Old Augusta Railroad Co.; Operation of a Line of Railroad in Perry County, MS

OLD AUGUSTA RAILROAD CO. (Applicant), P.O. Box 309, New Augusta, MS 39462, represented by Fritz R. Kahn,

Esq., Verner, Liipfert, Bernhard, and McPherson, Chartered, 1660 L Street, N.W., Suite 1100, Washington, D.C. 20036, hereby gives notice that on the 12th day of August, 1982, it filed with the Interstate Commerce Commission at Washington, D.C., an application pursuant to 49 U.S.C. 10901 for a certificate of public convenience and necessity authorizing the operation of a line of railroad in Perry County, MS.

Applicant is a wholly-owned subsidiary of Leaf River Forest Products, Inc., and it is controlled indirectly by Great Northern Nekoosa Corporation. Applicant has been organized under the laws of the State of Mississippi for the purpose of providing rail service to the pulp mill and sawmill to be owned and operated by Leaf River Forest Products, Inc. The line over which applicant proposes to operate is 2.5 miles in length and extends from the site of the mill, near Augusta, MS, to the line of the Illinois Central Gulf Railroad Company (ICG) at New Augusta, MS.

In the opinion of the Applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 22), Revision of National Environmental Policy Act Guidelines, 363 I.C.C. 653 (1980) any protests may include a statement indicating the present or absence of any effect of the request Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation-National Environmental Policy Act*, 1969, supra, at p. 487.

Pursuant to 49 U.S.C. 10901 the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, D.C. 20423, and the aforementioned counsels for applicant, within 30 days after date of publication of this notice in the **Federal Register.** Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-28180 Filed 10-15-82; 8:45 am]

BILLING CODE 7035-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

[Bulletin No. 83-4]

Agency Implementation of OMB Circular No. A-76

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of Availability of New Bulletin.

SUMMARY: OMB Circular No. A-76 (Revised) dated March 29, 1979, "Policies for Acquiring Commercial or Industrial Products and Services Needed by the Government," requires agencies to review their commercial activities in accordance with policies and procedures in the Circular and its Cost Comparison Handbook. Agencies are also required to assure that their budget estimates reflect the probable impact of decisions based on implementation of OMB Circular No. A-76 as prescribed by §§ 13.2 through 13.5 of OMB Circular No. A-11 (Revised).

OMB Bulletin No. 81-15, dated April 8, 1981, required agencies to report on their progress in complying with these requirements during fiscal year 1980. OMB Bulletin 83-4 requires agencies to submit a similar report for fiscal year 1981 on or before November 30, 1982.

Copies of the Bulletin have been mailed to agency heads and to the members of the Interagency Committee on Implementation of OMB Circular No. A-76

ADDRESS: Additional copies of the Bulletin are available upon request from Document Distribution, Room G-236, New Executive Office Building, 726 Jackson Place, NW., Washington, D.C., phone: (202) 395-7332.

FOR FURTHER INFORMATION CONTACT: Ms. Lee Carlson, A-76 Project Manager, Procurement Policy Development, (202) 395-3254.

Donald E. Sowle,

Administrator for Federal Procurement Policy.

Joseph R. Wright,

Deputy Director.

October 12, 1982.

Bulletin No. 83-4

To the Heads of Executive Departments and Establishments

Subject: Agency Implementation of OMB Circular No. A-76

1. *Purpose.* This Bulletin provides instructions for preparing and submitting information on each agency's implementation of OMB Circular No. A-76 and its impact on budget estimates.

2. *Authority.* The Budget and Accounting Act of 1921 (31 U.S.C. 1, *et. seq.*), and the Office of Federal Procurement Policy Act Amendments of 1979 (41 U.S.C. 401, *et. seq.*).

3. *Rescission.* OMB Bulletin 81-15, dated April 8, 1981.

4. *Background.* OMB Circular No. A-76 (Revised), dated March 29, 1979, requires agencies to review their commercial activities in accordance with policies and procedures in the Circular and its Cost Comparison Handbook. Agencies are also required to assure that their budget estimates reflect the probable impact of decisions based on implementation of OMB Circular No. A-76, as prescribed by §§ 13.2 and 13.3 of OMB Circular No. A-11 (Revised).

OMB Bulletin No. 81-15, dated April 8, 1981, required agencies to report on their progress in complying with these requirements during fiscal year 1980. This Bulletin requires agencies to submit a similar report for fiscal year 1981.

5. *Action Requirements.* No later than November 30, 1982, agencies listed in Attachment A will submit to the Office of Federal Procurement Policy a report on implementation of OMB Circular No. A-76, in accordance with instructions in Attachment B and in the format of the Exhibits. Agencies will prepare the Exhibits, consistent with the definitions listed in Attachment C. Attachment D specifies the codes needed to complete the Exhibits.

6. *OMB Responsibilities.* OMB will review the reports required by this Bulletin to assess agency implementation of OMB Circular No. A-76 and to insure that the economies that will be realized through A-76 implementation are reflected in agency budget estimates.

7. *Information Contact.* Questions should be directed to the Office of Federal Procurement Policy, Office of Management and Budget, telephone (202) 395-3254.

8. *Sunset Date.* This Bulletin expires as soon as the action required is completed.

David A. Stockman,*

Director.

Attachments

Attachment A—Agencies Required to Report

Department of Agriculture
Department of Commerce
Department of Defense
Department of Education
Department of Energy

Department of Health and Human Services
Department of Housing and Urban Development
Department of the Interior
Department of Justice
Department of Labor
Department of State
Department of Transportation
Department of the Treasury
Consumer Product Safety Commission
Environmental Protection Agency
Federal Communications Commission
Federal Emergency Management Agency
Federal Home Loan Bank Board
Federal Trade Commission
General Services Administration
International Communication Agency
International Development Cooperation Agency
International Trade Commission
Interstate Commerce Commission
National Aeronautics and Space Administration
National Credit Union Administration
Nuclear Regulatory Commission
Office of Personnel Management
Pension Benefit Guaranty Corporation
Railroad Retirement Board
Small Business Administration
Veterans Administration
Entities within the Executive Office of the President

Attachment B—Instructions on Preparing the Exhibits

The information required in Exhibits 1, 2, 3, and 4 will be prepared on 8½ x 11 paper as described below using the format shown in the Exhibits.

Exhibit 1. Provide summary status and planning information relating to in-house activities, contracts, and proposed new starts.

Heading. Enter the name of the agency and the preparer's name, title, and telephone number. Enter the date the report was completed.

Section 1—Parts A, B and C. Parts A and B should include summary data concerning the agency inventory. The data in Part C should be found in the agency review schedule.

Column 1. Enter summary data from the inventory and review schedule.

Column 2. Enter the full-time equivalent (FTE) of total personnel allocated to the in-house activities covered. Include the FTE of appointments that are expected to be filled during the fiscal year and to be allocated to an in-house activity.

Section II. Provide data from the review schedule.

Columns 1 and 2. Enter summary data from the agency review schedule. Annual cost refers to the yearly (i.e., 12 month) cost of the contracts.

Column 3. For each fiscal year, indicate the number of contracts scheduled for review.

Section III—Parts A and B. Provide data on proposed new starts. Exclude those that result from review of contracts. Include in this section only those activities for which the agency has decided that in-house performance is feasible.

Column 1. Indicate the number of proposed new requirements included in the fiscal yaer 1983 budget estimate and planned for fiscal year 1984.

Column 2. Enter the total number of FTE's of total personnel that *would* be required if the activity were to be performed in-house.

Exhibit 2. Provide backup detail to support the entries in Exhibit 1.

Section I—Parts A and B. These parts contain two unique entries. The "reason code" identifies the reason that an activity is retained in-house. These codes are defined in Attachment D. *Use only one code from the codes listed in Attachment D.* The "year of new review" identifies the fiscal year in which the activity will be reviewed for possible private sector performance.

Section I—Part C. Provide a narrative description on how future reviews are reflected in fiscal year 1983 and 1984 budget estimates, as required by Section 13 of OMB Circular No. A–11.

Section II. Relate the budget impacts pertaining to review of contracts for possible in-house performance. Provide a narrative description on how this affects the fiscal year 1983 and 1984 budget estimates.

Section III. In this section, provide a detailed list of proposed new starts not resulting from contracts that have been included in the fiscal year 1983 budget estimates and are planned for fiscal year 1984. Include only those where a determination has been made that in-house performance is feasible.

Exhibit 3. Document the results of fiscal year 1981 reviews of in-house activities, contracts, and proposed new starts.

Section I—Part A. Include the summary data for those activities that remain in-house after cost study.

Column 1. Enter the total number of activities.

Column 2 and 3. Enter the total FTE of personnel allocated that was reduced through reorganization associated with cost studies and the resultant personnel cost savings (Column 2). To determine this, take the number of FTE of personnel allocated to the activity before the cost study minus the number of FTE of personnel shown in the study. The difference is the number of personnel reduced. The personnel savings is the difference between personnel related costs before the cost study minus personnel related costs shown in the cost study (Column 3).

Section I—Part B. Include summary data on those activities that converted to contract as a result of cost studies.

Column 1. Enter the total number of activities.

Column 2. Enter the total annual cost savings for activities converted to contract on the basis of cost. This is obtained by dividing the total of line 35 of each study by the total months covered by the study. This figure is then multiplied by twelve to arrive at annual cost savings. The results for all cost studies are then summed to arrive at the total annual cost avoidance.

Column 3. Show the FTE of personnel allocated that were affected. Count vacancies in this number.

Column 4. Show the numbers of actual persons (not FTE) that fall in each category listed under this column.

Section I—Part C. Show the total number of activities continued in-house on a basis other than cost.

Section II. Provide summary data on those contracts reviewed for possible in-house performance.

Column 1(a). Enter the number of formal cost studies conducted.

Column 1(b). Enter the number of informal reviews conducted as defined in paragraph 10.c.(2) of the Circular.

Column 2(a). Enter the number converted to in-house operation.

Column 2(b). Enter the total annual cost savings.

Section III—Part A. Include summary data from cost studies on proposed new starts not resulting from review of contracts.

Column 1(a). Enter the total number of activities initiated in-house on the basis of a cost comparison.

Column 1(b). Enter the total FTE personnel allocated to operate the in-house activities.

Column 1(c). Enter the total annual cost savings.

Section III—Part B. Include summary data on new starts initiated in-house on a basis other than cost.

Column 1(a). Enter the total number of activities initiated in-house on a basis other than cost.

Column 1(b). Enter the total FTE of personnel allocated to operate the in-house activities.

Exhibit 4. Provide backup detail to support the entries in Exhibit 3.

Section I—Parts A and B. The source of this data is the cost comparison forms prepared in accordance with the instructions in the Cost Comparison Handbook. For each cost study, enter

the total for the required line from the form. Enter the period of time covered by the study.

Section I—Part C. Make the appropriate entry for each activity continued in-house on a basis other than cost.

Section II. The source of this data is the cost comparison forms prepared in accordance with instructions in the Cost Comparison Handbook. For each cost study, enter the total for the required line from the form. Enter the period of time covered by the study.

Section III—Part A. The source of this data is the cost comparison forms. For each cost study, enter the total for the required line from the form. Enter the period of time covered by the study.

Section III—Part B. Make the appropriate entry for each activity initiated in-house on a basis other than cost.

Attachment C—Definitions

For purposes of this Bulletin, the following definitions apply:

1. *Contracts*—Contracts for private sector performance of commercial activities for services which the agency determines could reasonably be performed in-house. Includes any activities that have been converted from in-house to contract perfomance.

2. *Government Commercial Activity*—One which is operated and managed by a Federal executive agency and which provides a product or service that could be competitively obtained from a private source. A representative, but not comprehensive, listing of such activities is provided in Attachment A to OMB Circular No. A–76 (Revised). An activity may be identified with an organization or a type of work, but must be (1) separable from other functions so as to be suitable for performance either in-house or by contract and (2) a regularly needed activitly of an operational nature, not a one-time activity of short duration associated with support of a particular project.

3. *Informal Cost Study of a Contract*—An initial review of contract costs to determine whether it is likely that the work can be performed in-house at a cost that is less than contract performance by 10 percent of Government personnel related costs plus 25 percent of the cost of ownership of equipment and facilities. (Paragraph 10.c.(2) of the Circular). When this is determined to be likely, a formal cost comparison is conducted following the provisions of OMB Circular No. A–76 (Revised) and Supplement No. 1 to the Circular, the "Cost Comparison Handbook."

4. *New Start*—A newly established Government commercial activity; this includes a transfer of work from contract to in-house performance. Also included is an expansion which would increase capital investment or annual operating cost by 100 percent or more.

5. *FTE of Total Personnel Allocated*—The full-time equivalent (FTE) of in-house personnel resources (i.e., the workyears associated with full-time permanent appointments and other appointments subject to the FTE total employment ceilings assigned by OMB) that are allocated to the performance of an activity during a fiscal year.

Attachment D—Reason Codes for In-House Operations

Code and Explanation

A. Indicates that the activity provides intermediate or depot level maintenance support of mission-essential equipment. (For Department of Defense use only.)

B. Indicates that the activity is operated by military personnel and the activity or military personel assigned are utilized in or subject to deployment in a direct combat support role, the activity is essential for training in skills exclusively military in nature, or the activity is needed to provide appropriate work assignments for a rotation base for overseas assignments.

C. Indicates procurement of a product or service from a private, commercial source would cause an unacceptable delay or disruption of an essential program. (Note: An individual Determination and Findings in accordance with paragraph 8.a.(3) of the Circular must accompany this report for every activity using this code.)

D. Indicates that there is no satisfactory private, commercial source capable of providing the product or service needed.

E. Indicates that based on a cost study the Government is providing the product or service at a lower total cost than if it were acquired from a private commercial source.

F. Indicates function is being performed in-house now, but decision to continue in-house or contract is pending the results of a scheduled cost comparison analysis.

G. Indicates function is being performed in-house now, but will be converted to contract because of cost comparison analysis results.

H. Indicates function is being performed in-house now, but a decision has been made to convert to contract for reason other than cost. A list of functions and reasons for converting to contract must accompany this report for all instances where this code is used.

I. Indicates method of perfomance has never been reviewed.

J. Indicates function is being performed in-house now, and conduct of a cost study is specifically precluded by law (Note: A justification for using this code must accompany this report or each activity using this code).

Note:—No other reason codes may be used.

BILLING CODE 3110-01-M

Exhibit 1

Preparer's Name _____

Title _____

Telephone _____

Completion Date _____

Department of _____

Summary

Status Report on Inventory and Scheduled Reviews for In-House Commercial Activities, Contracts and New Starts

	Total Number of Activities (1)	FTE of Total Personnel Allocated (2)
I. Government commercial activities:		
A. 1982 activities with FTEs of over 10[1]		
B. 1982 activities with FTEs of 10 or less[1]		
Total A and B		
C. Activities scheduled for review, by fiscal year of review.[2]		
1982		
1983		
1984		
1985		

	Total Number (1)	Total Annual Cost (2)	Number Scheduled for Review[2] (3)			
			1982 (a)	1983 (b)	1984 (c)	1985 (d)
II. Contracts scheduled for review:						

	Number (1)	FTE of Total Personnel Required (2)
III. Proposed new requirements:		
A. Included in fiscal year 1983 budget.[3]		
B. Planned for fiscal year 1984 budget.[3]		

1/ Provide separate detailed list per Exhibit 2.

2/ Provide separate explanation on the effects of these reviews on the fiscal years 1983 and 1984 budget estimates per Exhibit 2.

3/ Provide separate detailed list of proposed new requirements per Exhibit 2.

Exhibit 2

Department of _____
Detailed List
Fiscal Year 1981 Status Report on Inventory and Scheduled Reviews
for
In-House Commercial Activities and Contracts

I. Government commercial activities:

A. Activities with FTEs of over 10.

Location	Name of Activity	FTE of Total Personnel Allocated	Reason[1] Code	Year of Next Review

(Provide data for each 1982 activity.)

B. Activities with FTEs of 10 or less.

Location	Name of Activity	FTE of Total Personnel Allocated	Reason[1] Code	Year of Next Review

(Provide data for each 1982 activity.)

C. For in-house activities that are scheduled for review, provide an explanation of the effect of these reviews on the fiscal years 1983 and 1984 budget estimates. Show the effect on FTE of personnel resources required, compensation and other objects of expenditure by specifying the potential reductions in or reallocation of personnel, decreases in the cost of agency operation, or changes in investment in capital equipment:

II. For contracts that are scheduled for review, provide an explanation of the effect of these reviews on the fiscal years 1983 and 1984 budget estimates:

III Proposed new requirements included in fiscal year 1983 budget estimate and planned for the fiscal year 1984 budget estimate:

Location	Activity	FTE of Total Personnel Required

1/ Use reason code specified in Attachment D.

Exhibit 3

Department of _____

Summary

Fiscal Year 1981 A-76 Reviews Conducted On Cost or Other Basis
On Government Commercial Activities and Contracts
(And New Starts Initiated)

I. Government commercial activities:

A. Continued in-house on basis of cost.

Number of[1] Activities (1)	FTE of Personnel Allocated That Were Reduced (2)	Annual Personnel Cost Savings (3)

B. Converted to contract on basis of cost.

Number of[1] Activities (1)	Line 35 Annual Cost Avoidance (2)	FTE of Personnel Allocated That Were Affected (3)	Employees Impacted (4)			
			Reassigned (a)	Terminated (b)		
				Employed by Contractor	Granted Severance Pay	Retired

C. Number of activities continued in-house on basis other than cost.[2]

Number of Activities (1)

II. Contracts reviewed and converted to in-house operation:

Cost Studies Performed (1)		Converted To In-House Operation (2)	
Formal (a)	Informal Review (b)	No. (a)	Line 35[1] Annual Cost Avoidance (b)

III. New starts.

A. Cost studies performed. (1)

No. (a)	FTE of Total Personnel Allocated (b)	Line 35[1] Annual Cost Avoidance (c)

B. Initiated in-house on basis other than cost. (2)

No. (a)	FTE of Total Personnel Allocated (b)

1/ Provide backup detail on individual activities and their costs as shown on the cost comparison forms per Exhibit 4.

2/ Provide separate detailed list of activities showing reasons per Exhibit 4.

Exhibit 4

Department of _____
Detailed List
Fiscal Year 1981 A-76 Reviews Conducted on Cost or Other Basis
On Government Commercial Activities and Contracts
(and New Starts Initiated)

I. Government commercial activities reviewed:

A. Continued in-house on basis of cost.

Location	Name of Activity	Amounts on Cost Comparison Form				Period of Study
		Line 31	Line 33	Line 34	Line 35	

(Provide data for each activity.)

B. Converted to contract on a cost basis.

Location	Name of Activity	Amounts on Cost Comparison Form				Period of Study
		Line 31	Line 33	Line 34	Line 35	

(Provide data for each activity.)

C. Activities continued on basis other than cost.

Location	Name of Activity	FTE of Personnel Allocated	Reason[1] Code

(Provide data for each activity.)

II. Contracts reviewed and converted to in-house operation.

Location	Name of Activity	Amounts on Cost Comparison Form				Period of Study
		Line 31	Line 33	Line 34	Line 35	

(Provide data for each activity.)

III. New starts.

A. Cost studies performed — initiated in-house.

Location	Name of Activity	Amounts on Cost Comparison Form				Period of Study
		Line 31	Line 33	Line 34	Line 35	

(Provide data for each activity.)

B. Initiated in-house on basis other than cost.

Location	Name of Activity	In-House Personnel Allocated	Reason[1] Code

(Provide data for each activity.)

1/ Use reason code specified in Attachment D.

[FR Doc. 82-28623 Filed 10-14-82; 1:28 pm]
BILLING CODE 3110-01-C

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-19110; File No. SR-BSE-82-6]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Relating to Increased Dues and Surcharge

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 29, 1982, the Boston Stock Exchange, Inc., filed with the Securities and Exchange Commission the proposed change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Members dues will be increased from $1,200 to $1,600 annually and the 15 percent surcharge will be eliminated for dues. The 15 percent surcharge will be incorporated as a permanent part of the Exchange's fee schedule. Both the increase in dues and the change to the fee schedule will become effective October 1, 1982.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places set forth in Item IV below. The self-regulatory organization has prepared summaries set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Basis for, the Proposed Rule Change

(a) Due to the changing economic and operational environment of the Exchange and its subsidiaries, a Fee Committee was established to review projected costs and revise, where appropriate, all fees of the Exchange and subsidiaries. In reviewing the preliminary budget for 1983, the Fee Committee recommended and the Board of Governors approved an increase in members annual dues from $1,200 to $1,600 and to adopt the 15 percent surcharge as a permanent part of the Exchange's fee schedule. This surcharge, however, would not be assessed against members dues as it had been in the past.

(b) The basis under the Act for the proposed rule change is Section 6(b)(4) permitted the rules of an Exchange to provide for equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its services.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The fee changes are not expected to create a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing Rule change will become effective October 1, 1982 pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934. 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 Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth St., N.W., Washington, D.C., 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed change that are filed with the Commission, and all written communications relating to the proposed change between the Commission and any person, other than those that 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 principal office of the above-memtioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 7, 1982.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-28438 Filed 10-15-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22662; (70-6773)]

Eastern Edison Co. and Montaup Electric Co.; Proposal To Issue and Sell Preferred Stock To Make Capital Contribution to Subsidiary; Exception From Competitive Bidding

October 8, 1982.

Eastern Edison Company ("Eastern"), 110 Mulberry Street, Brockton, Massachusetts 02403, a public utility subsidiary of Eastern Utilities Associates ("EUA"), a registered holding company, and Montaup Electric Company ("Montaup"), P.O. Box 391, Fall River, Massachusetts 02722, a generating subsidiary of Eastern have filed an application-declaration with this Commission pursuant to Sections 6, 7, and 12 of the Public Utility Holding Company Act of 1935 and Rules 42(b)(2) and 50(a)(5) thereunder.

Eastern proposes to increase its capital stock in an amount not in excess of $15,000,000 consisting of not in excess of 150,000 shares of its % Preferred Stock, par value $100 per share ("New Preferred Stock") and to issue and sell such additional shares by December 31, 1982 at a price and on other terms to be determined. The net proceeds of the sale of the New Preferred Stock will be used by Eastern to make a capital contribution to Montaup, except that a part of such proceeds may be used by Eastern to reduce its own short-term bank borrowings. Montaup will apply such capital contribution to reduce short-term bank borrowings.

Eastern requests an exception from the competitive bidding requirements of Rule 50 pursuant to Rule 50(a)(5) in connection with the proposed issue and sale of New Preferred Stock. Eastern proposes, and is hereby authorized forthwith, to negotiate the terms of a sale of the New Preferred Stock with the advice and assistance of an investment banker, to institutional purchasers for resale to the public. Eastern states that the exception is justified because because, among other reasons, the company has had unsatisfactory experience with preferred stock offerings at competitive bidding and

substantial sales effort by underwriters is necessary to market successfully Eastern's stock in light of the fact that the size of the issue is small and provides limited liquidity to investors.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Any interested persons wishing to comment or request a hearing should submit their views in writing by November 1, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above and 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 filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-28437 Filed 10-15-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19113; File No. SR-NSCC-82-23]

Filing and Immediate Effectiveness of Proposed Rule Change by National Securities Clearing Corp.

October 8, 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 September 23, 1982, the National Securities Clearing Corporation ("NSCC") filed with the Securities 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.

The proposed rule change allows NSCC, under NSCC Rule 7, Section 5, to accept initial and supplement trade data for comparison from the New York Stock Exchange, Inc. in connection with its Registered Representative Rapid Response Service. NSCC Rule 7, Section 5, among other things, allows NSCC to receive for input into NSCC's trade comparison operation initial and supplementary trade data from marketplace regulators on behalf of NSCC participants. NSCC stated in its filing that the proposed rule change is in accordance with Section 17A of the Act in that it will promote the prompt and accurate clearance and settlement of securities transactions by eliminating errors and omissions that might otherwise occur.

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 within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-NSCC-82-23.

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, 450 Fifth Street, N.W., 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.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-28436 Filed 10-15-82; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, Deputy Executive Director (202) 272-2142.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

New

Rule 11a-2.

No. 270-267.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance proposed rule 11a-2 (17 CFR § 270.11a-2) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*), which would permit registered insurance company separate accounts, subject to certain conditions, to make exchange offers without the terms of those offers having first been submitted to and approved by the Commission. Adoption of this rule would obviate the necessity of such accounts' filing applications for Commission approval of the terms of such exchange offers. The rule was proposed for public comment in Investment Company Act Release No. 12675 (September 21, 1982).

The potential respondents are approximately 180 registered insurance company separate accounts.

Submit comments to OMB Desk Officer: Robert Veeder (202) 395-4814.

George A. Fitzsimmons,

Secretary.

October 12, 1982.

[FR Doc. 82-28434 Filed 10-15-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19117]

List of Foreign Issuers Which Have Submitted Information Required by The Exemption Relating to Certain Foreign Securities

Foreign private issuers with total assets in excess of $3,000,000 and a class of equity securities held of record by 500 or more persons, of which 300 or more shareholders reside in the United States, are subject to the registration and reporting provisions of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)) (the "Act").[1]

[1]Foreign issuers may also be subject to such requirements of the Act by reason of having securities registered and listed on a national securities exchange in the United States or subject to the reporting requirements by reason of having registered securities under the Securities Act of 1933 (15 U.S.C. 77a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)).

Rule 12g3–2(b) (17 CFR 240.12g3–2(b)) provides an exemption from registration under Section 12(g) of the Act for a foreign issuer which submits on a current basis material specified in the Rule to the Commission. Such required material includes that information about which investors ought reasonably to be informed with respect to the issuer and its subsidiaries and which the issuer (1) has made public pursuant to the law of the country of its domicile or in which it is incorporated or organized, (2) has filed with a stock exchange on which its securities are traded and which was made public by such exchange and/or (3) has distributed to its security holders.

When it adopted Rule 12g3–2 and other rules relating to foreign securities (see Securities Exchange Act Release No. 8066, April 28, 1967), the Commission indicated that from time to time it would issue lists containing those foreign issuers which have obtained exemptions from the registration provisions of Section 12(g) of the Act by providing the information specified in Rule 12g3–2(b). The purpose of the present release is to call to the attention of brokers, dealers and investors that some form of relatively current information concerning the foreign issuers included on the attached list is available in the public files of the Commission. The attached list includes those foreign issuers which, as of August 31, 1982, appear to be current in furnishing information under Rule 12g3–2(b).

The Commission also wishes to bring to the attention of brokers, dealers, and investors the fact that current information concerning certain foreign issuers may not be available in the United States. The Commission continues to expect that brokers and dealers will consider this fact in connection with their obligations under the federal securities laws to have a reasonable basis for recommending these securities to their customers. The Commission will continue to review activity in the markets for foreign securities to determine whether the present rules are achieving their purpose and whether further rules or rule revisions are necessary in the public interest or for the protection of investors.

Any questions regarding Rule 12g3–2 or the list included herein should be directed to Carl T. Bodolus or Ronald Adee, Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549 (202/272–3246 or 272–3250).

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary,

October 12, 1982.

Company	File No.	Country
Abitibi Paper Co., Ltd.	82–80	Canada.
Acroll Petroleum Ltd	82–568	Do.
Afrikander Lease Ltd	82–245	South Africa.
Agnico-Eagle Mines Ltd	82–179	Canada.
Alaska Apollo Gold Mines Ltd.	82–643	Do.
Algoma Steel Corp. Ltd.	82–99	Do.
Amerex Development Corp	82–642	Do.
American Energy Corp	82–647	Do.
American Pyramid Resources Inc.	82–384	Do.
Amore Resources Inc.	82–402	Do.
Anglo American Corp. of South Africa.	82–97	South Africa.
Anglo American Gold Investment Co., Ltd.	82–146	Canada.
Anglo-Bomarc Mines Ltd.	82–346	Do.
Anglo United Development Corp., Ltd.	82–190	Do.
Arivaca Silver Mines Ltd	82–652	Do.
Artesian Petroleum Corp	82–541	Do.
Avalanche Industries Ltd.	82–620	Do.
Ayerok Petroleum Ltd	82–472	Do.
B. A. T. Industries Ltd	82–33	United Kingdom.
Bank of Montreal	82–126	Canada.
Bankeno Mines Ltd.	82–162	Do.
Banner Resources Ltd	82–357	Do.
Basic Resources S.A.	82–203	Luxembourg.
Bearcat Explorations Ltd.	82–609	Canada.
Beecham Group P.L.C.	82–22	United Kingdom.
Black Giant Mines Ltd	82–632	Canada.
Blyvooruitzicht Gold Mining Co., Ltd.	82–69	South Africa.
Border & Southern Stockholders Trust Ltd.	82–287	United Kingdom.
Bowater Corporation P.L.C.	82–3	Do.
Bracken Mines Ltd.	82–219	South Africa.
Bralorne Resources Ltd	82–143	Canada.
Bras D'Or Resources Ltd.	82–453	Do.
Breakwater Resources Ltd	82–653	Do.
Brent Petroleum Industries Ltd	82–321	Do.
Brican Resources Ltd	82–294	Do.
Bridge Resources Ltd.	82–493	Do.
Brinco Ltd	82–102	Do.
British Columbia Forest Products Ltd.	82–668	Do.
Broken Hill Proprietary Co., Ltd	82–81	Australia.
Buffelsfontein Gold Mining Co., Ltd.	82–302	South Africa.
Burmah Oil Co. Ltd	82–5	United Kingdom.
Camflo Mines Ltd.	82–193	Canada.
Canadex Resources Ltd.	82–470	Do.
Canadian Barranca Corp., Ltd.	82–292	Do.
Canadian Curtiss-Wright Ltd.	82–649	Do.
Canadian Marconi Co.	82–86	Do.
Canadian Tungsten Mining Corp. Ltd.	82–290	Do.
Cantex Energy Corp	82–584	Do.
Canzona Minerals Inc.	82–497	Do.
Cape Range Oil N.L.	82–623	Australia.
Capital Oil & Gas Corp.	82–634	Canada.
Celanese Canada Ltd.	82–171	Do.
Central Pacific Minerals Ltd.	82–354	Do.
Century Energy Corp	82–640	Do.
Challenger International Services Ltd.	82–369	Do.
Chancellor Energy Resources Inc.	82–487	Do.
Charriot Resources Ltd	82–372	Do.
Charter Consolidated P.L.C.	82–233	United Kingdom.
Chromasco	82–106	Canada.
Cochrane Oil & Gas Ltd.	82–501	Do.
Cominco Ltd.	82–107	Do.
Conex Australia N.L.	82–319	Australia.
Conigas Mines Ltd.	82–168	Canada.
Consolidated Bathurst Ltd	82–172	Do.
Consolidated Cinola Mines Ltd	82–310	Do.
Consolidated Durham Mines & Resources Ltd.	82–176	Do.
Consolidated Gold Fields P.L.C.	82–251	United Kingdom.
Consolidated Professor Mines Ltd.	82–625	Canada.
Consumers Distributing Co., Ltd	82–297	Do.
Continental Bank of Canada	82–120	Do.
Continental Minerals Corp	82–663	Do.
Copper Lake Explorations Ltd.	82–394	Do.
Coralta Resources Ltd.	82–380	Do.
Cornwall Petroleum & Resources Ltd.	82–347	Do.
Coronation Resources (Canada) Inc.	82–662	Do.
Coseka Resources Ltd.	82–295	Do.
Cube Resources Ltd.	82–638	Do.
Cullaton Lake Gold Mines Ltd.	82–503	Do.
Cumo Resources Ltd.	82–435	Do.
Cusac Industries Ltd.	82–367	Do.
Dai'Ei Inc	82–230	Japan.
Daon Development Corp.	82–344	Canada.
DeBeers Consolidated Mines, Ltd	82–91	South Africa.
Deelkraal Gold Mining Co., Ltd.	82–246	Do.
Delhi Pacific Resources, Ltd	82–370	Canada.
Dension Mines Ltd.	82–155	Do.
Dentonia Resources Ltd	82–627	Do.
Deutsche Bank A.G.	82–334	Germany.
Dickenson Mines Ltd.	82–8	Canada.
Dofasco Ltd	82–114	Do.
Dominion Explorers Ltd.	82–504	Do.
Dominion Mining & Oil N.L.	82–433	Australia.
Dominion Textile Co., Ltd	82–113	Canada.
Domtar Inc	82–18	Do.
Donegal Resources Ltd.	82–427	Do.
Doornfontein Gold Mining Co., Ltd.	82–213	Do.
Dresdner Bank A.G.	82–229	Germany.
Driefontein Consolidated Ltd.	82–124	South Africa.
Durban Roodepoort Deep Ltd.	82–156	Do.
Eagle Corp. Ltd	82–476	Australia.
East Daggafontein Mines Ltd.	82–42	South Africa.
East Rand Gold and Uranium Co., Ltd.	82–289	Do.
East Rand Proprietary Mines Ltd.	82–239	Do.
Elandsrand Gold Mining Co., Ltd.	82–266	Do.
Elmont Industries Ltd.	82–628	Canada.
Energex Minerals Ltd.	82–403	Do.
Energy Systems Holdings Ltd	82–621	Hong Kong.
Exp Oil N.L.	82–489	Australia.
F. W. Woolworth & Co., Ltd	82–200	United Kingdom.
Fairmont Gas & Oil Corp	82–629	Canada.
Fiat S.P.A.	82–116	Italy.
Firan-Glenndale Corp	82–600	Canada.
Fisher Oil & Gas Corp.	82–557	Do.
Fisons P.L.C.	82–202	United Kingdom.
Free State Geduld Mines Ltd.	82–40	South Africa.
Free State Saaiplass Gold Mines	82–41	Do.
Fuji Photo Film Co., Ltd	82–78	Japan.
Gallahad Petroleum Ltd	82–454	Canada.
Gascorne Oils Ltd.	82–465	Do.
Genoa Oil N.L.	82–598	Australia.
Geometals N.L.	82–398	Do.
Glaxo Holdings Ltd	82–10	United Kingdom.
Gold Fields of South Africa Ltd	82–204	South Africa.
Gold Fields Property Co., Ltd.	82–214	Do.
Gold Hawk Resources Ltd.	82–505	Canada.
Goldbelt Mines Inc.	82–448	Do.
Goldale Investments Ltd	82–667	Do.
Goldera Resources Inc	82–658	Do.
Goldrich Resources Inc.	82–618	Do.
Goldwinn Resources Ltd.	82–555	Do.
Grootvlei Proprietary Mines Ltd	82–222	South Africa.
Groundstar Resources Ltd.	82–249	Canada.
Grove Explorations Ltd.	82–343	Do.
Gulf Oil Ltd. (Canada)	82–101	Do.
HRS Industries Inc.	82–242	Do.
Hale Resources Ltd.	82–443	Do.
Harmony Gold Mining Co., Ltd.	82–238	Do.
Hartogen Energy Ltd	82–597	Australia.
Highwood Resources Ltd.	82–450	Canada.
Highveld Steel & Vanadium Corp. Ltd.	82–596	South Africa.
Himac Resources Ltd	82–574	Canada.
Host Ventures Ltd.	82–257	Do.
IMASCO Ltd.	82–118	Do.
Impala Platinum Holdings Ltd.	82–359	South Africa.
Imperial Group P.L.C.	82–316	United Kingdom.
Indusmin Ltd	82–201	Canada.
International Standards Resources Ltd.	82–482	Do.
Irwin Toy Ltd.	82–626	Do.
Irvco Resources Ltd	82–591	Do.
Jan Resources Ltd.	82–567	Do.
Japan Air Lines	82–122	Japan.
Joutel Resources Ltd.	82–502	Canada.
Katana Resources Ltd.	82–633	Do.
Kerr Addison Mines Ltd	82–14	Do.
Kettle River Resources Ltd	82–666	Do.

Company	File No.	Country
Kinross Mines Ltd	82-220	South Africa.
Kirin Brewery Co., Ltd	82-188	Japan.
Kloof Gold Mines Co., Ltd	82-205	South Africa.
Knobby Lake Mines Ltd	82-336	Canada.
L. M. Ericsson Telephone Co	82-115	Sweden.
Lacana Mining Corp	82-265	Canada.
Lake Shore Mines Ltd	82-15	Do.
LaLuz Mines Ltd	82-237	Do.
Laredo Petroleums Ltd	82-480	Do.
Lava Cap Resources Ltd	82-376	Do.
Leichardt Explorations Ltd	82-322	Australia.
Lennard Oil	82-298	Do.
Leslie Gold Mines Ltd	82-223	South Africa.
Les Mines Est-Malartic Ltee	82-212	Canada.
Libanon Gold Mining Co., Ltd	82-215	South Africa.
Long Lac Mineral Exploration Ltd	82-198	Canada.
Lonrho P.L.C	82-191	United Kingdom.
Lorcan Resources Ltd	82-412	Canada.
Loredi Resources Ltd	82-657	Do.
Lydenburg Platinum Ltd	82-312	South Africa.
M. I. M. Holdings Ltd	82-173	Australia.
Marubeni Corp	82-616	Japan.
Maymac Explorations Ltd	82-498	Canada.
Mentor Exploration & Development Co., Ltd.	82-178	Do.
Meridian Oil N.L	82-397	Australia.
Merland Explorations Ltd	82-595	Canada.
Minerals and Resources Corp	82-206	Bermuda.
Monarch Petroleum N.L	82-339	Australia.
N. B. U. Mines Ltd	82-511	Canada.
N. R. D. Mining Ltd	82-358	Do.
Neormar Resources Ltd	82-382	Do.
New Frontier Petroleum Inc	82-341	Do.
Newpass Resources Ltd	82-486	Do.
Ni-Cal Developments Ltd	82-360	Do.
Nimslo International Ltd	82-650	Bermuda.
Nissan Motor Co., Ltd	82-207	Japan.
Noble Mines & Oils Ltd	82-509	Canada.
Nor-Quest Resources Ltd	82-374	Do.
Noranda Mines Ltd	82-158	Do.
Northair Mines Ltd	82-305	Do.
Northstar Resources Ltd	82-612	Do.
North West Mining N.L	82-309	Australia.
Northwest Ventures Ltd	82-260	Canada.
Nowsco Well Service Ltd	82-261	Do.
Nuspar Resources Ltd	82-464	Do.
Oakwood Petroleums Ltd	82-564	Do.
O'Brien Energy & Resources Ltd	82-262	Do.
Ocelot Industries Inc	82-331	Do.
Onaping Resources Ltd	82-273	Do.
Oliver Resources Ltd	82-664	Do.
Orion Petroleum Ltd	82-576	Do.
Otter Exploration N.L	82-320	Australia.
Overseas Inns S.A	82-166	Luxembourg.
P. C. R. Industries Ltd	82-656	Canada.
Pacific Cypress Minerals Ltd	82-442	Do.
Pan Canadian Petroleum Ltd	82-285	Do.
Pecos Resources Ltd	82-524	Do.
Pegasus Gold Ltd	82-660	Do.
Pelsart Resources N.L	82-484	Australia.
Penn West Petroleum Ltd	82-452	Canada.
Pennant Resources Ltd	82-371	Do.
Petro-American Energy Inc	82-622	Do.
Petrohunter Energy Ltd	82-646	Do.
Pez Resources Ltd	82-492	Do.
Philex Mining Ltd	82-136	Philippines.
Pop Shoppes International Inc	82-256	Canada.
Power-Can Resources Ltd	82-656	Do.
Power Corp. of Canada	82-137	Do.
Praire Pacific Energy Corp	82-456	Do.
President Brand Gold Mining Co., Ltd.	82-39	South Africa.
President Steyn Gold Mining Co., Ltd.	82-44	Do.
Q. M. G. Holdings Inc	82-423	Canada.
Quebec Explores Corp., Ltd	82-635	Do.
Quebec Sturgeon River Mines Ltd	82-186	Do.
Queen Margaret Gold Mines N.L	82-414	Australia.
Quinto Mining Corp	82-475	Canada.
Racal Electronics P.L.C	82-481	United Kingdom.
Radian Petroleum Corp	82-325	Canada.
Rainer Energy Resources Ltd	82-560	Do.
Rank Organization P.L.C	82-17	United Kingdom.
Raymac Oil Corp	82-602	Canada.
Rea Petro Corp	82-637	Do.
Reed Stenhouse Companies Ltd	82-254	Do.
Reef Resources Corp	82-400	Do.
Regulus Resources Ltd	82-655	Do.
Renox Creek Petroleum Inc	82-644	Do.
Rogers Cablesystems Inc	82-335	Do.
Roman Corp. Ltd	82-345	Do.
Rosmac Resources Ltd	82-449	Do.
Rothmans International P.L.C	82-84	United Kingdom.
Ruskin Development Ltd	82-648	Canada.
Rustenburg Platinum Holdings Ltd	82-241	South Africa.
S. K. F	82-139	Sweden.
Sabina Industries Ltd	82-244	Canada.
Samantha Exploration N.L	82-323	Australia.
Samson Exploration N.L	82-401	Do.
San Miguel Corp	82-306	Philippines.
Sanyo Electric Co., Ltd	82-264	Japan.
Sasol Ltd	82-631	South Africa.
Saturn Energy & Resources Ltd	82-613	Canada.
Scottie Gold Mines Ltd	82-351	Do.
Seagull Resources Ltd	82-429	Do.
Sentrust Ltd	82-313	South Africa.
Share Mines & Oils Ltd	82-508	Canada.
Sharon Energy Ltd	82-530	Do.
Shelter Oil & Gas Ltd	82-601	Do.
Sherritt Gordon Mines Ltd	82-29	Do.
Shiseido Co., Ltd	82-225	Japan.
Siemens Aktiengesellschaft	82-73	Germany.
Silverado Mines Ltd	82-348	Canada.
Silvermaque Mining Ltd	82-510	Do.
Sotheby Parke Bernet Group P.L.C	82-337	United Kingdom.
South Africa Land & Exploratioon Co., Ltd.	82-59	South Africa.
Southern Pacific Petroleum N.L	82-353	Australia.
Southvaal Holdings Ltd	82-197	South Africa.
Spartan Capital Corp	82-160	Canada.
States Exploration Ltd	82-645	Do.
Stelco Inc	82-141	Do.
Stilfontein Gold Mining Co., Ltd	82-301	South Africa.
Sulpetro Limited	82-665	Canada.
Swan Resources Ltd	82-477	Australia.
Sydney Development Corp	82-641	Canada.
T. R. V. Minerals Corp	82-327	Do.
Talos Industries Inc	82-639	Do.
Tanglewood Petroleum Corp	82-661	Do.
Tanner Artic Oil Ltd	82-396	Do.
Taro-Vit Chemical Industries Ltd	82-210	Israel.
Temagami Oil & Gas Ltd	82-566	Canada.
Terra Mines Ltd	82-404	Do.
Teva Pharmaceutical Industries Ltd	82-614	Israel.
Thorn EMI Ltd	82-373	United Kingdom.
Thunderwood Explorations Ltd	82-500	Canada.
Toronto Dominion Bank	82-142	Do.
Tournigan Mining Explorations	82-328	Do.
Toyota Motor Co., Ltd	82-208	Japan.
Trade Development Bank Holding S.A.	82-276	Luxembourg.
Transvaal Consolidated Land & Exploration Co.	82-304	South Africa.
Treasure Cay Ltd	82-288	Bahamas.
Turner Energy & Resources Ltd	82-659	Canada.
Twentieth Century Energy Fund	82-352	Do.
U. C. Investments Ltd	82-235	South Africa.
United Siscoe Mines Inc	82-194	Canada.
United Westland Resources Ltd	82-393	Do.
Vaal Reefs Exploration and Mining Co., Ltd.	82-56	South Africa.
Vat Petroleum Ltd	82-592	Canada.
Velcro Industries N.V	82-145	Neth. Antilles.
Velvet Exploration Co., Ltd	82-636	Canada.
Venterpost Gold Mining Co., Ltd	82-216	South Africa.
Veronex Resources Ltd	82-364	Canada.
Versatile Cornat Corp	82-390	Do.
Viscount Resources Ltd	82-420	Do.
Vlakfontein Gold Mining Co., Ltd	82-217	South Africa.
Vulcan Industrial Packaging Ltd	82-300	Canada.
Waddy Lake Resources Inc	82-607	Do.
Warrior Resources Ltd	82-363	Do.
Welkom Gold Mining Co., Ltd	82-57	South Africa.
Westfort Petroleums Ltd	82-308	Canada.
West Rand Consolidated Mines Ltd	82-314	South Africa.
Western Deep Levels Ltd	82-58	Do.
Western Holdings Ltd	82-54	Do.
Westmount Resources Ltd	82-392	Canada.
Willanour Resources Ltd	82-63	Do.
Windsor Resources Inc	82-554	Do.
Winkelhaak Mines Ltd	82-221	South Africa.
Wright Hargreaves Mines Ltd	82-60	Canada.
Zambia Copper Investments Ltd	82-227	Bermuda.
Zone Petroleum Corp	82-424	Canada.

[FR Doc. 82-28435 Filed 10-15-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 06/10-0154]

Enterprise Capital Corp.; Filing of Application for Transfer of Control of a Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the Regulations governing small business investment companies (13 CFR 107.701 (1982)), to transfer control of Enterprise Capital Corporation (Enterprise), Suite 465, W. Executive Plaza, 4635 Southwest Freeway, Houston, Texas, 77027, a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act).

Enterprise was licensed on May 8, 1970, and has private capital of $900,000. the proposed transfer of control will be from Paul Z. Brochstein, sole stockholder of Enterprise, to Mainland Savings Association, 102 North Friendswood Drive, Friendswood, Texas 77546, who will purchase the licensee's stock.

The proposed officers, directors and stockholders will be:

Paul Z. Brochstein, 5150 Braeshether, Houston, Texas 77096, President & Director

Raymond M. Hill, 1604 Kirby Drive, Houston, Texas 77019, Director

Ronald F. Bearden, 6127 Holly Springs Drive, Houston, Texas 77056, Director

Deborah A. Frost, 13846 Sheri Hollow, Houston, Texas 77082, Secretary/Treasurer

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is hereby given that any person may not later than ten (10) days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A similar Notice shall be published in a newspaper of general circulation in Friendswood, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: October 4, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-28543 Filed 10-15-82; 8:45 am]

BILLING CODE 8025-01-M

Presidential Advisory Committee on Small and Minority Business Ownership; Public Meetings

The Presidential Advisory Committee on Small and Minority Business Ownership, located in Washington, D.C., will hold three public meetings in the State of Alaska on the following dates and locations: (1) Monday, October 25, 1982, 3:00–5:00 p.m., Juneau Federal Building, Room 117, 709 West 9th Street, Juneau, Alaska 99801; (2) Tuesday, October 26, 1982, 10:30 a.m.–12:00 noon and 2:00 p.m.–3:30 p.m., Anchorage Federal Building, Room C–121, 701 C Street, Anchorage, Alaska 99513 and; (3) Thursday, October 28, 1982, 10:00 a.m.–11:30 a.m., Federal Building, Conference Room 236, 101 12th Avenue, Fairbanks, Alaska 99701.

The purpose for the meetings is to discuss such business as may be presented by the Committee members. The meetings will be open to the interested public, however, space is limited.

Persons wishing to present written statements should notify Mr. Frank Cox, District Director, or Mr. Sky Records, Assistant District Director, Small Business Administration, 701 C Street, Box #67, Anchorage, Alaska 99513, telephone (907) 271–4022, or Mr. Joseph J. Luna, Director, Office of Capital Ownership Development, Small Business Administration, 1441 L Street, NW., Room 317, Washington, D.C. 20416, telephone (202) 653–6475, in writing or by telephone no later than October 21, 1982.

Dated: October 12, 1982.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

[FR Doc. 82-28541 Filed 10-15-82; 8:45 am]

BILLING CODE 8025-01-M

Region II—Advisory Council; Public Meeting

The Small Business Administration Region II Advisory Council, located in the geographical area of New York, will hold a public meeting at 9:30 a.m., on Thursday, October 28, 1982, at the Jacob Javits Federal Building, 26 Federal Plaza, Room 1400 (14th floor), New York, New York, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Harry S. Tishelman, District Director, U.S. Small Business Administration, 26 Federal Plaza, New York, New York 10278 (212) 264–1318.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

October 13, 1982.

[FR Doc. 82-28542 Filed 10-15-82; 8:45 am]

BILLING CODE 8025-01-M

Region X—Advisory Council; Public Meeting

The Small Business Administration Region X Advisory Council, located in the geographical area of Seattle, will hold a public meeting at 9:00 a.m., on Tuesday, November 16, 1982 at 915 Second Avenue, Room 1844, Seattle, Washington, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Maxine Wood, District Director, U.S. Small Business Administration, Room 1792, Federal Building, 915 Second Avenue, Seattle, Washington 98174 (206) 442–7791.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

October 8, 1982.

[FR Doc. 82-28471 Filed 10-15-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 82-098]

Committee on Maritime Hazardous Materials

AGENCY: Coast Guard, DOT.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Research Council, National Materials Advisory Board (NMAB), Committee on Maritime Hazardous Materials; under the sponsorship of the U.S. Coast Guard.

DATE: Wednesday, October 27, 1982, 9:30 a.m. to 3:00 p.m.

ADDRESS: U.S. Coast Guard Headquarters, Third Floor, Room 3201, 2100 Second Street, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mary M. Williams, U.S. Coast Guard Headquarters (G–MTH), Washington, D.C. 20593, 202–426–2167.

SUPPLEMENTARY INFORMATION: The National Materials Advisory Board (NMAB), under the direction of the National Research Council, has completed a series of studies for the United States Coast Guard concerning the safe transportation of hazardous materials in the marine environment. The studies covered in the past three years by the NMAB Committee on Maritime Hazardous Materials will be summarized, followed by an open discussion period to the extent that time permits. The committee will make presentations on the following studies:

a. Equivalent Safety Concept (Safe transit of vessels with hazardous cargoes in U.S. ports.),

b. Ferrous Metal Fires (Safety in transport of ferrous metal turnings, fine iron scrap, and direct reduced iron.),

c. Risk Analysis for the Marine Transport of Hazardous Materials, and

d. Environmental and Health Effects as Risks from Chemical Spills.

This is not a hearing. This is a meeting summarizing recent studies performed by the National Research Council, National Materials Advisory Board under contract to the United States Coast Guard. It is believed that this information may be of interest to a number of individuals not necessarily connected with the marine industry; therefore in the interest of maximum utilization of the results, recommendations, and findings of the Board a public meeting is justified for dissemination of this information. The general public will be admitted on a first come first served basis, to the extent that seating permits.

Dated: September 30, 1982.

Clyde T. Lusk, Jr.,

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

[FR Doc. 82-28510 Filed 10-15-82; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

[FHWA Docket No. 82-17]

Alternate Designs for Bridges; Policy Statement

AGENCY: Federal Highway Administation (FHWA), DOT.

ACTION: Notice of proposed policy statement.

SUMMARY: This notice requests public comments on a proposed statement of FHWA policy on alternate designs for bridges to be constructed with Federal-aid highway funds.

DATE: Comments must be received on or before December 2, 1982.

ADDRESS: Submit comments, preferably in triplicate, to FHWA Docket No. 82-17, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed postcard.

FOR FURTHER INFORMATION CONTACT: Mr. F. D. Sears, Review and Analysis Branch, Bridge Division, (202) 472-7680, or Mr. Michael J. Laska, Office of the Chief Counsel, (202) 426-0800, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: This notice requests public comments on a proposed policy on the development of alternate designs for bridges to be constructed with Federal-aid highway funds under title 23 of the United States Code.

On December 4, 1979, the FHWA issued a Technical Advisory (TA) entitled Alternate Bridge Designs. This Technical Advisory was intended to stimulate competition in the design of safe and economical bridge structures and, at the same time, through the competitive bidding process, to take advantage of the prevailing economic conditions which will provide a finished structure at the lowest possible cost without sacrificing safety, quality, or aesthetics.

A memorandum was issued to all Regional Federal Highhway Administrators on April 22, 1981, to strengthen FHWA's effort in promoting the use of alternate bridge designs among all State and local governments, including those that have adopted certification acceptance. On September 23, 1981, a second memorandum to all Regional Federal Highway Administrators requested each division office to review and revise its administative procedures to ensure that alternate bridge designs would be incorporated in all major bridge projects. Guidelines were presented in still a third memorandum on June 16, 1982, to all Regional Federal Highway Administrators, so that FHWA field offices could take appropriate measures to assure themselves that the spirit and intent of alternate bridge designs was being followed.

The intent of this notice is to replace the current TA and interim memorandum with a consolidated formal FHWA policy on Alternate Bridge Designs. The policy recommends consideration of alternate designs and strategies in the process of selecting the type of bridge to be constructed.

The proposed FHWA policy is as follows:

1. Preliminary plan development should be based on an engineering and economic evaluation of acceptable alternative designs.

2. Alternate designs should consider the utilization of competitive materials (e.g., structural steel, concrete); structural types (e.g., cable-stay, trusses, arches, girder system), with or without consideration of basic structural materials; or a combination of materials and structural types (e.g., concrete cable-stay versus steel arch).

3. Design documents should not indicate specific construction methods or erection procedures. In prestressed concrete segmental construction, for example, the design should indicate prestressing requirements for the final erected structure and allow the contractor to make modifications to suit his proposed construction method (e.g., balanced cantilever, incremental launching, cast-in-place on falsework, etc.). In structural steel design, the material requirement should be for the final design condition, and the contractor should make modifications to suit his method of erection. Further, options should be considered for structure components (piling, expansion joints, bearings, prestressing systems, etc.).

4. Economic evaluation of preliminary estimate should take into consideration, to the extent possible, the relative accuracy of estimates for state-of-the-art type methods of construction.

5. When comparative economic estimates are reasonably close to each other, two or more complete sets of contract documents should be prepared and advertised. When comparative estimates indicate a wide divergence, such that preparation of alternate plans could not possibly be cost effective, the State should document concurrence of noncompetitiveness from the industry, and alternate designs need not be solicited.

6. To the extent possible, future maintenance demands should be evaluated to insure that the structure will be designed to provide for an extensive service life.

7. Value engineering clauses should also be strongly encouraged as appropriate.

8. The FHWA field offices may waive the need for alternative designs consistent with their preliminary bridge plan approval authority when they are convinced that the State has thoroughly studied the various types of bridges that could be economically deployed for the crossing and evaluated the above items. When preliminary plan approval authority is by the Washington Headquarters Office, the study data should accompany the plan submittal.

This policy is written with the intentions of taking advantage of the evolving state-of-the-art of bridge construction and fluctuating economic conditions in the market place while not compromising sound engineering, safety, quality control, or aesthetics.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: October 8, 1982.

L. P. Lamm,

Deputy Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 82-28507 Filed 10-15-82; 8:45 am]

BILLING CODE 4910-22-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Special Committee 147—Traffic Alert & Collision Avoidance Systems; Meeting Change

This Notice announces the change in location for the Radio Technical Commission for Aeronautics (RTCA) Special Committee 147 meeting, scheduled for October 26-28, 1982, and announced in the **Federal Register** on October 7, 1982, (47 FR 44456). The meeting will be held in Conference Rooms 5B-C, Air Transport Association of America, 1709 New York Avenue, N.W., Washington, D.C.

Issued in Washington, D.C. on October 12, 1982.

Karl F. Bierach,

Designated Officer.

[FR Doc. 82-28472 Filed 10-15-82; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Alton, Illinois and St. Charles County, Missouri

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 replacement of

the existing two-lane bridge carrying U.S. Route 67 over the Mississippi River at Alton, Illinois, commonly known as the Clark Bridge. The proposed project also includes associated roadway improvements in Illinois and Missouri. The FHWA and the Illinois Department of Transportation will act as lead agencies. The Missouri Highway and Transportation Department will act as a cooperating agency.

FOR FURTHER INFORMATION CONTACT:

Mr. Peter Olson, District Engineer, Federal Highway Administration, 320 W. Washington Street, 7th Floor, Springfield, Illinois 62701, Phone (217) 492–4600

Mr. Dale L. Klohr, District Engineer, Illinois Department of Transportation, 9300 St. Clair Avenue, Fairview Heights, Illinois 62208, Phone (618) 397–9530

SUPPLEMENTARY INFORMATION: The proposed action would consist of constructing a new 4-lane bridge and approaches to carry U.S. Route 67 over the Mississippi River from an unincorporated area of eastern St. Charles County, Missouri to Broadway in Alton, Illinois, a distance of approximately one mile. This proposal will replace a functionally deficient bridge and provide additional traffic lanes to increase the capacity of the river crossing.

Alternatives under consideration for this project include:

A. Construct a 4-lane bridge upon new alignment and remove the existing bridge. The four location alternates are:

1. The new bridge would be located approximately 100 feet east of the existing bridge. On the Illinois side, the new bridge approaches would curve slightly westward to maintain the present bridge terminal at Broadway and Langdon Streets in Alton. An interchange between the new bridge and the Berm Alternate for the Berm Highway can be incorporated should the Berm Highway be extended in the future. In Missouri, approximately 1,500 feet of U.S. Route 67 would be reconstructed.

2. The new bridge would be located 300 feet east of the Missouri end and 700 feet east of the Illinois end of the existing bridge. North of the navigation channel, the bridge would split. The northbound lanes would lead to an intersection of Broadway and Spring Street in Alton. The southbound bridge approach would commence at Broadway and Henry Street in Alton. Between the split roadways, interchange ramps would connect the new bridge to the existing Berm Highway. This alternate is both physically and operationally incompatible with the Front Street Alternate for the Berm Highway Extension. In Missouri, approximately 1,500 feet of U.S. Route 67 would be reconstructed.

3. The new bridge would cross over the anticipated recreation developments on Ellis Island in Missouri and then curve westerly to cross the navigation channel approximately 1,700 feet east of the existing bridge. The bridge would have an interchange with the existing Berm Highway and would terminate at the Broadway and Central Avenue intersection in Alton. This alternate is not physically or operationally compatible with the Front Street Alternate for the Berm Highway Extension. In Missouri, approximately 4,200 feet of the existing southbound pavement and 2,700 feet of the existing northbound pavement for U.S. Route 67 will no longer be needed. In lieu of pavement removal, the existing unneeded pavement could be modified to improve access to the anticipated recreation facilities.

4. The new bridge would be located approximately 6,500 feet east of the existing bridge. It would require the construction of approximately 9,500 feet of new four-lane highway in Missouri. In Illinois, the bridge approach would continue 4,200 feet to an intersection with Broadway near Indiana Avenue. An interchange would be provided between the bridge approach and the existing Berm Highway. The Illinois Bridge approach would pass over the Norfolk & Western's Federal Yard and cross at-grade the Illinois Central Gulf Railroad track near Broadway.

B. Do Nothing (no build).

The environmental setting of the project area will be determined by the completion of the Lock and Dam No. 26 construction project by the U.S. Army Corps of Engineers. When completed, the elevation of the regulated pool between the old and new dams will be raised by 16 feet. It is anticipated that the new Lock and Dam No. 26, which is presently under construction, will be completed by 1989. The construction of the new bridge would not be completed until later.

Possible environmental impacts associated with this project include the use of up to 130 acres of land of which up to 5 acres is prime farmland. Between 6 and 25 commercial buildings will be acquired. No residences will be displaced. The project will have minimal involvement with fish and wildlife habitats. One small wetland may be affected. The project will not involve any threatened or endangered species habitat. Also, the project will not encroach upon any historic sites or districts. Floodplain encroachments may occur.

The scoping process will be achieved by review and comment on a scoping document that has been prepared by the Federal Highway Administration, Illinois Department of Transportation and Missouri Highway and Transportation Department. The scoping document will be sent to the Department of Interior, U.S. Fish and Wildlife Service, Department of Housing and Urban Development, Department of Agriculture, U.S. Environmental Protection Agency, National Park Service, U.S. Coast Guard and the U.S. Army Corps of Engineers. State and local agencies in Illinois and Missouri will also have an opportunity to review and comment on the scoping document. Other interested parties may obtain copies of the scoping document from the contact persons listed in this notice. A letter announcing the availability of the scoping document will be sent to all potentially interested state and local agencies.

A formal scoping meeting will not be held for the proposed action. Informal coordination and review sessions will be scheduled with interested agencies as appropriate.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued on October 6, 1982.

Peter Olson,

District Engineer, Federal Highway Administration, 320 W. Washington Street, 7th Floor, Springfield, Illinois 62706.

[FR Doc. 82–28373 Filed 10–15–82; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement; Frederick, Maryland

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 is being prepared for the proposed East Street Project from north of Ninth Street to the vicinity of I–70 in Frederick County, Maryland.

FOR FURTHER INFORMATION CONTACT:

Mr. Edward Terry, District Engineer, Federal Highway Administration, The Rotunda, Suite 220, 711 W. 40th Street, Baltimore, Maryland 21211, Telephone 301/962–4010, and/or Mr. Richard D. Parks, Frederick City Engineer, City

Hall, 124 North Market Street, Frederick Maryland 21701, Telephone 301/662–5161.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the City of Frederick, is preparing an environmental impact statement on a proposal to provide improved traffic movement in a north-south direction between Ninth Street and the vicinity of I–70, in the eastern portion of the City of Frederick.

This proposal could potentially affect the Frederick Historic District.

There are three basic alternative concepts under consideration. The first is a do nothing alternative. The second is a Transportation Systems Management alternative. The third consists of roadway improvements to existing East Street between Ninth and Patrick Streets and construction of a new four-lane roadway from Patrick Street to the vicinity of I–70. This third concept offers alternative combinations of 1-way streets between Ninth and Patrick Streets.

A formal scoping meeting will not be held, since in-depth coordination is already in process. A series of public meetings have been held during project development and comments and suggestions from all interested parties were obtained. A public hearing will be scheduled upon completion of the Draft E.I.S. A public notice will give the time and place of the public hearing. The Draft E.I.S. will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposal are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties.

(Catalog of Federal Domestic Assistance Program Number 20.025, Highway Research, Planning and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued on: October 8, 1982.

Emil Elinsky,

Division Administrator, Baltimore, Maryland.

[FR Doc. 82–28360 Filed 10–15–82; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement; Hamilton County, Ohio

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) is being prepared for a proposed highway project in Hamilton County, Ohio.

FOR FURTHER INFORMATION CONTACT: Mr. John W. McBee, Division Administrator, or Mr. Robert W. Cooper, District Engineer, Federal Highway Administration, 200 North High Street, Columbus, Ohio 43215. Telephone: (614) 469–6896 or 469–5150.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration (FHWA), in cooperation with the Ohio Department of Transportation (ODOT) and Hamilton County, has been preparing a draft environmental impact statement (EIS) since 1975 on the proposed construction of approximately 8.5 miles of new four-lane, divided, limited access highway in central Hamilton County, in the Cincinnati metropolitan area. This proposed facility is the "missing link" between two completed sections of the Cross County Highway. The westerly existing section extends from Interstate Route 275, the Cincinnati Outerbelt, to Colerain Avenue (U.S. Route 27); the easterly section now extends from Montgomery Road (State Routes 22 and 3), east of Interstate Route 71, to Galbraith Road.

Since the proposed section also includes a planned interchange with Interstate Route 75, the total completed facility will connect three major Interstate highways. When finished, the new highway will be designated as part of State Route 126 and it will then serve traffic now using a combination of local roads.

The new facility would be located in or closely adjacent to several established communities and a number of developed residential areas.

The benefits of the project will be the completion of the last section of a planned highway facility, the improvement of access, travel efficiency, and motorist safety, and the relief of congestion on local streets.

Because of the termini constraints presented by the existing segments of the Cross County Highway, the high degree of development in the corridor, and the long history of planning for this project, only one build alternative and the no-build alternative are now being considered.

There are currently no plans to hold a formal scoping meeting. To date, there has been extensive federal, state, local and public involvement with the proposed project. It is envisioned that such involvement will continue throughout further development of the project.

To insure that the full range of issues related to this proposed action are addressed and that all significant issues are identified, comments or questions concerning this action and the EIS should be addressed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued on: October 8, 1982.

James J. Steele,

Acting Division Administrator, Columbus, Ohio.

[FR Doc. 82–28364 Filed 10–15–82; 8:45 am]

BILLING CODE 4910–22–M

Maritime Administration

[Docket No. S–722]

Crowley Maritime International, Inc., Holiday Inns, Inc.; Application

Notice is hereby given that Crowley Maritime International, Inc. (CMI), a Delaware corporation, all of whose stock is owned by Crowley Maritime Corporation, has filed an application dated September 1, 1982, as amended, for approval under section 608 of the Merchant Marine Act, 1936, as amended, to acquire all the stock of Delta Steamship Lines, Inc. (Delta). CMI's proposal contemplates that simultaneously with CMI's acquisition of all of Delta's stock, the Operating-Differential Subsidy Agreements between Delta and the United States will be terminated and that the United States will make specified lump sum payments in installments over a period of time.

Notice is also given that Holiday Inns, Inc. has filed an application dated September 3, 1982, for approval of the Maritime Administration of the transfer of the stock of Delta to CMI.

The applications may be inspected during normal business hours in the Office of the Secretary, Maritime Subsidy Board/Maritime Administration, Room 7300–B, Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590. Interested parties who desire to comment on CMI's and Holiday's applications may submit their views thereon to the Secretary, Maritime Subsidy Board, in triplicate, on or before

October 28, 1982. All timely responses will be considered in MARAD's evaluation of these applications.

(Catalog of Domestic Assistance Program No. 11.504 Operating-Differential Subsidy (ODS)).

By Order of the Maritime Subsidy Board/ Maritime Administration.

Dated: October 13, 1982.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 82-28574 Filed 10-15-82; 8:45 am]

BILLING CODE 4910-81-M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

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 Trnasportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in September 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
970-X	DOT-E 970	Callery Chemical Company, Callery, PA	49 CFR 173.21(b), 173.300, 173.301	To authorize use of DOT Specification 3AA2015 or 3AA2400 cylinders, for transportation of a flammable poisonous gas. (Modes 1, 2.)
3941-X	DOT-E 3941	Pacific Engineering & Production Company of Nevada, Henderson, NV.	49 CFR 173.239a(a)(2)	To authorize transport of ammonium perchlorate in non-DOT specification aluminum portable tanks. (Modes 1, 2.)
3941-X	DOT-E 3941	Aerojet Tactical Systems Company, Sacramento, CA.	49 CFR 173.239a(a)(2)	To authorize transport of ammonium perchlorate in non-DOT specification aluminum portable tanks. (Modes 1, 2.)
3992-P	DOT-E 3992	Kay-Fries, Inc., Rockleigh, NJ	49 CFR 173.314	To become a party to Exemption 3992. (Mode 2.)
6652-P	DOT-E 6652	Goodyear Aerospace Corporation, Akron, OH.	49 CFR 173.302(a)(1), 175.3	To become a party to Exemption 6652. (Modes 1, 4.)
6672-X	DOT-E 6672	Chandler Evans Inc., West Hartford, Ct	49 CFR 173.302(a)(4), 175.3	To authorize manufacture, marking and sale of welded or seamless, nonrefillable non-DOT specification steel cylinder, for transportation of certain nonliquefied compressed gases. (Modes 1, 2, 4.)
6758-X	DOT-E 6758	Roper Plastics, Inc., Norwalk, CA	49 CFR 178.19, Part 173, Subpart D, Part 173, Subpart F.	To authorize manufacture, marking and sale of non-DOT specification removable head polyethylene drums, for transportation of corrosive and flammable liquids. (Modes 1, 2, 3.)
6816-X	DOT-E 6816	McDonnell Douglas Astronautics Company, St. Louis, MO.	49 CFR 173.53(p)	To authorize shipment of completely assembled liquid and solid fueled missiles in packaging prescribed in § 173.57(a). (Mode 1.)
6816-P	DOT-E 6816	General Dynamics, San Diego, CA	49 CFR 173.53(p)	To become a party to Exemption 6816. (Mode 1.)
6927-X	DOT-E 6927	Dow Chemical Company, Midland, MI	49 CFR 173.353	To authorize use of a non-DOT specification portable tank, for transportation of certain Class B poisonous liquids. (Modes 1, 3.)
6927-X	DOT-E 6927	Great Lakes Chemicaf Corporation, El Dorado, AR.	49 CFR 173.353	To authorize use of a non-DOT specification portable tank, for transportation of certain Class B poisonous liquids. (Modes 1, 3.)
6962-X	DOT-E 6962	U.S. Department of Energy, Washington, DC.	49 CFR 173.301(d)	To authorize shipment of argon or helium in a DOT Specification 3AA1800 of 3AA2000 cylinder. (Modes 1, 2.)
7600-X	DOT-E 7600	Evans Tanks Company, Lubbock, TX	49 CFR 172.101, 173.315(a)(1)	To authorize manufacture, marking and sale of non-DOT specification insulated cargo tanks, for transportation of cold, flammable gases. (Mode 1.)
7719-X	DOT-E 7719	Turner Company, Sycamore, IL	49 CFR 173.304, 178.65	To authorize use of brazed DOT Specification 39 cylinders, for transportation of methylacetylene propadiene stabilized. (Modes 1, 2.)
7798-X	DOT-E 7798	RO-GO Chemical Company, Fresno, CA	49 CFR 173.248	To authorize use of DOT Specification 12B fiberboard boxes with inside high density polyethylene container, for shipment of a corrosive material. (Mode 1.)
7919-X	DOT-E 7919	Alaska Hydro-Train, Seattle, WA	49 CFR 176.83(d)(1)	To authorize stowage in the same hold or compartment of hazardous materials which normally may not be stowed together on board a vessel. (Mode 3.)
8009-X	DOT-E 8009	FIBA Leasing Company, Inc., Westboro, MA.	49 CFR 172.101, 173.301(d)(2), 173.302(a)(3).	To authorize use of DOT Specification 3AAX cylinders made of 4130X steel, for transportation of a compressed natural gas. (Mode 1.)
8051-X	DOT-E 8051	Mauser Packaging, Ltd., New York, NY	49 CFR 173, Subpart F, 178.19, 178.19	To authorize manufacture, marking and sale of DOT Specification reusable, blowmolded, polyethylene container, for transportation of corrosive materials. (Modes 1, 2, 3.)
8055-X	DOT-E 8055	Associated Lead, Inc., Philadelphia, PA	49 CFR 173.154	To authorize shipment of a flammable solid in 50-pound capacity DOT Specification 44C multi-wall paper bags. (Modes 1, 2, 3.)
8101-X	DOT-E 8101	U.S. Department of Defense, Washington, DC.	49 CFR 173.392(c)(7), 173.392(c)(8)	To authorize use of the EXPLOSIVES A placard only when 30mm GAU-8 (PGU-14/B) armor piercing ammunition, containing a depleted uranium metal projectile, is loaded in the same shipping container with PGU-13/B ammunition, & eliminated need to label packages as containing radioactive material. (Modes 1, 2, 3.)
8129-P	DOT-E 8129	TRW Inc., Redondo Beach, CA	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.)
8162-X	DOT-E 8162	Structural Composites Industries, Inc., Pomona, CA.	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	To authorize modification to the test method described as the gunfire test. (Modes 1, 2, 3, 4, 5.)
8344-X	DOT-E 8344	Western-Hoegee Company, Glendale, CA	49 CFR 173.197a	To authorize transport of smokeless powder for small arms in a DOT Specification 12B fiberboard box. (Mode 1.)
8391-X	DOT-E 8391	Acurex Corporation, Mountain View, CA	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic full composite cylinders, for transportation of nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
8397-X	DOT-E 8397	Mauser Packaging Ltd., New York, NY	49 CFR 173.154, 173.191, 173.217, 173.245b, 173.945, 178.16.	To authorize manufacture, marking and sale of non-DOT specification, nonreusable, molded polyethylene drums with fully removable head, for transportation of various dry hazardous materials. (Modes 1, 2, 3.)
8441-P	DOT-E 8441	Hazeltine Corporation, Braintree, MA	49 CFR 172.101	To become a party to Exemption 8441. (Mode 1.)
8445-X	DOT-E 8445	Advanced Environmental Technology Corporation, Morris Plains, NJ.	49 CFR Part 173, Subparts D, E, F, & H	To authorize shipment of various hazardous substances and wastes packed in inside plastic, glass, earthenware or metal containers, overpacked in a DOT specification removable head steel, fiber or polyethylene drum, only for the purposes of disposal, repackaging or reprocessing. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8445-X	DOT-E 8445	Dow Chemical Company, Midland, MI	49 CFR Part 173, Subparts D, E, F, & H	To authorize shipment of various hazardous substances and wastes packed in inside plastic, glass, earthenware or metal containers, overpacked in a DOT specification removable head steel, fiber or polyethylene drum, only for the purposes of disposal, repackaging or reprocessing. (Mode 1.)
8445-X	DOT-E 8445	Owens-Corning Fiberglas Corporation, Granville, OH.	49 CFR Part 173, Subparts D, E, F, & H	To authorize shipment of various hazardous substances and wastes packed in inside plastic, glass, earthenware or metal containers, overpacked in a DOT specification removable head steel, fiber or polyethylene drum, only for the purposes of disposal, repackaging or reprocessing. (Mode 1.)
8465-X	DOT-E 8465	CIL Inc., Montreal, Canada	49 CFR 173.182(6)(i), 178.241	To authorize manufacture, marking and sale of non-DOT specification plastic bags (comparable to a DOT Specification 44P), of low density polyethylene film for shipment of ammonium nitrate fertilizers. (Modes 1, 2.)
8465-X	DOT-E 8465	Chase Bag Co., Oak Brook, IL	49 CFR 173.182(6)(i), 178.241	To authorize manufacture, marking and sale of non-DOT specification plastic bags (comparable to a DOT Specification 44P), of low density polyethylene film for shipment of ammonium nitrate fertilizers. (Modes 1, 2.)
8714-X	DOT-E 8714	Lubrizol Corporation, Wickliffe, OH	49 CFR 173.272(i)(22)	To authorize use of two DOT Specification 115A610W6 stainless steel tank cars for transportation of oleum. (Mode 2.)
8723-X	DOT-E 8723	Ireco Chemicals, Salt Lake City, UT	49 CFR 173.114a(h)(3)	To authorize a tank trailer manufactured by Heil Company as an additional container for shipment of blasting agents. (Mode 1.)
8723-X	DOT-E 8723	Ireco Chemicals, Salt Lake City, UT	49 CFR 173.114a(h)(3)	To authorize use of non-DOT specification motor vehicles for bulk shipment of certain blasting agents. (Mode 1.)
8723-X	DOT-E 8723	Union Carbide Corporation, Danbury, CT	49 CFR 173.245	To authorize shipment of amyl alcohol, corrosive liquid, n.o.s. as an additional commodity. (Mode 1.)
8778-X	DOT-E 8778	Richmond Lox Equipment Company, Livermore, CA.	49 CFR 173.315(a), 173.316	To authorize manufacture, marking and sale of non-DOT specification cargo tanks, for transportation of liquefied hydrogen. (Mode 1.)
8839-X	DOT-E 8839	Poly Processing Company, Inc., Monroe, LA.	49 CFR 173.266, 178.19, Part 173, Subpart F.	To become a party to Exemption 8839. (Modes 1, 2, 3.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8780-N	DOT-E 8780	Container Corporation of America, Wilmington, DE.	49 CFR 178.19, Part 173, Subpart F	To authorize manufacture, marking and sale of non-DOT specification reusable, blowmolded, polyethylene container for transportation of certain corrosive liquids and an oxidizer. (Modes 1, 2, 3.)
8804-N	DOT-E 8804	Dynatrans Aktiebolag, Sweden, Gothenburg, Sweden.	49 CFR 173.315	To authorize use of a non-DOT specification portable tank designed and constructed in accordance with DOT Specification 51 with certain exceptions, for transportation of liquefied compressed gases. (Modes 1, 2, 3.)
8805-N	DOT-E 8805	Union Carbide Corporation, Danbury, CT	49 CFR 173.315, 176.76(b)	To authorize use of non-DOT specification vacuum insulated cargo tanks, for transportation of certain nonflammable gases. (Modes 1, 2.)
8820-N	DOT-E 8820	ETS Fauvet Girel, St Laurent Blangy, France.	49 CFR 173.315	To authorize use of a non-DOT specification IMCO Type 5 portable tank, for transportation of liquefied compressed gases. (Modes 1, 2, 3.)
8824-N	DOT-E 8824	Pengo Industries, Inc., Forth Worth, TX	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of certain Class A and B explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
8826-N	DOT-E 8826	Phoenix Air, Marietta, GA	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of certain Class A, B and C explosives not permitted for air shipment, or in quantities greater than those prescribed for air shipment. (Mode 4.)
8837-N	DOT-E 8837	Fabricated Metals, Inc., San Leandro, CA	49 CFR 173.245(a)(38), 173.256(b)(1), 173.263(a)(8), 173.277(c).	To authorize manufacture, marking and sale of non-DOT specification steel jacketed polyethylene tanks, for transportation of certain corrosive liquids. (Modes 1, 2, 3.)
8838-N	DOT-E 8838	FMC Corporation, Philadelphia, PA	49 CFR 173.217(a)(4), 178.224	To authorize shipment of tri-chloro-s-triazinetrione, dry in a non-DOT specification fiber drum similar to DOT specification 21C fiber drum with certain exceptions. (Modes 1, 2, 3.)
8839-N	DOT-E 8839	Poly Cal Plastics, Inc., French Camp, CA	49 CFR 173.266, 178.19, Part 173, Subpart F.	To authorize manufacture, marking and sale of non-DOT specification rationally molded, cross-linked polyethylene portable tanks, for shipment of corrosive liquids and an oxidizer (Modes 1, 2, 3.)
8850-N	DOT-E 8850	Hoover Universal, Inc., Beatrice, NB	49 CFR Part 173, Subpart D, E, F, H, Subpart K.	To authorize manufacture, marking and sale of non-DOT specification stainless steel, cubical-shaped container, for shipment of those liquid hazardous materials for which DOT specification 5, 5B, 5C or 17E drums are prescribed. (Modes 1, 2, 3.)
8852-N	DOT-E 8852	Procter & Gamble Company, Cincinnati, OH.	49 CFR 173.119(b)(4), 178.210	To authorize shipment of a certain flammable liquid, n.o.s., in polyethylene terephthalate bottles of two-liter capacity, packed no more than four to a DOT specification 12B-30 corrugated fiberboard box. (Modes 1, 2.)
8854-N	DOT-E 8854	ETS. Fauvet Girel, Neuilly-Sur-Seine, France.	49 CFR 173.264(b)(4)	To authorize use of non-DOT specification IMCO Type 5 portable tanks for transportation of anhydrous hydrofluoric acid. (Modes 1, 2, 3.)
8865-N	DOT-E 8865	Carleton Controls International, East Aurora, NY.	49 CFR 173.302(a), 175.3	To authorize use of nonrefillable, non-DOT specification cylinders for transportation of a nonflammable gas. (Modes 1, 2, 4.)
8873-N	DOT-E 8873	Stauffer Chemical Company, Westport, CT.	49 CFR 173.121	To authorize use of DOT specification MC-312 cargo tanks, for transportation of carbon disulfide or carbon bisulfide. (Mode 1.)
8879-N	DOT-E 8879	Temco Engineering, Tulsa, OK	49 CFR 173.302(a)(1), 173.304(a)(1), 173.304(b)(1), 175.3.	To authorize manufacture, marking and sale of non-DOT specification stainless steel cylinders, for transportation of compressed gases. (Modes 1, 4.)
8883-N	DOT-E 8883	Hewlett-Packard Company, Boise, ID	49 CFR 173.245(a)(38)	To authorize transport of an oxidizer in DOT specification 57 polyethylene lined portable tanks. (Mode 1.)
8884-N	DOT-E 8884	Chemical Applicators of Lafayette, Inc., Lafayette, LA.	49 CFR 173.245 (a)(38)	To authorize transport of certain corrosive materials in DOT specification 57 steel portable tanks. (Modes 1, 3.)
8889-N	DOT-E 8889	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification insulated cargo tank, for transportation of flammable gases. (Mode 1.)

NEW EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8890-N	DOT-E 8890	Sunbelt Airlines, Camden, AR	49 CFR 172.101 Column 6(b)	To authorize transport of rocket ammunition with explosive projectile not permitted for air shipment. (Mode 4.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 5372-X	DOT-E 5372	Vulcan Materials Company, Birmingham, AL.	49 CFR 173.301(d), 173.302(a)(3), 173.304(a)(2).	To authorize shipment of nonflammable and flammable gases in non-DOT specification cylinders complying with DOT Specification 3T, with certain exceptions. (Modes 1, 3.)
EE 8849-X	DOT-E 8849	Global International Airways, Kansas City, MO.	49 CFR 172.101, Column 6(b)	To authorize air 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.)
EE 8888-X	DOT-E 8888	Alaska International Air, Inc., Anchorage, AK.	49 CFR 172.101, Column 6(b), 175.30	To authorize shipment of approximately 5,500 gallons of compound cleaning liquid and 10 gallons of an oxidizer in DOT Specification 37M steel drums with 2SL polyethylene inside containers having a capacity exceeding the net quantity limitations foir cargo only aircraft. (Mode 4.)
EE 8925-N	DOT-E 8925	Military Sealift Command, Washington, DC.	49 CFR, 46 CFR 146.29-35(f), Part 107, Appendix B, Subparagraph (1), Subparagraph (2).	To authorize installation and operation of electrical dehumidification equipment in the hold of a vessel (Gulf Shipper) containing Class A, B, and C explosives. (Mode 3.)
EE 8926-N	DOT-E 8926	SCA Chemical Services, Inc., Charlotte, NC.	49 CFR 173.21, Appendix B(2), Parts 171-178, except Part 107.	To authorize bulk shipment of a Class B poison and debris contaminated in open top motor vehicles covered with polyethylene sheets and tarpaulin. (Mode 1.)

WITHDRAWALS

Application No.	Applicant	Regulation(s) affected	Nature of Exemption Thereof
7491-X	Process Engineering, Incorporated, Plaistow, NH.	49 CFR 172.101, 173.314(c)	To authorize manufacture, marking, and sale of non-DOT specification tank cars for use in transportation of liquefied natural gas. (Mode 2.)

Denials

8396-P Request by Witeo Chemical Corporation, Richmond, CA to authorize the transportation of a flammable liquid which is also an organic peroxide in DOT Specification MC-307 and MC-312 cargo tanks denied September 10,, 1982.

8436-P Request by Witeo Chemical Corporation, Richmond, CA to authorize transport of a flammable liquid which is also an organic peroxide, in a DOT Specification MC-331 cargo tank denied September 10, 1982.

8707-N Request by American Aircraft International, Inc., Fort Worth, TX to authorize carriage of Class A, B, and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment denied September 3, 1982.

8710-P Request by Witeo Chemical Corporation, Richmond, CA to authorize shipment of an organic peroxide classed as a flammable liquid, in a DOT Specification MC-307/312 cargo tank equipped with temperature and pressure sensing devices denied September 10, 1982.

8765-N Request by Petro Jet Aviation, Inc., Midland, TX to authorize carriage of class A, B and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment denied September 3, 1982.

8801-N Request by The Associated Octel Company Limited, South Wirral, England to authorize shipment of motor fuel antiknock compound, Class B poison in non-DOT specification IMCO Type V portable tanks denied September 7, 1982.

8825-N Request by Mustang Aviation Inc., San Diego, CA to authorize transport of various Class A, B and C explosives by cargo-only aircraft denied September 3, 1982.

Issued in Washington, DC, on October 6, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-28154 Filed 10-15-82; 8:45 am]

BILLING CODE 4910-60-M

Saint Lawrence Seaway Development Corporation Advisory Board; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub.L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 2:00 p.m., November 5, 1982, at the Corporation's Offices, 800 Independence Ave., SW, Washington, D.C. The agenda for this meeting will be: Opening Remarks; Administrator's Report; Review of Programs; and Closing Remarks.

Attendance at meetings of the Advisory Board is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meetings. Persons wishing further information should contact, not later than November 3, 1982, Robert D. Kraft, Director, Plans and Policy Development, Saint Lawrence Seaway Development Corporation, 800 Independence Avenue, S.W., Washington, D.C. 20591; 202-426-3574.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, D.C., on October 13, 1982.

D. W. Oberlin,

Administrator.

[FR Doc. 82-28494 Filed 10-15-82; 8:45 am]

BILLING CODE 4910-61-M

Urban Mass Transportation Administration

[Docket Number 82-K]

Paratransit Policy

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Statement of Paratransit Policy.

SUMMARY: The Urban Mass Transportation Administration (UMTA) is setting forth a statement of Federal policy on paratransit services applicable to mass transportation programs funded under the Urban Mass Transportation Act of 1964, as amended, and under Title 23 of the United States Code (U.S.C.). Public comments on this policy are invited.

DATE: (1) This policy is effective on October 13, 1982. (2) Comments must be received on or before December 17, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth E. Bolton (202) 426–4060, Office of Budget and Policy, Room 9311, 400 Seventh Street, S.W., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 8:30 A.M. and 5:00 P.M., Monday through Friday. UMTA will acknowledge receipt of comments if a self-addressed, stamped postcard is included with each comment.

SUPPLEMENTARY INFORMATION: Over the last few years, increasing numbers of local transportation programs have included publicly- or privately-provided paratransit services. These services have evolved in the absence of a clear Federal policy statement. UMTA grantees, local and state governments, and private providers have repeatedly requested a statement of Federal policy regarding paratransit services. UMTA agrees that such a statement is desirable. This document, therefore, provides a policy statement based upon the following principles:

- Paratransit services can be a valuable supplement to conventional mass transportation;
- Private sector participation in providing paratransit service is desirable;
- A reduced regulatory burden may encourage more private paratransit operators to enter the market; and
- Coordinated or consolidated paratransit services within a community may contribute to more cost-effective, energy-efficient, and environmentally sensitive transportation program.

UMTA is considering the issuance of further guidance implementing the private enterprise provisions contained in Sections 3(e) and 8(e) of the Urban Mass Transportation Act of 1964, as amended, which may aid localities in developing local processes responsive to this policy statement.

Paratransit Policy

1. Purpose

To state UMTA's policy concerning the planning, development, and funding of paratransit services as part of local transportation programs.

2. Scope

This policy applies to use of funds available under Sections 3, 5, 6, 8, 16, and 18 of the Urban Mass Transportation Act (UMT Act) of 1964, as amended, and to mass transportation projects funded under Title 23 of the United States Code (U.S.C.).

3. Background

Paratransit, a concept that has been evolving for more than a decade, represents a set of transportation services, ranging from private automobile to conventional bus service. Many of these services, especially those that are shared-ride or collective in nature, are considered mass transportation. Specifically paratransit services such as dial-a-ride, shared-ride taxi, jitney, subscription bus, and various forms of ridesharing, particularly vanpooling, are eligible for financial assistance under the UMT Act. These services can be vital components of a total mass transportation system.

Paratransit response to a number of conditions which affect the provision of traditional public transportation. First, while Federal, State, and local governments are placing strong emphasis on strengthening the existing transportation infrastructure, Federal funds are not as readily available as previously for significant system expansion.

Second, public opinion may place more demands upon a local transit system than it can easily accommodate. Taxpayers expect local mass transportation systems to serve a great variety of urban travel needs at the lowest possible cost, but conventional transit does not offer the most efficient solution to every transportation need, for example: the need for community circulation in inner-city, suburban and rural areas; the need for specialized service for elderly or handicapped citizens; and the need to provide an alternative to the automobile for business commuters, airline passengers, etc. To accommodate the various missions assigned to them, modern mass transportation programs need to incorporate a more diverse set of services than in the past.

Paratransit is one response to providing increased transportation capacity through low-capital alternatives and to extending mass transportation service in situations not appropriate for conventional transit. In addition, paratransit, particularly ridesharing, can serve as a viable alternative to the private automobile, potentially improving existing road network efficiency. Paratransit can also serve, at relatively low cost, the elderly and handicapped, residents of rural and low-density areas, and other citizens requiring customized transportation services. For those who regularly commute by automobile, paratransit can offer a higher quality service than is available through conventional systems. As a result, more people may discontinue use of private automobiles and turn to public transportation as an alternative.

In many communities, paratransit already exists. For example, aged and handicapped persons rely heavily on taxicabs for transportation, while many commuters have turned to carpooling, vanpooling, or subscription buses. This policy, therefore, does not necessarily imply that localities should establish new paratransit services, although UMTA has, on a limited scale, funded such services.

4. Definitions

a. *Paratransit*—a family of transportation services, generally provided in small vehicles, which are tailored to individual travel needs through flexible scheduling or routing of vehicles. Services include carpooling, vanpoling, dial-a-ride, shared-ride taxi, jitney, airport limousine, and subscription and route-deviated bus services.

b. *Shared-Ride*—Service in which individuals cannot reserve a trip for their own private use.

c. *Demand-Responsive*—Services which provide doorstep or near-doorstep service. Paratransit services include dial-a-ride, shared-ride taxi, and point-to-point or route-deviated bus service, as well as many specialized services for elderly and handicapped persons, whether provided on-call or on a prearranged basis.

d. *Fixed-Route*—Services which operate over a predetermined route. Paratransit services include subscription bus, jitney, and airport limousine service.

e. *Ridesharing*—Cooperative transportation arrangements which include car-, van-, and buspooling.

f. *Transportation Brokerage*—A market-oriented transportation strategy wherein an entity identifies various transportation markets and needs, facilitates the development of an efficient market environment, and matches the most appropriate services and providers to individual markets.

g. *User-Side Subsidy*—A direct subsidy to transportation users, which allows them to select the service and provider they prefer.

h. *Purchase of Service Contract*—A contractual relationship wherein an organization purchases a transportation carrier's services through negotiated or competitive procurement.

i. *Private Transportation Carrier*—A transportation provider which does not have tax-exempt status under the Internal Revenue Code.

5. Policy

The strength of our transportation system lies in its diversity, with each mode contributing its special advantages and responding to different consumer demands at various levels of cost and quality of service. It is the policy of the Urban Mass Transportation Administration (UMTA) to preserve and foster this diversity by promoting competitive opportunity for different forms of transportation, both public and private, and to encourage coordination and integration of service among the various modes.

Because paratransit readily lends itself to flexible routing and demand reponsive scheduling, it may be uniquely capable of satisfying a wide range of local transportation needs that would otherwise remain unmet or be provided for less effectively. In rural America, in small towns, and in suburban communities, paratransit is usually the most economical form of transportation. In many communities, large and small, paratransit will best meet the travel needs of the elderly, very young, physically handicapped, or persons lacking cars or without convenient access to line-haul transit.

Proper coordination of paratransit with conventional transit will increase the effectiveness and efficiency of an area's total transportation system. UMTA believes that paratransit, in general, can be most responsively provided in a free market environment. In many communities, the private sector already stands as a readily available and efficient provider of paratransit services. UMTA wishes to preserve and enhance this role by encouraging private transportation carriers to develop paratransit services wherever possible.

This policy further encourages localities to foster and make use of the private sector's ability to provide unsubsidized paratransit services. If public investment in paratransit becomes necessary, UMTA would still encourage public administering agencies to contract with private paratransit carriers wherever possible. Federal assistance is available to support such arrangements as competitive purchase-of-service contracts or user-side subsidies. Where a locality determines that operation of paratransit services by a public or non-profit agency best meets local needs, Federal assistance is also available to support the planning and operation of those services.

In addition to other locally-developed techniques, UMTA specifically encourages:

- Fair and timely opportunities for private transportation carriers to competitively participate in the planning and operation of public paratransit services.
- Special efforts to examine and remove regulatory barriers which inhibit private enterprise from providing paratransit services in a competitive environment.
- Consideration of the benefits of permitting new business entrants to provide innovative mass transportation services, including paratransit.
- Creation of an environment conducive to the reentry, reinvigoration, and expansion of private sector involvement in mass transportation.
- Coordination and consolidation of paratransit services to make maximum use of existing transportation providers.
- Matching of individual transportation consumer needs to the most competitive, cost-effective transportation suppliers.

This policy is not intended to be intended to be prescriptive, and therefore, should not be construed as binding upon recipients of Federal mass transportation assistance. Rather, the policy emphasizes a locality's wide discretion in determining whether to establish or continue paratransit service and who should provide this service. UMTA will not substitute its judgement for that of a locality in matters of transportation planning, operation or management. Local decisions, however, must be consistent with the private enterprise provisions set forth in Sections 3(e) and 8(e) of the Urban Mass Transportation Act of 1964.

In summary, it is UMTA's policy to promote diversity and innovation in modern transportation systems, to revitalize private sector participation in mass transportation and to stress the importance of local transportation decisionmaking. Paratransit, UMTA believes, is one transportation mode conducive to these three objectives, and cooperative private-public effort will ensure the best possible overall community transportation at the lowest possible cost. *It is therefore UMTA's policy to promote coordinated paratransit services in a free market environment that is flexible in responding to public needs and not encumbered by public involvement or subsidy.*

6. Financial Assistance

a. UMTA provides Section 8 planning assistance and Section 18 funds to develop paratransit services and to fund related activities.

b. UMTA also funds shared-ride equipment and facilities acquisitions under Sections 3, 4, 5, 16(b)(2) and 18.

c. Section 3, 5 and 18 funds are available to support capital and administrative costs associated with transportation brokerage and coordination.

d. Section 6 funds are available to support research and development of innovative approaches to paratransit service.

7. Labor Protection Conflicts

In determining those programs or projects to be funded under the Urban Mass Transportation Act of 1964, the Administrator shall take into account whether a proposed program or project contains labor protection arrangements which are inconsistent with the policies expressed in this statement encouraging consideration of paratransit service options and affording opportunities to private transportation carriers to provide such services.

Issued on: October 13, 1982.

Arthur E. Teele, Jr.,

Urban Mass Transportation Administrator.

[FR Doc. 82-28625 Filed 10-15-82; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF TREASURY

Public Information Collection Requirements Submitted to OMB for Review

During the period October 1 through October 7, 1982 the Department of Treasury submitted the following public information collection requirements to OMB, for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the

Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the Treasury Reports Management Officer, Information resources Management Division, Room 309, 1625 I St. N.W., Washington, D.C. 20220; *and* to the OMB reviewer listed at the end of entry.

Date Submitted: October 1, 1982
Submitting Bureau: Internal Revenue Service
OMB Number: 1545–0142
Form Number: 2220
Type of Submission: Revision
Title: Underpayment of estimated tax by Corporations
Purpose: Form 2220 is used by corporations to determine whether they paid enough estimated tax, whether they are subject to the penalty for underpayment of estimated tax, and, if so, the amount of penalty. The information is used to determine whether the penalty should be assessed.
OMB Reviewer: Michael Abrahams (202) 395–6880 Office of Management and Budget Room 3208, New Executive Office Building Washington, D.C. 20503

* * * * *

Date Submitted: October 1, 1982
Submitting Bureau: Internal Revenue Service
OMB Number: 1545–0096
Form Number: 1042 and 1042S
Type of Submission: Revision
Title: U.S. Annual Return of Income Tax to be Paid at Source, and Income subject to Withholding
Purpose: Used by Withholding Agents to report tax withheld at source of payment on certain income paid to nonresident alien individuals, foreign partnerships, or corporations not engaged in a trade or business in the U.S. The Service uses this information to verify that the correct amount of tax has been withheld and paid to the U.S.
OMB Reviewer: Michael Abrahams (202) 395–6880 Office of Management and Budget Room 3208, New Executive Office Building Washington, D.C. 20503

* * * * *

Date Submitted: October 1, 1982
Submitting Bureau: Internal Revenue Service
OMB Number: 1545–0099
Form Number: 1065 and Schedule K–1
Type of Submission: Revision
Title: U.S. Partnership Return of Income Partner's Share of Income Credits, Deductions, etc
Purpose: Section 6031 of the IRC requires that partnerships file returns each year showing: gross income items; allowable deductions; names, addresses, and partners' distribution shares; and other information the Secretary prescribes by forms and regulations. This information is used to verify correct reporting of partnership items and for general statistics.
OMB Reviewer: Michael Abrahams (202) 395–6880 Office of Management and Budget Room 3208, New Executive Office Building Washington, D.C. 20503

* * * * *

Date Submitted: October 1, 1982
Submitting Bureau: Internal Revenue Service
OMB Number: 1545–0174
Form Number: 4625
Type of Submission: Revision
Title: Computation of Minimum Tax-Individuals
Purpose: Form 4625 is used by individuals who have certain tax preference items exceeding $10,000 ($5,000 for married individuals filing separately). The information is needed to help verify whether taxpayers are complying with the law and have paid the correct minimum tax.
OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

* * * * *

Date Submitted: October 1, 1982
Submitting Bureau: Office of the Secretary
OMB Number: N/A (New submission)
Form Number: Letter Request
Type of Submission: New
Title: Confidential Information for the Secretary of the Treasury
Purpose: The 550 surveyed corporations represent over 35 percent of total corporate tax payments. The survey allows the earliest possible inclusion of this data into revenue models used in developing the President's Annual Budget. The survey is also used in analyzing the revenue effects of certain tax legislation.
OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

* * * * *

Date Submitted: October 4, 1982
Submitted Bureau: Internal Revenue Service
OMB Number: N/A (New submission)
Form Number: 8001
Type of Submission: New
Title: Correspondence Examination Checksheet-Current Activities
Purpose: Used for correspondence and in-office examinations of small organizations which contain only one or several questionable items. The information is used to determine if the organization's exempt status has been jeopardized or if it may be liable for income or excise taxes on certain activities.
OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

* * * * *

Date Submitted: October 4, 1982
Submitted Bureau: Internal Revenue Service
OMB Number: N/A (New submission)
Form Number: 8002
Type of Submission: New
Title: Correspondence Examination Checksheet-Calculation of Net Investment Income, etc.
Purpose: Used for correspondence and in-office examinations of small organizations which contain only one or several questionable items. The information is used to determine if the organization's exempt status has been jeopardized or if it may be liable for income or excise taxes on certain activities.
OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

* * * * *

Date Submitted: October 4, 1982
Submitted Bureau: Internal Revenue Service
OMB Number: N/A (New submission)
Form Number: 8003
Type of Submission: New
Title: Correspondence Examination Checksheet-Rental Payments, etc.
Purpose: Used for correspondence and in-office examinations of small organizations which contain only one or several questionable items. The information is used to determine if the organization's exempt status has been jeopardized or if it may be liable for income or excise taxes on certain activities.
OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

* * * * *

Date Submitted: October 4, 1982
Submitted Bureau: Internal Revenue Service
OMB Number: N/A (New submission)
Form Number: 8004
Type of Submission: New
Title: Correspondence Examination Sheet-Final Return, etc.
Purpose: Used for correspondence and in-office examinations of small organizations which contain only one or several questionable items. The information is used to determine if the organization's exempt status has been jeopardized or if it may be liable for income or excise taxes on certain activities.
OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

* * * * *

Date Submitted: October 4, 1982
Submitted Bureau: Internal Revenue Service
OMB Number: N/A (New submission)
Form Number: 8005
Type of Submission: New
Title: Correspondence Examination Checksheet Expenditures for Political Purposes, etc.
Purpose: Used for correspondence and in-office examinations of small organizations which contain only one or several questionable items. The information is used to determine if the organization's exempt status has been jeopardized or if it may be liable for income or excise taxes on certain activities.
OMB Reviewer: Suzann Evinger (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

* * * * *

Date Submitted: October 4, 1982

Submitted Bureau: Internal Revenue Service
OMB Number: N/A (New submission)
Form Number: 8006
Type of Submission: New
Title: Correspondence Examination Checksheet, Transactions with Related Parties, etc.
Purpose: Used for correspondence and in-office examinations of small organizations which contain only one or several questionable items. The information is used to determine if the organization's exempt status has been jeopardized or if it may be liable for income or excise taxes on certain activities.
OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

* * * * *

Date Submitted: October 4, 1982
Submitting Bureau: Internal Revenue Service
OMB Number: N/A (New submission)
Form Number: 5227
Type of Submission: New
Title: Correspondence Examination Letter—Nonexempt Charitable and Split-Interest Trusts
Purpose: Used for correspondence examinations of non-exempt charitable and split-interest trusts whose returns disclose limited activities (collecting investment income and making grants and/or annuities). The information is used to determine if the organization is treated as a foundation and whether it is liable for income or excise taxes.
OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

* * * * *

Date Submitted: October 4, 1982
Submitting Bureau: Bureau of Government Financial Operations
OMB Number: 1510-0004
Form Number: TFS-285a
Type of Submission: Revision
Title: Quarterly Schedule of Excess Risks
Purpose: This schedule is used by insurance companies to report reinsurance or risk written in excess of the companies' Treasury—authorized underwriting limitation.
OMB Reviewer: Suzanne Evinger (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503
Date Submitted: October 5, 1982
Submitting Bureau: Alcohol, Tobacco and Firearms
OMB Number: 1512-0394
Form Number: ATF F 5200-18
Type of Submission: Revision
Title: Floor Stocks Tax Return—Cigarettes/ Record of Cigarette Inventory
Purpose: The Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248 effective 1/1/83, imposes a "one-time" Floor Stocks Tax on tax paid cigarettes held for sale on 1/1/83. The recordkeeping request supports the Return/Payment and serves as an audit tool for the protection of the revenue. The form is the tax return and contains information necessary to verify payment.
OMB Reviewer: Suzanne Evinger (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

* * * * *

Date Submitted: October 6, 1982
Submitting Bureau: Internal Revenue Service
OMB Number: 1545-0175
Form Number: 4626
Type of Submission Revision
Title: Computation of Minimum Tax—Corporations and Fiduciaries
Purpose: Form 4626 is used by corporations and fiduciaries (trusts or estates) to calculate the minimum tax on items of tax preference that total $10,000 or more. The information collected is used to determine whether the correct minimum tax has been paid.
OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

* * * * *

Date Submitted: October 6, 1982
Submitting Bureau: Internal Revenue Service
OMB Number: N/A (new submission)
Form Numbers: 6659, 6660 and 6661
Type of Submission: New
Title: Information Return Under Section 6039 (a), (b) and (c)
Purpose: Congress enacted information reporting in lieu of tax withholding provisions to enforce the new income tax for dispositions of U.S. real property interests by foreign investors. In general, it is effective for dispositions after June 18, 1980, but it also includes certain related person dispositions from January 1, 1980, to June 18, 1980. The date will be used to check if the foreign returns include the gain from disposition of U.S. real property interests.
OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

* * * * *

Date Submitted: October 6, 1982
Submitting Bureau: Internal Revenue Service
OMB Number: N/A (new submission)
Form Number: Letter 1703(DO)
Type of Submission: New
Title: Non-filer Examination Letter
Purpose: Used for correspondence examinations of small organizations that are not required to file annual information returns because their gross receipts are below the filing requirement minimum. The information is used to determine if the organization is tax-exempt and if it is still below the gross receipts level that gives rise to a filing requirement.

Dated: October 13, 1982.

Joy Tucker,

Departmental Reports, Management Officer.

[FR Doc. 82-28490 Filed 10-15-82; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

2nd and 3rd Floor Addition to the Education/Administration Building, Veterans Administration Medical Center, Martinez, Calif.; Finding of No Significant Impact

The Veterans Administration has assessed the potential environmental impacts that may occur as a result of the construction of a 2nd and 3rd Floor Addition to the Education/ Administration Building, Veterans Administration Medical Center (VAMC) at Martinez, California.

The project is design and construction of two additional floors on top of the recently completed basement and first floor of the education/administration wing. The wing, approximately 50 feet by 100 feet, was planned for this vertical expansion.

Construction of the project will have temporary impacts on the human and natural environment from noise, particulate emissions, fumes, and the visual appearance of the construction site. These temporary construction impacts will be mitigated by standard Veterans Administration Environmental Protection Specifications and conformance with Federal, State and Local Regulations.

The significance of the identified impacts has been evaluated relative to the considerations of both context and intensity, as defined by the Council on Environmental Quality (Title 40 CFR 1508.27).

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P.E., Director, Environmental Affairs Staff (005B), Room 423, Veterans Administration, 811 Vermont Avenue, NW., Washington, D.C., (202-389-3316). Questions or requests for single copies of the Environmental Assessment may be addressed to: Director, Environmental Affairs Staff (005B), 811 Vermont Avenue, NW., Washington, D.C. 20420.

Dated: October 7, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 82-28486 Filed 10-15-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 201
Monday, October 18, 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

1

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. CRT 81–2; Req. No. 3–10046]

DATE AND TIME: 10 a.m., Wednesday, October 20, 1982.

PLACE: Postal Rate Commission, 2000 L Street, NW, Room 500, Washington, DC.

STATUS: Open.

MATTER TO BE CONSIDERED:

1. Cable Television Royalty Rate Adjustment.

CONTACT PERSON FOR FURTHER INFORMATION: Thomas C. Brennan, Acting Chairman, Copyright Royalty Tribunal, 1111 20th Street, NW, Washington, DC 20036 (202) 653–5175.

Thomas C. Brennan,

Acting Chairman.

[S–1483–82 Filed 10–13–82; 5:05 pm]

BILLING CODE 1410–01–M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (eastern time), Tuesday, October 19, 1982.

PLACE: Commission Conference Room 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street N.W., Washington, DC. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Ratification of Notation Vote/s.
2. Freedom of Information Act Appeal No. 82–8–FOIA–163, concerning a request for information from sections of the Systemic Training Manual and other files.
3. Freedom of Information Act Appeal No. 82–7–FOIA–108–NY, concerning a request for information contained in a closed age file.
4. Proposed Revision of EEOC Compliance Manual #27, Pre-Determination Interviews.
5. A Report on Commission Operations by the Acting Executive Director.

Closed:

1. Litigation Authorization; General Counsel Recommendations.

[S–1482–82 Filed 10–13–82; 5:04 pm]

BILLING CODE 6570–06–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:05 p.m. on Friday, October 8, 1982, the Board of Directors met in closed session, by telephone conference call, to make funds available for the payment of insured deposits in Tri-State Bank, Markham, Illionis, which was closed by the Illinois Commissioner of Banks and Trust Companies on Friday, October 8, 1982.

In calling the meeting, the Board 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 its consideration of the matter on less than seven days' notice to the public; that no earlier notice 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 pursuant to subsections (c)(8) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(B)).

Dated: October 13, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1485–82 Filed 10–14–82; 11:00 am]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Time and Subject Matter of Agency Meetings

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 the open meeting of the Federal Deposit Insurance Corporation's Board of Directors scheduled for 2:00 p.m. on Monday, October 18, 1982, has been rescheduled to 11:00 a.m. that same day; that the closed meeting of the Board of Directors scheduled for 2:30 p.m. on Monday, October 18, 1982, has been rescheduled to 11:30 a.m. that same day; and that the following matter is expected to be withdrawn from the "Discussion Agenda" for the open meeting:

Memorandum and Resolution re: Recommendation to withdraw proposed Part 350 of the Corporation's rules and regulations, entitled "Special Reporting Basis for Insured Savings Banks," which would have (1) required all insured savings banks to report all debt and equity securities acquired on or after January 1, 1983 on a current value basis for purposes of preparing their Reports of Condition and Income that are filed with the FDIC, and (2) permitted insured savings banks to defer and amortize gains and losses on dispositions of financial assets acquired prior to January 1, 1983.

No earlier notice of the changes in time and in the subject matter of the meetings was practicable.

Dated: October 13, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1486–82 Filed 10–14–82; 11:00 am]

BILLING CODE 6714–01–M

5

FEDERAL ELECTION COMMISSION

[FR 1471]

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, October 21, 1982 at 10 a.m.

CHANGE IN MEETING: The open meeting previously set for this date has been cancelled.

* * * * *

DATE AND TIME: Thursday, October 21, 1982 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Expedited compliance, if necessary.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, telephone 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S–1489–82 Filed 10–14–82; 3:47 pm]

BILLING CODE 6715–01–M

6

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

October 13, 1982.

TIME AND DATE: 10 a.m., Wednesday, October 20, 1982.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. Secretary of Labor *ex rel.* Bennett, Cox, *et al.* v. Emery Mining Corporation, Docket No. WEST 80–489–D(A). (Issues include whether the judge erred in concluding that the operator's qualifications for hire regarding miner training violated sections 105(c)(1) and 115 of the Mine Act.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S–1487–82 Filed 10–14–82 1:06 pm]

BILLING CODE 6735–01–M

7

INTERNATIONAL TRADE COMMISSION

[USITC SE–82–44]

TIME AND DATE: 10 a.m., Thursday, October 28, 1982.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigations 701–TA–148/150 [Final] (Carbon Steel Wire Rod from Belgium, Brazil, and France)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–1484–82 Filed 10–14–82; 11:01 am]

BILLING CODE 7020–02–M

8

NUCLEAR REGULATORY COMMISSION

DATE: Week of October 18, 1982.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED:

Tuesday, October 19:

10:00 a.m.:

Briefing on Status of Litigation in PANE vs. NRC and of Staff Response to PANE Decision (Closed—Exemption 10)

2:00 p.m.:

Discussion of 10 CFR Part 61—"Licensing Requirements for Land Disposal of Radioactive Waste" (Public Meeting)

Wednesday, October 20:

2:00 p.m.:

Discussion of Phase II Reverification Program for Diablo Canyon (Public Meeting)

Thursday, October 21:

10:00 a.m.:

Discussion of Emergency Planning at Indian Point (Public Meeting)

2:00 p.m.:

Briefing on Pending Investigations (Closed—Exemption 5)

3:30 p.m.:

Affirmation/Discussion and Vote (Public Meeting)

a. Review of ALAB–685—In the Matter of Metropolitan Edison Company
b. Reassertion of Certain Regulatory Authority in the State of Idaho
c. Delegation of Authority to Secretary (*postponed* from October 14, 1982)

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,

Office of the Secretary.

October 12, 1982.

[S–1488–82 Filed 10–14–82; 2:53 pm]

BILLING CODE 7590–01–M

federal register

Monday
October 18, 1982

Part II

Environmental Protection Agency

Petroleum Refining Point Source Category Effluent Limitations Guidelines, Pretreatment Standards and New Source Performance Standards; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 419

[WH-FRL 2203-3]

Petroleum Refining Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: These regulations limit the discharge of pollutants into navigable waters and into publicly owned treatment works (POTW) by existing and new sources in the petroleum refining industry. The Clean Water Act and a consent decree require EPA to issue these regulations. These regulations provide final effluent limitations guidelines for "best available technology economically achievable" (BAT), and establishes final pretreatment standards for existing sources (PSES) and for new sources (PSNS). The Agency has decided to retain its previously promulgated "new source performance standards" (NSPS) for this industry. Effluent limitations guidelines for "best practicable control technology currently available" (BPT) were not modified by EPA in this rulemaking. The Agency is reserving coverage of "best conventional pollutant control technology" (BCT) effluent limitations guidelines because the methodology to assess the cost reasonableness of BCT has not yet been established. The Agency is withdrawing storm water runoff limitations promulgated on May 9, 1974 (39 FR 16560) for BPT, BAT, and NSPS, because these limitations were remanded by the court in *American Petroleum Institute* v. *EPA*, 540 F. 2d 1023 (10th Cir. 1976).

DATES: In accordance with 40 CFR 100.01 (45 FR 26048), the regulations developed in this rulemaking shall be considered issued for purposes of judicial review at 1:00 p.m. Eastern time on November 1, 1982.

These regulations shall become effective December 1, 1982.

The compliance date for the newly issued PSNS regulation is the date that the new source commences discharge. The compliance date for PSES is the same as the compliance date for the interim final PSES for this industry promulgated on March 23, 1977. (See 42 FR 15684). The PSES promulgated today is no more stringent than the interim final PSES.

Under Section 509(b)(1) of the Clean Water Act judicial review of these regulations is available only by filing a petition for review in the United States Court of Appeals within ninety days after these regulations are considered issued for purpose of judicial review. Under Section 509(b)(2) of the Clean Water Act, these requirements of the regulations may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Those portions of the existing petroleum refining effluent guidelines limitations and standards that are not substantively amended by this notice are not subject to judicial review nor is their effectiveness altered by this notice. These regulations are BPT and NSPS.

ADDRESSES: The record for this rulemaking will be available for public review within four weeks after the date of publication in EPA's Public Information Reference Unit, Room 2004 (Rear) (EPA Library), 401 M Street, S.W., Washington, D.C. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

Technical information may be obtained by writing to William A. Telliard, Effluent Guidelines Division (WH-552), EPA, 401 M Street, S.W., Washington, D.C. 20460, or by calling (202) 426-4617. Copies of the technical development and economic documents can be obtained from the National Technical Information Service, Springfield, Virginia 22161 (703/487-6000).

FOR FURTHER INFORMATION CONTACT: Dennis Ruddy, (202) 382-7165.

SUPPLEMENTARY INFORMATION:

Organization of this Notice

I. Legal Authority

These regulations are being promulgated under the authority of Sections 301, 304, 306, 307, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 *et seq.*, as amended by the Clean Water Act of 1977, Pub. L. 95-217) also called the "Act". These regulations are also being promulgated in response to the Settlement Agreement in *Natural Resources Defense Council, Inc. v. Train*, 8 ERC 2120 (D.D.C. 1976), *modified*, 12 ERC 1833 (D.D.C. 1979).

II. Scope of this Rulemaking

The petroleum refining industry is included within the U.S. Department of Commerce, Bureau of the Census, Standard Industrial Classification (SIC) 2911. A detailed overview of the petroleum refining industry can be found in the proposed regulations of December 21, 1979 for this industry (44 FR 75926).

The most important pollutants or pollutant parameters in petroleum refinery wastewaters are: (a) toxic pollutants (chromium); (b) conventional pollutants (TSS, Oil and Grease, BOD5, and pH); and (c) nonconventional pollutants (phenolic compounds (4-AAP), COD, sulfide and ammonia). EPA's 1973 to 1976 rulemaking efforts emphasized the achievement of best practicable control technology currently available (BPT) by July 1, 1977. In general, BPT represents the average of the best existing performances of well-known technologies for control of traditional (i.e., "classical") pollutants.

In contrast, this round of rulemaking aims for the achievement by July 1, 1984, of the best available technology economically achievable (BAT) that will result in reasonable further progress toward the national goal of eliminating

the discharge of all pollutants. At a minimum, BAT represents the best economically achievable performance in any industrial category or subcategory. Moreover, as a result of the Clean Water Act of 1977, the emphasis of EPA's program has shifted from "classical" pollutants to the control of a lengthy list of toxic pollutants.

EPA is promulgating BAT, PSES, and PSNS for each of the five subcategories established for this industry. BPT, BAT and NSPS effluent limitations for storm water runoff for all direct dischargers and all BCT requirements, including storm water runoff, are being reserved for future rulemaking.

III. Summary of Legal Background

The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters" (Section 101(a)). To implement the Act, EPA was to issue effluent standards, pretreatment standards, and new source performance standards for industry dischargers.

The Act included a timetable for issuing these standards. However, EPA was unable to meet many of the deadlines and, as a result, in 1976, it was sued by several environmental groups. In settling this lawsuit, EPA and the plaintiffs executed a court-approved "Settlement Agreement". This Agreement required EPA to develop a program and adhere to a schedule in promulgating effluent limitations guidelines and standards for 65 "priority" pollutants and classes of pollutants for 21 major industries. See *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), modified, 12 ERC 1833 (D.D.C. 1979). See also: 43 FR 4108; 46 FR 2266; 46 FR 10723.

Many of the basic elements of this Settlement Agreement program were incorporated into the Clean Water Act of 1977. Like the Agreement, the Act stressed control of toxic pollutants including the 65 "priority" pollutants. In addition, to strengthen the toxic control program, Section 304(e) of the Act authorizes the Administrator to prescribe "best management practices" (BMPs) to prevent the release of toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage associated with, or ancillary to, the manufacturing of treatment process.

Under the Act, the EPA program is to set a number of different kinds of effluent limitations. These are discussed in detail in the Development Document supporting these regulations. The following is a brief summary:

1. *Best Practicable Control Technology (BPT).* BPT limitations are generally based on the average of the best existing performance by plants of various sizes, ages, and unit processes within the industry or subcategory.

In establishing BPT limitations, EPA considers the total cost of applying the technology in relation to the effluent reduction derived, the age of equipment and facilities involved, the process employed, the engineering aspects of control technologies, process changes, and non-water-quality environmental impacts (including energy requirements). The total cost of applying the technology is balanced against the effluent reduction. EPA promulgated BPT for the petroleum refining point source category on May 9, 1974 (39 FR 16560) and amended the regulations on May 20, 1975 (40 FR 21939). BPT is printed in this final rule for the sake of completeness to the reader.

2. *Best Available Technology (BAT).* BAT limitations, in general, represent the best existing performance of technology in the industrial subcategory or category. The Act establishes BAT as the principal national means of controlling the direct discharge of toxic and nonconventional pollutants to navigable waters.

In arriving at BAT, the Agency considers the age of the equipment and facilities involved, the process employed, the engineering aspects of control technologies, process changes, the cost of achieving such effluent reduction, and non-water quality environmental impacts. The Administrator retains considerable discretion in assigning the weight to be accorded these factors.

3. *Best Conventional Pollutant Control Technology (BCT).* The 1977 Amendments added Section 301(b)(2)(E) to the Act establishing "best conventional pollutant control technology" (BCT) for discharge of conventional pollutants from existing industrial point sources. Conventional pollutants are those defined in Section 304(a)(4) [biochemical oxygen demanding pollutants (BOD*5*), total suspended solids (TSS), fecal coliform and pH], and any additional pollutants defined by the Administrator as "conventional" [oil and grease, 44 FR 44501, July 30, 1979].

BCT is not an additonal limitation but replaces BAT for the control of conventional pollutants. In additon to other factors specified in section 304(b)(4)(B), the Act requires the BCT limitations be assessed in light of a two part "cost-reasonableness" test. *American Paper Institute* v. *EPA*, 660 F2d 954 (4th Cir. 1981). The first test compares the cost for private industry to reduce its conventional pollutants with the costs to publicly owned treatment works for similar levels of reduction in their discharge of these pollutants. The second test examines the cost-effectiveness of additional industrial treatment beyond BPT. EPA must find that limitations are "reasonable" under both tests before establishing them as BCT. In no case may BCT be less stringent than BPT.

EPA published its methodology for carrying out the BCT analysis on August 29, 1979 (44 FR 50732). In the case mentioned above, the Court of Appeals ordered EPA to correct data errors underlying EPA's calculation of the first test, and to apply the second cost test. (EPA had argued that a second cost test was not required). The Agency is reserving BCT effluent limitations guidelines because the methodology to assess the cost reasonableness of BCT has not yet been established.

4. *New Source Performance Standards (NSPS).* NSPS are based on the best available demonstrated technology. New plants have the opportunity to install the best and most efficient production processes and wastewater treatment technologies. EPA promulgated NSPS for the petroleum refining point source category on May 9, 1974 (39 FR 16560) and amended the regulation on May 20, 1975 (40 FR 21939). NSPS is printed in this final rule for the sake of completeness to the reader.

5. *Pretreatment Standards for Existing Sources (PSES).* PSES are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of a publicly owned treatment works (POTW). They must be achieved within three years of promulgation. The Clean Water Act of 1977 requires pretreatment for toxic pollutants that pass through the POTW in amounts that would violate direct discharger effluent limitations or interfere with the POTW's treatment process or chosen sludge disposal method. The legislative history of the 1977 Act indicates that pretreatment standards are to be technology-based, analogous to the best available technology for removal of toxic pollutants. EPA has generally determined that there is pass through of pollutants if the percent of pollutants removed by a well-operated POTW achieving secondary treatment is less than the percent removed by the BAT model treatment system. The general pretreatment regulations, which served as the framework for the categorical

pretreatment regulations are found at 40 CFR Part 403 (43 FR 27736, June 26, 1978; 46 FR 9462 January 28, 1981).

6. *Pretreatment Standards for New Sources (PSNS).* Like PSES, PSNS are to prevent the discharge of pollutants which pass through, interfere with, or are otherwise incompatible with the operation of the POTW. PSNS are to be issued at the same time as NSPS. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate the best available demonstrated technologies. The Agency considers the same factors in promulgating PSNS as it considers in promulgating PSES.

IV. Prior Regulations and Methodology and Data Gathering Efforts

A. Prior Petroleum Refining Regulations

EPA promulgated BPT, BAT, NSPS, and PSNS for the petroleum refining point source category on May 9, 1974 (39 FR 16560). The BPT, BAT, and NSPS regulations were challenged by the American Petroleum Institute (API) and others in the United States Court of Appeals for the Tenth Circuit. Both BPT and NSPS were upheld by the Court, with the exception of limitations for storm water runoff which were remanded for further consideration. BAT, including limitations for storm water runoff, was remanded for further consideration. *American Petroleum Institute v. EPA,* 540 F.2d 1023 (10th Cir. 1976). Interim final PSES was promulgated on March 23, 1977 (42 FR 15684) in response to the Settlement Agreement.

BAT and BCT were proposed on December 21, 1979 (44 FR 75926). At the same time, the Agency proposed to revise NSPS, PSNS, and PSES.

B. Methodology and Data Gathering Efforts

The methodology and data gathering efforts used in developing the proposed regulations were summarized in the preamble to the proposed petroleum refining regulations published on December 21, 1979 (44 FR 75926).

EPA has prepared the following reports concerning data it has acquired on this industry since the December 1979 proposed regulations were published: (1) a report entitled *Petroleum Refining Industry, Refinements to 1979 Proposed Flow Model;* and (2) a report entitled *Petroleum Refining Industry, Surrogate Sampling Program.* The Agency has rejected the options which utilized the data and conclusions from these reports in this rulemaking; therefore, the results were not used by EPA as bases for the Agency's regulations in today's rulemaking.

V. Control Treatment Options and Technology Basis for Regulations

A. Final BAT Limitations

EPA is promulgating BAT limitations which are equivalent to the BPT level of control (Option 9 discussed below). These limitations are based on both in-plant and end-of-pipe technologies, including sour water stripping to control ammonia and sulfide, water use management, sewer segregation, wastewater, flow equalization, initial oil and solids removal (API separators or baffle plate separators), advanced oil and solids removal (clarifiers, dissolved air flotation, or filters), biological treatment, and filtration or other "polishing" steps. The flow model and subcategorization scheme upon which these limitations are based are the same as those used for developing the BPT effluent limitations. BPT removes 96 percent of the toxic pollutants from raw wastewaters discharged by the petroleum refining industry.

1. *Control Treatment Options for BAT.* The control and treatment technology options that EPA investigated for use in this industry for BAT are presented below. Options 1 through 6 were considered in formulating the proposed rule. Option 7, a modification of Option 2, and Option 8, a modification of Option 1, were developed on the basis of information available at the time of the 1979 proposal, modified as a result of information collected by EPA after the proposed rule was published, as well as from public comments received on the proposed rule. Option 9, the BPT level of control, was reconsidered after publication of the proposed rule, as a result of public comments received.

Option 1—Discharge flow reduction of 27 percent from the proposed model flow, achieved through greater reuse and recycle of wastewaters, in addition to BPT treatment.

Option 2—Discharge flow reduction of 52 percent from the proposed model flow, achieved through greater reuse and recycle of wastewaters, in addition to BPT treatment. This was the control treatment option selected in the 1979 proposal.

Option 3—Discharge flow reduction of 27 percent from the proposed model flow per Option 1, plus enhanced BPT treatment with powdered activated carbon to reduce residual toxic organic pollutants.

Option 4—Discharge flow reduction of 52 percent from the proposed model flow per Option 2, in addition to BPT treatment plus segregation and separate treatment of cooling tower blowdown. Cooling tower blowdown treatment for metals removal includes reduction of hexavalent chromium to trivalent chromium, pH adjustment, precipitation, and settling or clarification.

Option 5—Discharge flow reduction of 27 percent from the proposed model flow per Option 1, in addition to BPT treatment plus granular activated carbon treatment to reduce residual toxic organic pollutants.

Option 6—A "no discharge of wastewater pollutants" (i.e., zero discharge) standard based upon reuse, recycle, evaporation, or reinjection of wastewaters.

Option 7—Discharge flow reduction of 37.5 percent from revised model flow achieved through greater reuse and recycle of wastewaters, in addition to BPT treatment.

Option 8—Discharge flow reduction of approximately 20 percent from revised model flow achieved through greater reuse and recycle of wastewaters, in addition to BPT treatment.

Option 9—Flow equalization, initial oil and solids removal, advanced oil and solids removal, biological treatment, and filtration or other final "polishing" steps. This option is the basis of the existing regulations.

2. *Technology Basis for the Final BAT Regulation.* (a) Final BAT Limits: EPA is promulgating BAT limitations based on Option 9 which is equivalent to the BPT level of control. Regulated pollutants for BAT are (1) nonconventional pollutants: Chemical oxygen demand (COD), total phenols (4AAP), ammonia(N), and sulfides; and (2) toxic pollutants: total chromium, and hexavalent chromium.

(b) Changes From Proposal: The options considered in formulating the proposed rules were based on various combinations of wastewater flow reduction and improved performance of wastewater treatment technology. A flow modeling approach was used for regulatory purposes to define the industry's current wastewater generation and to correlate effluent flow with process variables. The proposed 1979 flow model was developed to establish the average wastewater flow that can be expected from refineries with similar process configurations. The proposed flow model was also used to determine specific effluent limitations for the prescribed levels of flow reduction in Options 1 through 5.

The proposed regulation was based on the Option 2 level of control. This option proposed to regulate chemical oxygen demand (COD), total phenols (4AAP), ammonia(N), sulfide, total chromium, and hexavalent chromium.

The Agency determined that, regardless of the amount of flow reduction, the levels of ammonia, sulfide, and COD would not measurably change compared to the BPT level of control. The control of ammonia and sulfide is achieved through steam stripping, an in-plant control technique. No technologically feasible process changes or in-plant controls beyond those presently in use in this industry were identified to further reduce ammonia and sulfide. The Agency's attempts to quantify or predict changes in COD levels with implementation of flow reduction/water reuse technologies were inconclusive.

The proposed regulation would have limited total phenols at a mass equivalent of 19 μg/1. The Agency received a number of comments on this issue stating that the proposal to limit total phenols at 19μg/1 was too stringent because technology is not available to consistently achieve such a level. Additional information on phenol was collected by EPA in the "Long Term Data Collection Survey" and the "Surrogate Sampling Program" (See Sections IV and XVI) subsequent to the December 1979 proposal. Information collected included effluent data from 37 refineries for calendar year 1979. Analysis of the data collected during these two studies concluded that existing BPT treatment systems are not achieving the proposed 19 μg/1 level on a long term basis. However, the results do show that such systems are capable of achieving the 100 μg/1 level of control previously established for determining BPT mass limitations.

The preamble to the 1979 proposal (44 FR 75938) stated that implementation of Option 2 would result in the removal of approximately 123,000 pounds of chromium per year, at an incremental (beyond BPT) annual cost of $62 million and a capital cost of $138 million (1979 dollars). This 123, 000 pounds of chromium per year represents the incremental removal from the BPT level to the BAT Option 2 level. However, based upon reevaluation of the effluent data base, the Agency has found this figure was overstated because the observed chromium discharge of refineries with BPT level treatment was considerably less than that allowable by the BPT chromium limitations. The actual amount of chromium which would have been removed under this option is approximately 32,000 pounds per year. The capital costs, to a considerable extent, represent retrofit costs.

BAT Option 2 was developed using the proposed 1979 flow model. However, based upon data submitted by commenters and the "Flow Model" study performed by EPA after the proposal (See Section IV), the proposed 1979 flow model was modified. The technical points raised by some of the commenters were of considerable assistance in the flow model refinement process. The main emphasis of the comments concerned the statistical deficiencies of the proposed model, the choice of model variables, and aspects of the resulting model fit. The structure of the model and the process variables to be included were reexamined and modified accordingly. This refinement process resulted in the revised 1979 flow model which was more representative of the current wastewater generation in the industry. Thus, Option 2 has been rejected because it was based on the proposed flow model that has been modified. (See discussion of Option 7 below).

Other Options Considered

Because BAT Option 1 relies on the same technology as BAT Option 2, ammonia, sulfide, and COD levels would not be measurably changed by implementing Option 1. The total phenols limitation for this option was based upon the same 19 μg/1 concentration level as was used for Option 2. However, as previously discussed, BPT end-of-pipe treatment has not been shown to be capable of achieving this concentration level on a long term basis.

The Agency's analysis of available data shows that implementation of Option 1 would remove an additional 1 percent beyond BPT treatment levels of toxic pollutants that are present in raw wastewaters. This translates into an additional removal beyond BPT of approximately 1.3 pounds of toxi pollutants per day, per direct discharge refinery. The proposed 1979 regulation would require $23.5 million additional capital investment at an annual cost of $9.3 million (1979 dollars) to implement Option 1 for this industry. The capital costs, to a considerable extent, represent retrofit costs. This option was rejected because it was based on the proposed 1979 flow model, which, as discussed above, has been modified. (See discussion of Option 8 below).

The Agency's analysis of available data shows that implementation of Option 3 would remove an additional 1.5 percent (beyond BPT treatment) levels of beyond BPT treatment levels. This translates into an additional removal beyond BPT of approximately two pounds of toxic pollutants per day, per direct discharge refinery. The two end-of-pipe treatment technologies that were used to establish Option 3 are rotating biological contactors (RBC) and powdered activated carbon (PAC) treatment. At the time of the Agency's data collection efforts in 1976–1979, there were seven facilities using these technologies. The Agency determined that, upon analysis of available data, there are significant operational (mechanical) problems with RBC technology. The Agency also found that full-scale experience with PAC technology was mixed, i.e., some facilities experienced consistently measurable pollutant reductions as intended, while others experienced inconsistent or no measurable effluent reductions. Because of these operational problems observed in full-scale facilities, there was limited performance information available. While both of these technologies appear promising, the Agency believes there is not enough performance information available at this time upon which to base national regulation for this industry.

Option 4 was predicated on industrywide ability to segregate, collect, and separately treat cooling tower blowdown, the major source of chromium for this industry. The wastewater recycle/reuse study (See Section IV), completed after the publication of the proposed regulation, concluded that, for existing sources, it is extremely difficult in many instances to segregate cooling tower blowdown for chromium treatment. Cooling tower recirculation and blowdown is typically practiced at numerous locations throughout a refinery. Extensive collection systems would be necessary at many refineries to collect all blowdown streams for separate treatment. In addition, not all cooling tower blowdown streams are collectible. For instance, cooling water when used as makeup for refinery processing commingles with process water and cannot be traced or segregated, especially in older refineries. Therefore, the Agency has determined that it would not be proper to base BAT effluent limitations guidelines on this technology option.

The alternative for additional chromium removal beyond BPT is to treat the combined final effluent. However, further end-of-pipe treatment for chromium in combined final effluent after BPT treatment would result in limited, if any, measurable effluent reduction benefits. This is because the chromium level in combined final effluent (115 μg/l observed average) approximates the level achievable by any further treatment of this type of wastewater. For the foregoing reasons,

the Agency rejected Option 4 for this industry.

EAT Option 5 was predicated on industry's ability to install and operate granular activated carbon (GAC) treatment as an end-of-pipe technology. In the preamble to the 1979 proposal (44 FR 75933), the Agency stated that granular activated carbon (GAC) treatment is not a demonstrated technology in this industry. The Agency also stated that toxic pollutant removal generally increases with the use of GAC. However, because the levels of toxic pollutants after BPT treatment are so low, additional pollutant reduction across GAC treatment would be minimal. Difficulties in quantifying pollutant reductions were experienced when the Agency conducted six pilot plant treatability studies using GAC on BPT-treated wastewaters in this industry. See 44 FR 75930. EPA is not aware of any petroleum refinery presently using this technology. Although this technology is used in other industries, EPA has no adequate data to indicate that this technology is capable of being transferred to the petroleum refining industry. For the foregoing reasons the Agency rejected Option 5 for this industry.

The Agency rejected BAT Option 6, a zero discharge requirement: (1) Because of its high capital and operating costs, including significant retrofit expenditures; and (2) because analysis of the zero discharge technologies revealed that significant non-water quality impacts would result from their use. These non-water quality impacts include generation of large amounts of solid waste and very high energy consumption.

BAT Option 7 is the revision of regulatory Option 2, and is based upon a discharge flow reduction of 37.5 percent from the revised 1979 model flow. The Agency revised the costs to implement Option 7 recycle and reuse technologies. An estimated capital cost of $112 million dollars and $37 million dollars annually would be required for refiners to comply with Option 7 (1979 dollars). The Agency's analysis of available data shows that implementation of Option 7 would remove 110,000 pounds of toxic pollutants annually beyond BPT treatment levels, which is equivalent to an additional 1.5 percent (beyond BPT treatment levels) of toxic pollutants from raw wastewaters. This translates into an additional removal beyond BPT of approximately two pounds of toxic pollutants per day, per direct discharge refinery. The Agency believes, that given all of these factors, the costs involved do not warrant selection of Option 7 for this industry.

BAT Option 8 is a revised version of Option 1 reduction of 20 percent from the revised 1979 model flow. The Agency has not performed a detailed cost analysis for Option 8 but rather has estimated such costs based upon the costing procedure developed for Option 7. (Option 7 is the revision of the regulatory Option 2 selected in the 1979 proposal). The Agency's analysis of available data shows that implementation of Option 8 would remove an additional 80,000 pounds of toxic pollutants annually beyond BPT treatment levels, which would be an additional one percent (beyond BPT treatment levels) of toxic pollutants from raw wastewaters at a capital cost of $77 million dollars and an annual cost of $25 million (1979 dollars). This translates into an additional removal beyond BPT of 1.3 pounds of toxic pollutants per day, per direct discharge refinery. The Agency believes that given all these factors, the costs involved do not warrant selection of Option 8 for this industry.

Option 9 is based upon the same flow model and subcategorization scheme that were used for developing the BPT regulations promulgated by the Agency in 1974. A process classification system was used to divide the industry into five subcategories. A procedure was developed to establish effluent limitations for each subcategory. The resulting limits were defined in terms of a quantity of pollutant per unit of feedstock (mass allocation), and were derived by multiplying a predicted wastewater flow per unit of production times an achievable effluent concentration for each pollutant. A flow modeling approach, based on process configuration, was used to predict expected wastewater flow for an individual refinery, and is referred to as the "BPT flow model".

Option 9 was selected by the Agency as the basis for the final BAT regulations. Considering the limited pollutant reduction benefits associated with Options 1 through 8, the inability to quantify nonconventional pollutant reduction via Options 1 through 8, the costs involved of going beyond the BPT level of control, and the 96 percent reduction in toxic pollutant loadings achieved by BPT, the Agency has determined that the BAT should be equivalent to the BPT level of control for this industry.

B. New Source Performance Standards (NSPS)

NSPS were promulgated by EPA on May 9, 1974 (29 FR 16560) and are currently in effect. The Agency is retaining the existing NSPS.

1. *Control Treatment Options for NSPS.* The control and treatment technology options that EPA investigated for use in this industry for NSPS are presented below. Options 1 through 3 were considered in formulating the proposed rule and were based upon the 1979 flow model. Option 4, the existing NSPS level of control, was reconsidered after publication of the proposed rule as a result of the public comments and is based upon the 1974 flow model.

Option 1—Discharge flow reduction of 52 percent from model flow, achieved through greater reuse and recycle of wastewaters, in addition to BPT treatment. This option is equivalent to BAT Option 2.

Option 2—Discharge flow reduction of 27 percent from model flow, achieved through greater reuse and recycle of wastewaters in addition to BPT treatment, plus use of granular activated carbon to reduce residual organic toxic pollutants. This option is equivalent to BAT Option 5.

Option 3—Zero discharge of wastewater pollutants.

Option 4—Discharge flow reduction of from 25 percent to 50 percent of average BPT flow, depending upon subcategory, achieved through greater reuse and recycle of wastewaters in addition to BPT treatment. This option, which is based upon the 1974 flow model and 1974 subcategorization scheme, is the existing NSPS.

2. *Technology Basis for the NSPS Regulation.* (a) NSPS Limits: EPA is retaining the existing NSPS which are based on recycle and reuse technology resulting in pollutant reductions that range from 25 to 50 percent beyond BPT removals, depending upon the subcategory. Regulated pollutants for NSPS are BOD5, total suspended solids, chemical oxygen demand, oil and grease, total phenols (4AAP), ammonia (N), sulfide, total chromium, hexavalent chromium, and pH.

(b) Changes from Proposal: The proposed NSPS regulation was based on Option 3. Upon reevaluation of the existing data base and evaluation of comments received on the proposed regulation, EPA has decided not to revise the existing NSPS.

Option 3, zero discharge, was rejected for the following reasons. First, it generates significant adverse non-water quality environmental impacts, including the production of large amounts of solid waste and high energy consumption. Second, EPA estimates that the annual costs of achieving zero

discharge are extremely high, especially in geographical areas of low evapotranspiration which requires energy intensive forced evaporation techniques. It would cost an estimated $4.6 million (1979 dollars) annually for a 150,000 barrels per day new source of refinery in the cracking subcategory to comply with a zero discharge requirement. Third, only marginal additional water pollution reduction benefits would be achieved beyond the existing NSPS requirement. The quantities of pollutants that would be removed daily are 2.46 pounds of total phenols (4AAP), 3.9 pounds of hexavalent chromium, 6 pounds of total chromium, 308 pounds of total suspended solids, and 381 pounds of BOD5. EPA believes that the high costs of implementing such requirements would raise serious barriers to any decision involving construction of a new source refinery.

Other Options Considered

NSPS Option 1 is equivalent to proposed BAT Option 2. The technology for this option is the same as that for the existing NSPS regulations—wastewater recycle and reuse technologies, in addition to BPT end-of-pipe treatment. The Agency compared effluent reductions achievable by existing NSPS and this option. The analysis was performed on a model greenfield new source refinery (190,000 bbl/day), which is classified as a "Subcategory B" refinery as defined by the existing regulation ("cracking"). This model refinery was configured to correspond with demand growth forecasts published by the Department of Energy (See the Economic Analysis document.) This comparison concluded that effluent reductions resulting from existing NSPS and this option are comparable. The costs to implement this option are comparable to the existing NSPS. Non-water quality environmental impacts and energy requirements are also comparable to existing NSPS. Accordingly, there would be no benefit in revising the existing NSPS option.

NSPS Option 2 is equivalent to proposed BAT Option 5, which is based on granular activated carbon (GAC) treatment as an end-of-pipe technology. For the reasons stated in the above discussion on BAT Option 5, the Agency believes that GAC treatment is not a demonstrated technology for this industry. Accordingly, the Agency rejected Option 2 for this industry.

NSPS Option 4, is the existing NSPS level of control. It consists of recycle and reuse technologies to achieve flow reduction of from 25 to 50 percent of average BPT flow, depending upon the subcategory. For the reasons discussed above, after careful consideration of the options proposed in 1979, together with the public comments received, the Agency finds no reason for revising current NSPS. Accordingly, the existing level of NSPS, Option 4, is retained.

C. Final Pretreatment Standards for Existing Sources (PSES)

Interim final PSES was promulgated by the Agency on March 23, 1977 (42 FR 15684) and is currently in effect. Regulated pollutants are oil and grease (100 mg/l) and ammonia-N (100 mg/l) each on a daily maximum basis. EPA is retaining the existing PSES regulation, with one modification. An alternative mass limitation for ammonia(N) is provided for those indirect dischargers whose discharge to the POTW consists solely of sour waters.

1. *Control Treatment Options Considered.* The control and treatment options that EPA investigated for PSES in this industry are presented below. Options 1 and 2 were considered in formulating the proposed rule. Option 3, the existing PSES level of control, was reconsidered after publication of the proposed rule as a result of public comments received on it. As a result of public comments, Option 3 also contains an alternative mass limitation for ammonia(N).

Option 1—Chromium reduction by pH adjustment, precipitation and clarification technologies applied to segregated cooling tower blowdown, plus control of oil and grease and ammonia at the existing PSES level of control.

Option 2—Establish two sets of pretreatment standards. The first would be Option 1 control for refineries discharging to POTW with existing or planned secondary treatment. The second would be Option 1 control plus treatment for total phenols based on biological treatment for those refineries discharging to a POTW that has been granted a waiver from secondary treatment requirements under Section 301(h) of the Act. EPA's proposed pretreatment standards for existing sources were based on this option. For a further discussion see the 1979 proposed petroleum refining regulation at 44 FR 75935.

Option 3—Reduction of oil and grease and ammonia based on oil/water separation and steam stripping technologies. This option is the basis for the existing interim final PSES regulation. An alternative mass limitation for ammonia(N) is included for those indirect dischargers whose discharge to the POTW consists solely of "sour" waters. Sour waters generally result from water brought into direct contact with a hydrocarbon stream, and contain sulfides, ammonia and phenols. The Agency developed an alternative mass limitation for ammonia in response to public comments received on the proposed regulation. Several commenters indicated that, when the refinery discharge to the POTW consists solely of sour waters, the achievement of the 100 mg/l ammonia concentration limitation is often not possible. This is because steam stripping technology, the basis for the limitations, cannot consistently reduce ammonia in sour water streams to the 100 mg/l level. Thus, an equivalent mass limitation for ammonia was developed by the Agency.

2. *Technology Basis for the Final PSES Options.* (a) Final PSES Limits: EPA is retaining the existing PSES regulation. Regulated pollutants are oil and grease and ammonia(N), each limited at 100 mg/l on a daily maximum basis. An alternative mass limitation for ammonia-N is also provided as described above.

(b) Changes from Proposal: The proposed regulation was based on Option 2 for the PSES control level. EPA has rejected Option 2 because it now believes that it is not feasible and that it would be inappropriate to establish national pretreatment standards that take into account whether a discharger uses a POTW which has received a 301(h) waiver. Rather, the need for more rigorous pretreatment controls should be resolved on a case-by-case basis during the Section 301(h) waiver process. This is because the level of treatment proposed by Section 301(h) applicants varies considerably, and the Section 301 (h) process entails the consideration of site-specific toxic pollutant problems.

Options 1 and 2 as proposed also would have established a chromium limitation for PSES. This limitation was proposed to avoid concentration of chromium in POTW sludge. At the time of proposal, the Agency believed such concentrations would limit a POTW's use or management alternatives of the sludge. Based upon review of existing information and analysis of public comments on the proposal, EPA has determined that this rationale is not valid on a nationwide basis. For this industry, chromium levels in sludge from POTW receiving petroluem refinery wastes generally do not impact on sludge disposition or alternatives for use. There are no Section 405 sludge standards directed at concentrations of chromium in the sludge. Accordingly, EPA has determined that the better approach is to leave it to the POTW to establish chromium pretreatment

standards for existing sources if refinery waste would limit their sludge disposal alternatives. The general pretreatment regulations specifically provide POTW's with this authority. (See 40 CFR 403.5).

EPA has investigated whether toxic pollutants "pass through" a POTW. The Agency generally considers that there is pass through of a pollutant if the percent of the pollutant removal by a well-operated POTW achieving secondary treatment is less than the percent removed by the BAT model treatment technology. Under this approach, chromium passes through a POTW. The Agency's BAT model treatment system removes 86 percent of the chromium while a well-operated POTW achieving secondary treatment removes 65 percent of the chromium. In addition, under this approach the toxic pollutants identified in Appendix D—Parts II/III of this **Federal Register** notice may pass through a POTW.

As discussed under BAT Option 4 above, the Agency found it infeasible in many instances to segregate cooling tower blowdown for chromium treatment on an industrywide basis. Accordingly, EPA has determined that implementation of Option 1 for PSES is not achievable on an industry-wide basis. As an alternative, treatment of the combined refinery waste stream for chromium removal would require installation of most if not all of the BPT treatment train. Installation of such treatment for all indirect dischargers would cost an estimated $110 million in capital costs, with a total annual cost of $42 million in (1979 dollars). The Agency did not propose requiring installation of BPT-type treatment on an industry-wide basis for indirect dischargers. EPA did not receive any comments during the public comment period suggesting such a requirement. For the foregoing combination of reasons, and given the costs involved, EPA does not believe installation of the BPT treatment train for chromium removal for indirect dischargers is warranted.

The toxic pollutants listed in Appendix D of this preamble were detected in petroleum refinery waste streams that are discharged to POTWs. The Agency has decided not to establish PSES for these toxic pollutants in this industry for the following reasons:

The pollutants listed in Part I and Part II of Appendix D are excluded from national regulation in accordance with Paragraph 8 of the Settlement Agreement because either they were found to be susceptible to treatment by the POTW and do not interfere with, pass through, or are not otherwise incompatible with the POTW, or the toxicity and amount of incompatible pollutants are insignificant.

The pollutants listed in Part III of Appendix D are excluded for several reasons in accordance with Paragraph 8 of the Settlement Agreement. First, there is significant removal of some of these pollutants by the existing oil/water separation technology used to comply with the pretreatment standard for oil and grease. Second, there is significant removal of these pollutants by the POTW treatment processes by air stripping and biodegredation. Third, the amount and toxicity of these pollutants does not justify developing national pretreatment standards.

D. Final Pretreatment Standards for New Sources (PSNS)

PSNS was promulgated by the Agency on May 9, 1974 (39 FR 16560) and is currently in effect. Pretreatment Standards for incompatible pollutants are equivalent to NSPS.

1. *Control Treatment Options Considered.* The control and treatment options that EPA investigated for PSNS in this industry are the same as those presented for PSES, as described above. Option 1 was selected as the basis for PSNS. As a result of public comment, the final PSNS contains an alternative mass limitation for ammonia(N).

Option 1—Chromium reduction by pH adjustment, precipitation and clarification technologies applied to segregated cooling tower blowdown, plus control of oil and grease and ammonia to 100 mg/1 each.

Otion 2—Establish two sets of pretreatment standards as for PSES Option 2.

2. *Technology Basis for the Final PSNS.* (a) Final PSNS Limits: EPA is promulgating PSNS equivalent to Option 1. Regulated pollutants are oil and grease and ammonia(N), each limited at 100 mg/1, on a daily maximum basis, and total chromium at the equivalent of 1 mg/1 for the cooling tower discharge part of the total refinery flow to the POTW. An alternative mass limitation for ammonia(N) is also provided, as described above for PSES.

(b) Changes from Proposal: The final PSNS limits are equal to Option 1, the option selected at proposal. Chromium was selected for regulation for PSNS because: (1) It was determined to "pass through" POTWs as described above; (2) treatment technology is available and demonstrated; and (3) there are no retrofit problems or retrofit costs involved with implementing Option 1.

Alternative mass limitations for ammonia(N) are also provided, as discussed previously.

Pretreatment costs for a typical new source refinery are estimated to be $260,000 in capital costs and $190,000 in annual costs (1979 dollars).

VI. Costs and Economic Impacts

Executive Order 12291 requires EPA and other agencies to provide regulatory impact analyses for rules that result in an annual cost to the economy of 100 million dollars or more or that meet other economic impact criteria. In addition, the Clean Water Act specifies that the Agency should consider the costs and economic impacts in establishing effluent limitations and standards. The Agency does not consider this final regulation to be a major rule. This rulemaking satisfies the requirements of the Executive Order for a non-major rule.

The economic impact assessment is presented in *Economic Impact Analysis of Proposed Revised Effluent Limitations for the Petroleum Refining Industry* (EPA). Copies of the analysis can be obtained by contacting the National Technical Information Service, 5282 Port Royal Road, Springfield, VA 22161 (703/487–4600).

BAT/PSES

EPA is making substantial changes to the regulations that were proposed in December 1979. The limitations promulgated today for existing sources do not reflect any treatment requirements beyond BPT for existing direct dischargers. For indirect dischargers the PSES promulgated today is no more stringent than existing pretreatment standards already in effect. Accordingly, EPA expects no incremental costs or impacts for existing plants from this rulemaking.

NSPS

EPA is not imposing any more stringent NSPS by today's action. Accordingly, today's action will not affect the rate of entry of new refineries into the industry. Moreover, EPA does not expect the NSPS promulgated in 1974 to change the rate of entry or growth of the industry. The Agency expects that if a firm decides to bring a new refinery on line, the control costs that will be required to meet these standards are relatively small compared to the total cost required to start a greenfield operation. The current economic analysis was based on a 190,000 barrel per day refinery with a configuration appropriate for production of gasoline, distillate fuels and petrochemical feedstocks. There would essentially be no additional investment required for meeting the current

standard beyond the BPT level of control. This is because the "add-on" recycle technology for the existing NSPS can be incorporated in the water supply, use, and treatment systems during planning and construction of the new source. Therefore, this regulation is expected to have negligible economic effects on the industry.

Due to significant changes in the world market for refined petroleum products, however, the Agency does not anticipate any new sources within the petroleum refining category through 1990. A refinery can be a new source if it is a "greenfield site" or if modification of an existing plant is extensive enough to be "substantially independent" of an existing source. (See 45 FR 59343, September 9, 1980.) The Agency expects that in the latter case the control costs that would be required to meet these standards would be less than the cost in the case of a greenfield operation.

PSNS

EPA believes that for indirect dischargers the PSNS promulgated today is no more stringent than existing PSNS. Under the existing PSNS chromium was subject to regulation on a case-by-case basis along with other pollutants. The Agency expects that if a firm decides to bring a new indirect discharger on line, the control cost that will be required to meet these standards are relatively minor compared to the total investment cost for a new refinery and would not pose a barrier to entry. The Agency believes that where an existing refinery is modified so that it is considered a new source, the costs for chromium treatment would not be greater than the costs for a greenfield refinery and the cost of chromium treatment would not be a significant factor in the decision to modify that refinery.

Public Law 96–354 requires that a Regulatory Flexibility Analysis (RFA) be prepared for regulations proposed after January 1, 1981 that have a significant effect on a substantial number of small entities. This regulation was proposed on December 21, 1979. Therefore, a Regulatory Flexibility Analysis is not required. The Agency does not believe that this regulation will have a significant impact on a substantial number of small entities

VII. Non-Water Quality Environmental Impacts

Eliminating or reducing one form of pollution may cause other environmental problems. Sections 304(b) and 306 of the Act require EPA to consider the non-water quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, we considered the effect of this regulation on air pollution, solid waste generation, water scarcity, and energy consumption. This regulation was circulated to and reviewed by EPA personnel responsible for non-water quality programs. While it is difficult to balance pollution problems against each other and against energy use, we believe that this regulation will best serve often competing national goals.

The following non-water quality environmental impacts (including energy requirements) are associated with the final regulation. The Administrator has determined that the impacts identified below are justified by the benefits associated with compliance with the limitations and standards.

A. *Air Pollution*

The petroleum refining regulations will not result in any additional air quality impacts beyond those from compliance with existing regulations.

B. *Solid Waste*

The petroleum refining regulations will not result in any additional solid waste impacts beyond those from compliance with existing regulations.

C. *Consumptive Water Loss*

The petroleum refining regulations will not result in any additional water consumption beyond that from compliance with existing regulations.

D. *Energy Requirements*

The petroleum refining regulations will not result in any additional energy requirements beyond those for compliance with existing regulations.

VIII. Pollutants and Subcategories Not Regulated

The Settlement Agreement contains provisions authorizing the exclusion from regulation, in certain circumstances, of toxic pollutants and industry categories and subcategories.

A. *Exclusion of Pollutants*

Paragraph 8(a)(iii) of the Settlement Agreement authorizes the Administrator to exclude the following toxic pollutants from regulation: (a) Those not detectable by Section 304(h) analytical methods or other state-of-the-art methods; (b) those present in amounts too small to be effectively reduced by available technologies; (c) those present only in trace amounts and neither causing nor likely to cause toxic effects; (d) those detected in the effluent from only a small number of sources within a subcategory and uniquely related to those sources; and (e) those that will be effectively controlled by the technologies on which other effluent limitations and standards are based.

The toxic pollutants excluded from regulation in all subcategories because they were not detectable by Section 304(h) analytical methods or other state-of-the-art methods are listed in Appendix A for direct dischargers and Appendix B for indirect dischargers

The toxic pollutants that will be effectively controlled by the technologies on which other effluent limitations and standards are based are listed in Appendix C for direct dischargers.

B. *Exclusion of Subcategories*

Paragraph 8(b) of the Settlement Agreement authorizes the Administrator to exclude from regulation a category if: (i) 95 percent or more of all point sources in the subcategory introduce into POTWs only pollutants which are susceptible to treatment by the POTW and which do not interfere with, do not pass through, or are not otherwise incompatible with such treatment works; or (ii) the toxicity and amount of the incompatible pollutants introduced by such point sources into POTWs is so insignificant as not to justify developing a pretreatment regulation. The pollutants excluded under Paragraphs 8(b)(i), 8(b)(ii), and 8(a) are listed in Appendix D for indirect dischargers.

IX. Responses to Major Comments

This section contains responses to those issues raised in a large number of the comments received and which affect all subcategories. The original comments and a summary of the comments received and our detailed responses to all comments are included in a report "Responses to Public Comments, Proposed Petroleum Refining Effluent Guidelines and Standards", which is included in the public record for this regulation.

Most of the commenters criticized the need for further control beyond existing BPT and NSPS and the alleged technical inadequacy of data to support the proposed regulations. Since the Agency has decided to promulgate BAT equivalent to BPT retain the existing NSPS and retain the existing PSES regulation (with an alternative mass limitation provided for ammonia (N)), EPA believes it unnecessary to address in detail many of the comments in this preamble. A brief summary of significant comments received by the Agency, together with the Agency's responses, is set forth below:

A. *Regulation Beyond the BPT Level*

Many of the commenters indicated

that further control beyond BPT is unwarranted since BPT technology already reduces significant quantities of toxics.

The Agency agrees with the commenters that BPT technology already removes significant quantities of toxic and other pollutants and is thus promulgating BAT equal to BPT. One of the many factors considered in formulating the final rule are the very low pollutant levels in BPT effluents and the overall effectiveness and efficiency of the treatment systems already in place in removing toxic and other pollutants.

Other commenters argued for BAT to be promulgated at the proposed BAT level or a more stringent level, including zero discharge or separate treatment of cooling water discharges. The reasons for not adopting levels of treatment are discussed in Section V above.

The proposed requirement for separate treatment of cooling tower blowdown for existing dischargers was not adopted as a result of public comments received. In addition, the Agency performed a study which evaluated the cost and feasibility of implementing recycle and reuse technologies. The study (Recycle/Reuse Study referenced in Section IV) indicated that the collection of all the cooling tower water is infeasible in many existing refineries because of leaks and auxiliary uses and thus supports the Agency's decision not to impose this requirement.

Several commenters argued that the proposed zero discharge requirement for new sources has questionable effluent reduction benefits and the Agency did not consider the benefit/cost ratio of zero discharge. The factors that led to the Agency's decision to retain the existing NSPS are discussed in Section V.

B. *Pretreatment Standards for POTW with § 301(h) Waivers*

Some commenters argued that EPA has no authority to establish more stringent pretreatment standards for refineries that discharge to POTW with Section 301(h) waivers.

Although the Agency does not agree with these commenters, we have decided to change the proposed approach and establish one set of pretreatment standards for all indirect dischargers in this industry. This industrial category is the only one for which EPA proposed separate pretreatment standards for indirect dischargers whose wastes go to POTWs with § 301(h) waivers. The Agency would like to gain more experience with § 301(h) applicants before considering a two-tier pretreatment requirement. Added experience will enable the Agency to decide whether control of toxics should be effectuated through requirements imposed on POTW during the § 301(h) waiver process or by revised pretreatment standards.

C. *Pretreatment Standards for Hydrogen Sulfide and Mercaptans*

A few commenters indicated that hydrogen sulfide and mercaptans can cause damage to the wastewater collection systems and can cause significant odor problems at the treatment plant if not removed. Pretreatment standards were recommended.

Pretreatment standards adopted today limit ammonia to 100 mg/l. The technology for control of ammonia is steam stripping, the same technology required for sulfide removal. The Agency therefore believes that the technology for control of ammonia will also control sulfide and therefore that it is not necessary to establish separate pretreatment standards for sulfide. Mercaptans were not found to be a problem warranting national regulation. Any POTW experiencing problems caused by mercaptans should impose the appropriate pretreatment standards on a case-by-case basis.

D. *Total Phenol (4AAP)*

Several commenters indicated that EPA has incorrectly assumed that total phenols as determined by the 4-aminoantipyrine method (4AAP) is a toxic pollutant in this industry.

The Agency agrees. Total phenols (4AAP) measures many compounds, including the phenolic compounds that are on the Agency's list of priority pollutants. Because the 4AAP method measures more compounds than just the GC/MS compounds, it does not provide an accurate quantification of the toxic pollutant phenol (GC/MS). Thus, total phenols (4AAP) is considered a non-conventional pollutant for this industry.

E. *Regulation of Toxic Organics*

It was argued that EPA should promulgate effluent limitations guidelines for specific toxic pollutants such as methylene chloride, carbon tetrachloride, mercury, ethylbenzene, naphthalene, 2–4 dimethylphenol, benzene, and toluene.

The Agency has concluded that the levels of these pollutants detected in this industry do not warrant industry-wide regulation. Mercury was found in effluents from BPT treatment systems during the Agency's sampling programs at an average concentration of less than 1 ppb. Methylene chloride was detected in BPT effluents, but is a contaminant inherent in the analyses of organic compounds. Thus, it is difficult to determine the amounts discharged by refinery operations. Ethylbenzene, naphthalene, 2,4-dimethylphenol, benzene, toluene, and carbon tetrachloride were either not detected in BPT treated wastewaters or were present at average concentrations that were at or less than the level of quantification, which is nominally 10 ppb.

F. *Indicator and Surrogate Pollutants.*

Comments were received from industry and private citizens on the possible use of indicator or surrogate pollutant limitations. Most of the comments were not favorable. The industry commenters argued that indicator limitations, if necessary, should be developed on a case-by-case basis. Industry also questioned the use of total organic carbon (TOC), chemical oxygen demand (COD), and BPT-limited pollutant parameters as indicators for toxic pollutants because the concentration of toxics are several orders of magnitude smaller than that of such traditional pollutants. The private citizens felt that the Agency should limit the toxics directly instead of relying on indicators. Additionally, many commenters pointed out the difficulty in using the BPT pollutant parameters as indicators of toxic pollutants.

In the Solicitation of Comments section of the preamble to the 1979 proposal (40 FR 45941), the Agency requested comments on the possibility of regulating toxic pollutants with limitations on indicator pollutants. While EPA recognizes that the relationship between "indicator" and toxic pollutants may not be quantifiable on a one-to-one basis, we believe control of the "indicator" pollutants would reasonably assure control of toxic pollutants with similar physical and chemical properties.

Subsequent to the 1979 proposal, the Agency conducted a sampling program at two refineries for a period of sixty days to determine whether an indicator/surrogate relationship existed between the BPT pollutant parameters and the toxics. The results of the study confirm the difficulties of using such parameters and indicates that a statistically significant correlation between candidate surrogate/indicator parameters and toxic pollutant parameters does not exist for this industry. The Agency, therefore, decided not to issue limitations for indicator or surrogate pollutants in this rule.

Specific toxic pollutants other than chromium are not regulated by today's rule for reasons presented in Sections V and VIII of this preamble.

G. New Source Construction

It was argued that there is no basis for EPA's statements that no new refineries will be entering the industry. Commenters stated that new refineries are currently being planned, such as the one in Portsmouth, Virginia.

The U.S. refining industry has experienced a dramatic reversal of historical growth trends as a result of the reduction in consumption of petroleum products that has taken place since 1978. U.S. crude oil runs peaked at 14.7 million barrels per day in the calendar year 1978. Runs have decreased each year since then reaching 12.5 million barrels per day for the calendar year 1981. In early 1982 runs dropped to below 11.5 million barrels per day—representing percentage capacity utilizations in the low 60's. The 1981 DOE Annual Report to Congress predicts production to regain strength to 14.4 million barrels per day in 1985 and 13.4 million barrels per day by 1990. The Agency believes that these forecasts of U.S. refinery activity indicate that it is unlikely that any new refinery facilities will be built at *undeveloped* sites over the next decade, including the Portsmouth, Virginia site which has become uneconomical and is not expected to be built. However, it will be necessary for U.S. refiners to modernize and expand downstream facilities at existing refinery sites to allow increasingly heavier and higher sulfur crude oils to be processed into a product mix which emphasizes production of the lighter and higher quality products that will be demanded by the marketplace. This modernization process is not expected to be sufficiently independent to be considered a new source.

X. Best Management Practices

Section 304(e) of the Clean Water Act gives the Administrator authority to prescribe "best management practices" (BMPs).

Although EPA is not establishing BMPs at this time, we are considering development of BMPs specific to the petroleum refining industry. Numerous problem areas are known exist, including leaks and spills, storm water contamination, groundwater infiltration from storage areas and on-site solid waste disposal. Section VII of the development document describes possible BMP's for this industry. This information can guide the permitting agency in developing case-by-case BMPs for NPDES permits.

XI. Upset and Bypass Provisions

A recurring issue of concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upset" or "bypass." An upset, sometimes called an "excursion", is an unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee. It has been argued that an upset provision is necessary in EPA's effluent limitations because such upsets will inevitably occur even in properly operated control equipment. Because technology based limitations require only what technology can achieve, it is claimed that liability for such situations is improper. When confronted with this issue, courts have disagreed on whether an explicit upset or excursion exemption is necessary, or whether upset or excursion incidents may be handled through EPA's exercise of enforcement discretion. Compare *Marathon Oil Co.* v. *EPA*, 564 F. 2d 1253 (9th Cir. 1977) with *Weyerhaeuser* v. *Costle*, 590 F. 2d 1011 (D.C. Cir., 1978), and *Corn Refiners Association, et al.* v. *Costle*, 594 F. 2d 1223 (8th Cir., 1979). *See also American Petroleum Institute* v. *EPA*, 540 F. 2d 1023 (10th Cir. 1976); *CPC International, Inc.* v. *Train*, 540 F. 2d 1320 (8th Cir. 1976); and *FMC Corp.* v. *Train*, 539 F. 2d 973 (4th Cir. 1976).

A bypass is an act of intentional noncompliance during which waste treatment facilities are circumvented because of an emergency situation. EPA has in the past included bypass provisions in NPDES permits.

The Agency has determined that both upset and bypass provisions should be included in NPDES permits and has promulgated Consolidated Permit Regulations which include upset and bypass permit provisions [see 40 CFR 122.60, 45 FR 33290, May 19, 1980]. The upset provision establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent limitations. The bypass provision authorizes bypassing to prevent loss of life, personal injury, or severe property damage. Consequently, although pemittees in the petroleum refining industry will be entitled to upset and bypass provisions in NPDES permits, the final petroleum refining regulations do not address these issues.

XII. Variances and Modifications

Upon the promulgation of the regulations the effluent limitations for the appropriate subcategory must be applied in all Federal and State NPDES permits thereafter issued to direct dischargers in the petroleum refining industry. In addition, upon promulgation, the pretreatment limitations are applicable to any indirect dischargers.

For the BPT effluent limitations, the only exception to the binding limitations is EPA's "fundamentally different factors" variance. See *E. I. du Pont de Nemours & Co.* v. *Train*, 430 U.S. 112 (1977); *Weyerhaeuser Co.* v. *Costle, supra*. This variance recognizes factors concerning a particular discharger that are fundamentally different from the factors considered in this rulemaking. Although this variance clause was set forth in EPA's 1973–1976 industry regulations, it is now included in the NPDES regulations and is referenced by citation in the petroleum refining or other industry regulations. See the NPDES regulations at 40 CFR Part 125, Subpart D.

The BAT limitations in this regulation are also subject to EPA's "fundamentally different factors" variance. BAT limitations for nonconventional pollutants are subject to modifications under Sections 301(c) and 301(g) of the Act. These statutory modifications do not apply to toxic or conventional pollutants. According to Section 301(j)(1)(B), applications for these modifications must be filed within 270 days after promulgation of final effluent limitations guidelines. See 43 FR 40895, September 13, 1978.

Pretreatment standards for existing sources are subject to the "fundamentally different factors" variance and credits for pollutants removed by POTW. (See 40 CFR 403.7, 403.13; 43 FR 27736 (June 26, 1978)).

Pretreatment standards for new sources are subject only to the credits provision in 40 CFR 403.7. NSPS are not subject to EPA's "fundamentally different factors" variance or any statutory or regulatory modifications. See *E. I. duPont de Nemours and Co.* v. *Train, supra*.

XIII. Relationship to NPDES Permits

The BAT limitations in this regulation will be applied to individual petroleum refineries through NPDES permits issued by EPA or approved state agencies, under Section 402 of the Act. As discussed in the preceding section of this preamble, these limitations must be applied in all Federal and State NPDES permits except to extent that variances and modifications are expressly authorized. Other aspects of the interaction between these limitations and NPDES permits are discussed below.

One issue that warrants consideration is the effect of this regulation on the powers of NPDES permit-issuing authorities. The promulgation of this regulation does not restrict the power of any permitting authority to act in any manner consistent with law or these or any other EPA regulations, guidelines, or

policy. For example, even if this regulation does not control a particular pollutant, the permit issuer may still limit such pollutant on a case-by-case basis when limitations are necessary to carry out the purposes of the Act. In addition, to the extent that State water quality standards or other provisions of State or Federal law require limitation of pollutants not covered by this regulation (or require more stringent limitations on covered pollutants), such limitations must be applied by the permit-issuing authority.

A second topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which were considered in developing this regulation. Although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary. EPA has exercised and intends to exercise that discretion in a manner that recognizes and promotes good-faith compliance efforts and conserves enforcement resources for those who fail to make good-faith efforts to comply with the Act.

XIV. Public Participation

Numerous agencies and groups have participated during the development of these effluent limitations guidelines and standards. Following the publication of the proposed rules on December 21, 1979, in the **Federal Register**, EPA provided the development document supporting the proposed rules to industry, Government agencies, and the public sector for comments. Five technical workshops were held on the proposed rulemaking. On April 9, 1980, in Washington, D.C., a public hearing was held on the proposed pretreatment standards.

The individuals and organizations that submitted written comments during the comment period on the proposed regulation are listed in Appendix A of this preamble.

All comments received have been carefully considered, and appropriate changes in the regulations have been made whenever available data and information supported those changes. Major issues raised by commenters are addressed in Section IX of this preamble. A summary of all the comments received and our detailed responses to all comments are included in a report "Responses to Public Comments, Proposed Petroleum Refining Effluent Guidelines and Standards," which is a part of the public record for this regulation. This report, along with the rest of the public record, will be available for public review four weeks after the effective date in EPA's Public Information Reference Unit, Room 2004 (Rear), (EPA Library), 401 M Street, S.W., Washington, D.C.

XV. Small Business Administration (SBA) Financial Assistance

The Agency is continuing to encourage small manufacturers to use Small Business Administration (SBA) financing as needed for pollution control equipment. Three basic programs are in effect: the Guaranteed Pollution Control Bond Program, the Section 503 Program, and the Regular Guarantee Program. All the SBA loan programs are open only to businesses with net assets less than $6 million, with an average annual after-tax income of less than $2 million, and with fewer than 250 employees.

The guaranteed pollution control bond is a full faith and credit instrument with a tax free feature, making this program the most favorable. The program applies to projects that cost from $150,000 to $2,000,000.

The Section 503 Program, as amended in July 1980, allows for long-term loans to small- and medium-sized businesses. These loans are made by SBA-approved local development companies, which for the first time are authorized to issue Government-backed debentures that are bought by the Federal Financing Bank, an arm of the U.S. Treasury.

Through SBA's Regular Guarantee Program, loans are made available by commercial banks and are guaranteed by the SBA. This program has interest rates equivalent to market rates.

For additional information on the Regular Guarantee and Section 503 Programs contact your district or local SBA Office. The coordinator at EPA headquarters is Ms. Frances Desselle who may be reached at (202) 426–7874.

For further information and specifics on the Guaranteed Pollution Control Bond Program contact: U.S. Small Business Administration, Office of Pollution Control Financing, 4040 North Fairfax Drive, Rosslyn, Virginia 22203, (703) 235–2902.

XVI. Availability of Technical Assistance

The major documents upon which these regulations are based are: (1) The *Development Document for Effluent Limitations Guidelines, New Source Performance Standards, and Pretreatment Standards for the Petroleum Refining* Point Source Category (EPA 440/1–82/014; (2) a report entitled *Long Term Monitoring Data Collection Survey for the Petroleum Refining Industry* (public record); (3) a report entitled *Wastewater Recycle Study, Petroleum Refining Industry* (public record); (4) *Economic Analysis of Promulgated Effluent Standards and Limitations for the Petroleum Refining Industry* (EPA 440/2–82/007); (5) public comments received by the Agency on the studies upon which the proposed regulations were based; and (6) the development document supporting the proposed regulations. A summary of the public comments received on the proposed regulation is presented in a report "Responses to Public Comments Proposed Petroleum Refining Effluent Guidelines and Standards", which is a part of the public record for this regulation.

The regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

List of Subjects in 40 CFR Part 419

Petroleum, Water pollution control, Waste treatment and disposal.

Dated: September 30, 1982.

John W. Hernandez,

Acting Administrator.

XVII. Appendices

Appendix A.—Priority Pollutants Not Detected in Treated Effluents Discharged Directly, and Excluded From Regulation

Pursuant to Paragraph 6(a)(iii) of the Settlement Agreement, the following 98 priority pollutants are excluded from national regulation because they were not detected in effluents from BPT treatment systems by Section 304(h) analytical methods or other state-of-the-art methods:

EPA No.	Priority pollutant
2	acrolein
3	acrylonitrile
5	benzidine
6	carbon tetrachloride
7	chlorobenzene
8	1,2,4-trichlorobenzene
9	hexachlorobenzene
10	1,2-dichloroethane
11	1,1,1-trichloroethane
12	hexachloroethane
13	1,1-dichloroethane
14	1,1,2-trichloroethane
15	1,1,2,2-tetrachloroethane
16	chloroethane
18	bis(2-chloroethyl) ether
19	2-chloroethylvinyl ether
20	2-chloronaphthalene
21	2,4,6-trichlorophenol
24	2-chlorophenol
25	1,2-dichlorobenzene
26	1,3-dichlorobenzene
27	1,4-dichlorobenzene
28	3,3'-dichlorobenzidine
29	1,1-dichloroethylene
30	1,2-trans-dichloroethylene
32	1,2-dichloropropane
33	1,3-dichloropropylene
34	2,4-dimethylphenol
35	2,4-dinitrotoluene
36	2,6-dinitrotoluene
37	1,2-diphenylhydrazine
38	ethylbenzene
39	fluoranthene
40	4-chlorophenyl phenyl ether
41	4-bromophenyl phenyl ether
42	bis(2-chloroisopropyl) ether
43	bis(2-chloroethoxy) methane

EPA No.	Priority pollutant
45	methyl chloride
46	methyl bromide
47	bromoform
48	dichlorobromomethane
51	chlorodibromomethane
52	hexachlorobutadiene
53	hexachlorocyclopentadiene
54	isophorone
55	naphthalene
56	nitrobenzene
57	2-nitrophenol
58	4-nitrophenol
59	2,4-dinitrophenol
60	4,6-dinitro-o-cresol
61	N-nitrosodimethylamine
62	N-nitrosodiphenylamine
63	N-nitrosodi-n-propylamine
64	pentachlorophenol
65	phenol
67	butyl benzyl phthalate
69	di-n-octyl phthalate
72	benzo(a)anthracene
74	3,4-benzofluoranthene
75	benzo(k)fluoranthane
77	acenaphthylene
78	anthracsne
79	benzo(ghi)perylene
80	fluorene
82	dibenzo(a,h)anthracene
83	ideno(1,2,3-cd)pyrene
85	tetrachloroethylene
87	trichloroethylene
88	vinyl chloride
89	aldrin
90	dieldrin
91	chlordane
92	4,4'-DDT
93	4,4'-DDE
94	4,4'-DDD
95	alpha-endosulfan
96	beta-endosulfan
97	endosulfan sulfate
98	endrin
99	endrin aldehyde
100	heptachlor
101	heptachlor epoxide
102	alpha-BHC
103	beta-BHC
104	gamma-BHC
105	delta-BHC
106	PCB-1242
107	PCB-1254
108	PCB-1221
109	PCB-1232
110	PCB-1248
111	PCB-1260
112	PCB-1016
113	toxaphene
114	antimony (total)
116	asbestos
129	2,3,7,8-tetrachloro-dibenzo-p-dioxin (TCDD)

Appendix B.—Priority Pollutants not Detected in Effluents Discharged To POTWs, and Excluded From Regulation

Pursuant to Paragraph 8(a)(iii) of the Settlement Agreement, the following 75 priority pollutants are excluded from national regulation because they were not detected by Section 304(h) analytical methods or other state-of-the-art methods in effluents discharged to POTWs:

EPA No.	Priority pollutant
3	acrylonitrile
5	benzidine
6	carbon tetrachloride
8	1,2,4-trichlorobenzene
9	hexachlorobenzene
12	hexachloroethane
13	1,1-dichloroethane
14	1,1,2-trichloroethane
15	1,1,2,2-tetrachloroethane
16	chloroethane
18	bis(2-chloroethyl) ether
19	2-chloroethylvinyl ether
20	2-chloronaphthalene
21	2,4,6-trichlorophenol
22	parachlorometa cresol
25	1,2-dichlorobenzene
26	1,3-dichlorobenzene
27	1,4-dichlorobenzene
28	3,3'-dichlorobenzidine
29	1,1-dichloroethylene
31	2,4-dichlorophenol
32	1,2-dichloropropane
33	1,3-dichloropropylene
35	2,4-dinitrotoluene
36	2,6-dinitrotoluene
37	1,2-diphenylhydrazine
41	4-bromophenyl phenyl ether
42	bis(2-chloroisopropyl) ether
43	bis(2-chloroethoxy) methane
44	methylene chloride
45	methyl chloride
46	methyl bromide
47	bromoform
51	chlorodibromomethane
52	hexachlorobutadiene
53	hexachlorocyclopentadie
56	nitrobenzene
61	N-nitrosodimethylamine
62	N-nitrosodiphenylamine
63	N-nitrosodi-n-propylami
66	bis(2-ethylhexyl) phtha
69	d-n-octyl phthalate
71	dimethyl phthalate
74	3,4-benzofluoranthene
75	benzo (k) fluoranthane
79	benzo (ghi) perylene
82	dibenzo (a,h) anthracene
83	ideno (1,2,3-C,D) pyrene
87	trichloroethylene
88	vinyl chloride
90	dieldrin
91	chlordane
94	4,4'-DDD
95	alpha-endosulfan
97	endosulfan sulfate
98	endrin
99	endrin aldehyde
100	heptachlor
101	heptachlor epoxice
102	alpha-BHC
103	beta-BHC
104	gamma-BHC (lindane)
106	PCB–1242
107	PCP–1254
108	PCB–1221
109	PCB–1232
110	PCB–1248
111	PCB–1260
112	PCB–1016
113	toxaphene
114	antimony (total)
116	asbestos
126	silver (total)
127	thallium (total)
129	2,3,7,8-tetrachloro-dibenzo-p-dioxin (TCDD)

Appendix C.—Priority Pollutants Detected in Treated Effluents Discharged Directly, but Excluded From Regulation

I. Pursuant to Paragraph 8(a)(iii) of the Settlement Agreement, the following 25 priority pollutants are excluded from national regulation because they are already effectively controlled by technologies upon which other effluent limitations and guidelines are based:

EPA No.	Priority pollutant
1	acenaphthene
4	benzene
22	parachlorometacresol
23	chloroform
31	2,4-dichlorophenol
68	di-n-butyl phthalate
70	diethyl phthalate
71	dimethyl phthalate
73	benzo(a)pyrene
76	chrysene
81	phenanthrene
84	pyrene
86	toluene
115	arsenic
117	beryllium
118	cadmium
120	copper
121	cyanide
122	lead
123	mercury
124	nickel
125	selenium
126	silver
127	thallium
128	zinc

II. Pursuant to Paragraph 8(a)(iii) of the Settlement Agreement, the following two priority pollutants are excluded from national regulation because their detection is believed to be attributed to laboratory analysis and sample contamination:

Epa No.	Priority pollutant
44	methylene chloride
66	bis(2-ethylhexyl) phthalate

Appendix D.—Priority Pollutants Detected in Effluents Discharged to POTWs, but Excluded From Regulation

I. Pursuant to Paragraph 8(b)(i) of the Settlement Agreement, the following 5 priority pollutants are excluded from regulation because 95 percent or more of all point sources in the subcategory introduce into POTWs only pollutants which are susceptible to treatment by the POTW and which do not interfere with, do not pass through, or are not otherwise incompatible with such treatment works:

EPA No.	Priority pollutant
24	2-chlorophenol
57	2-nitrophenol
77	acenaphthylene
80	fluorene
125	selenium

II. Pursuant to paragraph 8(b)(ii) of the Settlement Agreement, the following 33 priority pollutants are excluded from regulation because the amount and toxicity of each pollutant does not justify developing national regulations:

EPA No.	Priority pollutant
2	acrolein
7	chlorobenzene
10	1,2-dichloroethane
11	1,1,1-trichloroethane
23	chloroform
30	1,2-trans-dichloroethylene
39	fluoranthene
40	4-chlorophenyl phenyl ether
48	dichlorobromomethane
60	4,6, dinitro-o-cresol
64	pentachlorophenol
67	butyl benzyl phthalate
68	di-n-butyl phthalate

EPA No.	Priority pollutant
70	diethyl phthalate
72	benzo(a)anthracene
73	benzo(a)pyrene
76	chrysene
84	pyrene
85	tetrachloroethylene
89	aldrin
92	4,4'-DDT
93	4,4'-DDE
96	beta endosulfan
105	delta BHC
115	arsenic
117	beryllium
118	cadmium
120	copper
121	cyanide
122	lead
123	mercury
124	nickel
128	zinc

III. Pursuant to Paragraphs 8(a)(iii), 8(a)(iv), and 8(b) of the Settlement Agreement, the following 12 priority pollutants are excluded from regulation for a combination of reasons. First, there is significant removal of some of these pollutants by the existing pretreatment standards for oil and grease; second, there is significant removal of all these pollutants by the POTW treatment system; and thirdly, the amount and toxicity of the pollutants does not justify developing national pretreatment standards.

EPA No.	Priority pollutant
1	acenaphthene
4	benzene
34	2,4-dimethylphenol
38	ethylbenzene
54	isophorone
55	naphthalene
58	4-nitrophenol
59	2,4-dinitrophenol
65	phenol
78	anthracene
81	phenanthrene
86	toluene

Appendix E.—Abbreviations, Acronyms and Other Terms Used in This Notice

Act—The Clean Water Act
Agency—The U.S. Environmental Protection Agency
BAT—The best available technology economically achievable, under Section 304(b)(2)(B) of the Act
BCT—The best conventional pollutant control technology, under Section 304(b)(4) of the Act
BMP—Best management practices under Section 304(e) of the Act
BOD5—Five day biochemical oxygen demand
BPT—The best practicable control technology currently available, under Section 304(b)(1) of the Act
COD—Chemical oxygen demand
Clean Water Act—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 et seq.), as amended by the Clean Water Act of 1977 (Pub. L. 95-217)
Direct discharger—A facility which discharges or may discharge pollutants into waters of the United States
Indirect discharger—A facility which discharges or may discharge pollutants into a publicly owned treatment works
kg/m ^{3}—Kilograms per cubic meter
lb/bbl—Pounds per barrel (one barrel equals 42 gallons)
mg/l—Milligrams per liter
NPDES permit—A national pollutant discharge elimination system permit issued under section 402 of the Act
NSPS—New source performance standards, under section 304 of the Act
ppb—Parts per billion
POTW—Publicly owned treatment works
PSES—Pretreatment standards for existing sources of indirect discharges, under section 307(b) of the Act
PSNS—Pretreatment standards for new sources of direct discharges, under section 307 (b) and (c) of the Act
RCRA—Resource Conservation and Recovery Act (Pub. L. 94-580) of 1976, Amendments to Solid Waste Disposal Act
TOC—Total organic carbon
TSS—Total suspended solids
μg/l—Micrograms per liter

40 CFR Part 419 is revised to read as follows:

PART 419—PETROLEUM REFINING POINT SOURCE CATEGORY

Subpart A—Topping Subcategory

Sec.
419.10 Applicability; description of the topping subcategory.
419.11 Specialized definitions.
419.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
419.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of best available technology economically achievable.
419.14 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology. [Reserved]
419.15 Pretreatment standards for existing sources.
419.16 Standards of performance for new sources.
419.17 Pretreatment standards for new sources.

Subpart B—Cracking Subcategory

419.20 Applicability; description of the cracking subcategory.
419.21 Specialized definitions.
419.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
419.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
419.24 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology. [Reserved]
419.25 Pretreatment standards for existing sources.
419.26 Standards of performance for new sources.
419.27 Pretreatment standards for new sources.

Subpart C—Petrochemical Subcategory

419.30 Applicability; description of the petrochemical subcategory.
419.31 Specialized definitions.
419.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
419.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
419.34 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology. [Reserved]
419.35 Pretreatment standards for existing sources.
419.36 Standards of performance for new sources.
419.37 Pretreatment standards for new sources.

Subpart D—Lube Subcategory

419.40 Applicability; description of the lube subcategory.
419.41 Specialized definitions.
419.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
419.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
419.44 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology. [Reserved]
419.45 Pretreatment standards for existing sources.
419.46 Standards of performance for new sources.
419.47 Pretreatment standards for new sources.

Subpart E—Integrated Subcategory

419.50 Applicability; description of the integrated subcategory.
419.51 Specialized definitions.
419.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
419.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Sec.

Authority: Secs. 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307 (b) and (c), and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972 as amended by the Clean Water Act of 1977) (the "Act"); 33 U.S.C. 1311, 1314 (b), (c), (e), and (g), 1316 (b) and (c), 1317 (b) and (c), and 1361; 86 Stat. 816, Pub. L. 92-500; 91 Stat. 1567, Pub. L. 95-217.

Subpart A—Topping Subcategory

§ 419.10 Applicability; description of the topping subcategory.

The provisions of this subpart apply to discharges from any facility that produces petroleum products by the use of topping and catalytic reforming, whether or not the facility includes any other process in addition to topping and catalytic reforming. The provisions of this subpart do not apply to facilities that include thermal processes (coking, vis-breaking, etc.) or catalytic cracking.

§ 419.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "runoff" shall mean the flow of storm water.

(c) The term "ballast" shall mean the flow of waters, from a ship, that is treated along with refinery wastewaters in the main treatment system.

(d) The term "feedstock" shall mean the crude oil and natural gas liquids fed to the topping units.

(e) The term "once-through cooling water" shall mean those waters discharged that are used for the purpose of heat removal and that do not come into direct contact with any raw material, intermediate, or finished product.

(f) The following abbreviations shall be used: (1) Mgal means one thousand gallons; (2) Mbbl means one thousand barrels (one barrel is equivalent to 42 gallons).

§ 419.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

Pollutant or pollutant property	BPT Effluent Limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Metric units (kilograms per 1,000 m^3 of feedstock)	
BOD5	22.7	12.0
TSS	15.8	10.1
COD [1]	117.0	60.3
Oil and grease	6.9	3.7
Phenolic compounds	0.168	0.076
Ammonia as N	2.81	1.27
Sulfide	0.149	0.068
Total chromium	0.345	0.20
Hexavalent chromium	0.028	0.012
pH	[2]	[2]
	English units (pounds per 1,000 bbl of feedstock)	
BOD5	8.0	4.25
TSS	5.6	3.6
COD [1]	41.2	21.3
Oil and grease	2.5	1.3
Phenolic compounds	0.060	0.027
Ammonia as N	0.99	0.45
Sulfide	0.53	0.24
Total chromium	0.122	0.071
Hexavalent chromium	0.10	0.0044
pH	[2]	[2]

[1] See footnote following Table in § 419.13(c).
[2] Within the range of 6.0 to 9.0.

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor.

1,000 bbl of feedstock per stream day	Size factor
Less than 24.9	1.02
25.0 to 49.9	1.06
50.0 to 74.9	1.16
75.0 to 99.9	1.26
100 to 124.9	1.38
125.0 to 149.9	1.50
150.0 or greater	1.57

(2) Process factor.

Process configuration	Process factor
Less than 2.49	0.62
2.5 to 3.49	0.67
3.5 to 4.49	0.80
4.5 to 5.49	0.95
5.5 to 5.99	1.07
6.0 to 6.49	1.17
6.5 to 6.99	1.27
7.0 to 7.49	1.39
7.5 to 7.99	1.51
8.0 to 8.49	1.64
8.5 to 8.99	1.79
9.0 to 9.49	1.95
9.5 to 9.99	2.12
10.0 to 10.49	2.31
10.5 to 10.99	2.51
11.0 to 11.49	2.73
11.5 to 11.99	2.98
12.0 to 12.49	3.24
12.5 to 12.99	3.53
13.0 to 13.49	3.84
13.5 to 13.99	4.18
14.0 or greater	4.36

(3) See the comprehensive example Subpart D § 419.42(b)(3).

(c) The following allocations constitute the quantity and quality of pollutants or pollutant properties controlled by this paragraph and attributable to ballast, which may be discharged after the application of best practicable control technology currently available, by a point source subject to this subpart, in addition to the discharge allowed by paragraph (b) of this section. The allocation allowed for ballast water flow, as kg/cu m (lb/M gal), shall be based on those ballast waters treated at the refinery.

Pollutant or pollutant property	BPT effluent limitations for ballast water	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Metric units (kilograms per cubic meter of flow)	
BOD5	0.048	0.026
TSS	0.033	0.021
COD [1]	0.47	0.24
Oil and grease	0.015	0.008
pH	[2]	[2]
	English units (pounds per 1,000 gal of flow)	
BOD5	0.40	0.21
TSS	0.26	0.17
COD [1]	3.9	2.0
Oil and grease	0.126	0.067
pH	[2]	[2]

[1] See footnote following table in § 419.13(c).
[2] Within the range of 6.0 to 9.0.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/1.

(e) Effluent Limitation for Runoff—[Reserved].

§ 419.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Metric units (kilograms per 1,000 m^3 of feedstock)	
COD [1]	117	60.3
Phenolic compounds	0.168	0.076
Ammonia as N	2.81	1.27
Sulfide	0.149	0.068
Total chromium	0.345	0.20
Hexavalent chromium	0.028	0.012
	English units (pounds per 1,000 bbl of feedstock)	
COD [1]	41.2	21.3
Phenolic compounds	0.060	0.027
Ammonia as N	0.99	0.45
Sulfide	0.053	0.024
Total chromium	0.122	0.071
Hexavalent chromium	0.10	0.0044

[1] See footnote following Table in § 419.13(c).

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor.

1,000 bbl of feedstock per stream day	Size factor
Less than 24.9	1.02
25.0 to 49.9	1.06
50.0 to 74.9	1.16
75.0 to 99.9	1.26
100 to 124.9	1.38
125.0 to 149.9	1.50
150.0 or greater	1.57

(2) Process factor.

Process configuration	Process factor
Less than 2.49	0.62
2.5 to 3.49	0.67
3.5 to 4.49	0.80
4.5 to 5.49	0.95
5.5 to 5.99	1.07
6.0 to 6.49	1.17
6.5 to 6.99	1.27
7.0 to 7.49	1.39
7.5 to 7.99	1.51
8.0 to 8.49	1.64
8.5 to 9.99	1.79
9.0 to 9.49	1.95
9.5 to 9.99	2.12
10.0 to 10.49	2.31
10.5 to 10.99	2.51
11.0 to 11.49	2.73
11.5 to 11.99	2.98
12.0 to 12.49	3.24
12.5 to 12.99	3.53
13.0 to 13.49	3.84
13.5 to 13.99	4.18
14.0 or greater	4.36

(3) See the comprehensive example in Subpart D, § 419.42(b)(3).

(c) The following allocations constitute the quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to ballast, which may be discharged after the application of best available technology economically achievable by a point source subject to the provisions of this subpart. These allocations are in addition to the discharge allowed by paragraph (b) of this section. The allocation allowed for ballast water flow, as kg/cu m (lb/M gal), shall be based on those ballast waters treated at the refinery.

Pollutant or pollutant property	BAT effluent limitations for ballast water	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Metric units (kilograms per cubic meter of flow)	
COD [1]	0.47	0.24
	English units (pounds per 1,000 gal of flow)	
COD [1]	3.9	2.0

[1] In any case in which the applicant can demonstrate that the chloride ion concentration in the effluent exceeds 1,000 mg/l (1,000 ppm), the Regional Administrator may substitute TOC as a parameter in lieu of COD Effluent limitations for TOC shall be based on effluent data from the plant correlating TOC to BOD5.

If in the judgment of the Regional Administrator, adequate correlation data are not available, the effluent limitations for TOC shall be established at a ratio of 2.2 to 1 to the applicable effluent limitations on BOD5.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

(e) Effluent Limitation for Runoff—[Reserved].

§ 419.14 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 419.15 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13 any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES). The following standards apply to the total refinery flow contribution to the POTW:

Pollutant or pollutant property	Pretreatment standards for existing sources maximum for any 1 day
	(Milligrams per liter (mg/l))
Oil and Grease	100
Ammonia (as N)	[1] 100

[1] Where the discharge to the POTW consists solely of sour waters, the owner or operator has the option of complying with this limit or the daily maximum mass limitation for ammonia set forth in § 419.13 (a) and (b).

§ 419.16 Standards of performance for new sources (NSPS).

(a) Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Metric units (kilograms per cubic meter of flow)	
BOD5	11.8	6.3
TSS	8.3	4.9
COD [1]	61.0	32
Oil and grease	3.6	1.9
Phenolic compounds	0.088	0.043
Ammonia as N	2.8	1.3
Sulfide	0.078	0.035
Total chromium	0.18	0.105
Hexavalent chromium	0.015	0.0068
pH	[2]	[2]
	English units (pounds per 1,000 gal of flow)	
BOD5	4.2	2.2

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
TSS	3.0	1.9
COD [1]	21.7	11.2
Oil and grease	1.3	0.70
Phenolic compounds	0.031	0.016
Ammonia as N	1.0	0.45
Sulfide	0.027	0.012
Total chromium	0.064	0.037
Hexavalent chromium	0.0052	0.0025
pH	[2]	[2]

[1] See footnote following table in § 419.13(c).
[2] Within the range of 6.0 to 9.0

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor.

1,000 bbl of feedstock per stream day	Size factor
Less than 24.9	1.02
25.0 to 49.9	1.06
50.0 to 74.9	1.16
75.0 to 99.9	1.26
100 to 124.9	1.38
125.0 to 149.9	1.50
150.0 or greater	1.57

(2) Process factor.

Process configuration	Process factor
Less than 2.49	0.62
2.5 to 3.49	0.67
3.5 to 4.49	0.80
4.5 to 5.49	0.95
5.5 to 5.99	1.07
6.0 to 6.49	1.17
6.5 to 6.99	1.27
7.0 to 7.49	1.39
7.5 to 7.99	1.51
8.0 to 8.49	1.64
8.5 to 9.99	1.79
9.0 to 9.49	1.95
9.5 to 9.99	2.12
10.0 to 10.49	2.31
10.5 to 10.99	2.51
11.0 to 11.49	2.73
11.5 to 11.99	2.98
12.0 to 12.49	3.24
12.5 to 12.99	3.53
13.0 to 13.49	3.84
13.5 to 13.99	4.18
14.0 or greater	4.36

(3) See the comprehensive example in Subpart D, § 419.42(b)(3).

(c) The following allocations constitute the quantity and quality of pollutants or pollutant properties controlled by this paragraph and attributable to ballast, which may be discharged after the application of best practicable control technology currently available, by a point source subject to this subpart, in addition to the discharge allowed by paragraph (b) of this section. The allocation allowed for ballast water flow, as kg/cu m (lb/Mgal), shall be based on those ballast waters treated at the refinery.

Pollutant or pollutant property	NSPS Effluent Limitations for Ballast Water	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Metric units (kilograms per cubic meter of flow)	
BOD5	0.048	0.026
TSS	0.033	0.021
COD [1]	0.47	0.24
Oil and grease	0.015	0.008
pH	[2]	[2]
	English units (pounds per 1,000 gal of flow)	
BOD5	0.40	0.21
TSS	0.27	0.17
COD [1]	3.9	2.0
Oil and grease	0.126	0.067
pH	[2]	[2]

[1] See footnote following table in § 419.13(c).
[2] Within the range of 6.0 to 9.0

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

(e) Effluent Limitations for Runoff—[Reserved]

§ 419.17 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS). (a) The following standards apply to the total refinery flow contribution to the POTW:

Pollutant or pollutant property	Pretreatment standards for new sources—maximum for any 1 day
	Milligrams per liter (mg/1)
Oil and grease	100
Ammonia (as N)	[1] 100

[1] Where the discharge to the POTW consists solely of sour waters, the owner or operator has the option of complying with this limit or the daily maximum mass limitation for ammonia set forth in § 419.16 (a) and (b).

(b) The following standard is applied to the cooling tower discharge part of the total refinery flow to the POTW by multiplying: (1) The standard; (2) by the total refinery flow to the POTW; and (3) by the ratio of the cooling tower discharge flow to the total refinery flow.

Pollutant or pollutant property	Pretreatment standards for new sources—maximum for any 1 day
	Milligrams per liter (mg/1)
Total chromium	1

Subpart B—Cracking Subcategory

§ 419.20 Applicability; description of the cracking subcategory.

The provisions of this subpart are applicable to all discharges from any facility that produces petroleum products by the use of topping and cracking, whether or not the facility includes any process in addition to topping and cracking. The provisions of this subpart are not applicable, however, to facilities that include the processes specified in Subparts C, D, or E of this part.

§ 419.21 Specialized definitions.

The general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter and the specialized definitions set forth in § 419.11 shall apply to this subpart.

§ 419.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available:

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Metric units (kilograms per 1,000 m^3 of feedstock)	
BOD5	28.2	15.6
TSS	19.5	12.6
COD[1]	210.0	109
Oil and grease	8.4	4.5
Phenolic compounds	0.21	0.10
Ammonia as N	18.8	8.5
Sulfide	0.18	0.082
Total chromium	0.43	0.25
Hexavalent chromium	0.035	0.016
pH	([2])	([2])
	English units (pounds per 1,000 bbl feedstock)	
BOD5	9.9	5.5
TSS	6.9	4.4
COD[1]	74.0	38.4
Oil and grease	3.0	1.6
Phenolic compounds	0.074	0.036
Ammonia as N	6.6	3.0
Sulfide	0.065	0.029
Total chromium	0.15	0.088
Hexavalent chromium	0.012	0.0056
pH	([2])	([2])

[1] See footnote following table in § 419.13(c).
[2] Within the range of 6.0 to 9.0.

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor.

1,000 bbl of feedstock per stream day	Size factor
Less than 24.9	0.91
25.0 to 49.9	0.95
50.0 to 74.9	1.04
75.0 to 99.9	1.13
100.0 to 124.9	1.23
125.0 to 149.9	1.35
150.0 or greater	1.41

(2) Process factor.

Process configuration	Process factor
Less than 2.49	0.58
2.5 to 3.49	0.63
3.5 to 4.49	0.74
4.5 to 5.49	0.88
5.5 to 5.99	1.00
6.0 to 6.49	1.09
6.5 to 6.99	1.19
7.0 to 7.49	1.29
7.5 to 7.99	1.41
8.0 to 8.49	1.53
8.5 to 8.99	1.67
9.0 to 9.49	1.82
9.5 or greater	1.89

(3) See the comprehensive example Subpart D § 419.42(b)(3).

(c) The provisions of § 419.12(c) apply to discharges of process wastewater pollutants attributable to ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

(e) Effluent Limitations for Runoff—[Reserved]

§ 419.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

Pollutant or pollutant property	BAT Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Metric units (kilograms per 1,000 m^3 of feedstock)	
COD [1]	210	109
Phenolic compounds	0.21	0.10
Ammonia as N	18.8	8.5
Sulfide	0.18	0.082
Total chromium	0.43	0.25
Hexavalent chromium	0.035	0.016
	English units (pounds per 1,000 bbl of feedstock)	
COD [1]	74.0	38.4
Phenolic compounds	0.074	0.036
Ammonia as N	6.6	3.0
Sulfide	0.065	0.029
Total chromium	0.15	0.088
Hexavalent chromium	0.012	0.0056

[1] See footnote following table in § 419.13(c)(2).

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor.

1,000 bbl of feedstock per stream day	Size factor
Less than 24.9	0.91
25.0 to 49.9	0.95
50.0 to 74.9	1.04
75.0 to 99.9	1.13
100.0 to 124.9	1.23
125.0 to 149.9	1.35
150.0 or greater	1.41

(2) Process factor.

Process configuration	Process factor
Less than 2.49	0.58
2.5 to 3.49	0.63
3.5 to 4.49	0.74
4.5 to 5.49	0.88
5.5 to 5.99	1.00
6.0 to 6.49	1.09
6.5 to 6.99	1.19
7.0 to 7.49	1.29
7.5 to 7.99	1.41
8.0 to 8.49	1.53
8.5 to 8.99	1.67
9.0 to 9.49	1.82
9.5 or greater	1.89

(3) See the comprehensive example in Subpart D, § 419.42(b)(3).

(c) The provisions of § 419.13(c) apply to discharges of process wastewater pollutants attributable to ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

(e) Effluent Limitation for Runoff—[Reserved]

§ 419.24 Effluent limitation guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 419.25 Pretreatment Standards for Existing Sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13 any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES). The following standards apply to the total refinery flow contribution to the POTW:

Pollutant or pollutant property	Pretreatment standards for new sources—maximum for any 1 day
	Milligrams per liter (mg/l)
Oil and grease	100
Ammonia	[1] 100

[1] Where the discharge to the POTW consists solely of sour waters, the owner or operator has the option of complying with this limit or the daily maximum mass limitation for ammonia set forth in § 419.23 (a) and (b).

§ 419.26 Standards of performance for new sources (NSPS).

(a) Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Metric units (kilograms per 1,000 m^3 of feedstock)	
BOD5	16.3	8.7
TSS	11.3	7.2
COD [1]	118.0	61
oil and grease	4.8	2.6
Phenolic compounds	0.119	0.058
Ammonia (as N)	18.8	8.6
Sulfide	0.105	0.048
Total chromium	0.24	0.14
Hexavalent chromium	0.020	0.0088
pH	([2])	([2])
	English units (pounds per 1,000 bbl of feedstock)	
BOD5	5.8	3.1
TSS	4.0	2.5
COD [1]	41.5	21
Oil and grease	1.7	0.93
Phenolic compounds	0.042	0.020
Ammonia (as N)	6.6	3.0
Sulfide	0.037	0.017
Total chromium	0.064	0.049
Hexavalent chromium	0.0072	0.0032
pH	([2])	([2])

[1] See footnote following table in § 419.13(c).
[2] Within the range 6.0 to 9.0.

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any 1 day and maximum average of daily values for 30 consecutive days.

(1) Size Factor.

1,000 bbl of feedstock per stream day	Size factor
Less than 24.9	0.91
25.0 to 49.9	0.95
50.0 to 74.9	1.04
75.0 to 99.9	1.13
100.0 to 124.9	1.23
125.0 to 149.9	1.35
150.0 or greater	1.41

(2) Process factor.

Process configuration	Process factor
Less than 2.49	0.58
2.5 to 3.49	0.63
3.5 to 4.49	0.74
4.5 to 5.49	0.88
5.5 to 5.99	1.00
6.0 to 6.49	1.09
6.5 to 6.99	1.19
7.0 to 7.49	1.29
7.5 to 7.99	1.41
8.0 to 8.49	1.53
8.5 to 8.99	1.67
9.0 to 9.49	1.82
9.5 or greater	1.89

(3) See the comprehensive example in Subpart D, § 419.42(b)(3).

(c) The provisions of § 419.16(c) apply to discharges of process wastewater pollutants attributable to ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

(e) Effluent Limitation for Runoff—[Reserved]

§ 419.27 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS).

(a) The following standards apply to the total refinery flow contribution to the POTW.

Pollutant or pollutant property	Pretreatment standards for new sources—maximum for any 1 day
	Milligrams per liter (mg/l)
Oil and grease	100
Ammonia (as N)	[1] 100

[1] Where the discharge to the POTW consists solely of sour waters, the owner or operator has the option of complying with this limit or the daily maximum mass limitation for ammonia set forth in § 419.26(a) and (b).

(b) The following standard is applied to the cooling tower discharge part of the total refinery flow to the POTW by multiplying: (1) The standard; (2) by the total refinery flow to the POTW; and (3) by the ratio of the cooling tower discharge flow to the total refinery flow.

Pollutant or pollutant property	Pretreatment standards for new sources—maximum for any 1 day
	Milligrams per liter (mg/l)
Total chromium	1

Subpart C—Petrochemical Subcategory

§ 419.30 Applicability; description of the petrochemical subcategory.

The provisions of this subpart are applicable to all discharges from any facility that produces petroleum products by the use of topping, cracking, and petrochemical operations whether or not the facility includes any process in addition to topping, cracking, and petrochemical operations. The provisions of this subpart shall not be applicable, however, to facilities that include the processes specified in Subparts D or E of this part.

§ 419.31 Specialized definitions.

For the purpose of this subpart:

(a) The general definitions, abbreviations, and methods of analysis set forth in Part 401 of this chapter and the specialized definitions set forth in § 419.11 shall apply.

(b) The term "petrochemical operations" shall mean the production of second-generation petrochemicals (i.e., alcohols, ketones, cumene, styrene, etc.) or first generation petrochemicals and isomerization products (i.e. BTX, olefins, cyclohexane, etc.) when 15 percent or more of refinery production is as first-generation petrochemicals and isomerization products.

§ 419.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

Pollutant or pollutant property	BPT Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Metric units (kilograms per 1,000 m^3 of feedstock)	
BOD5	34.6	18.4
TSS	23.4	14.8
COD[1]	210.0	109.0
Oil and grease	11.1	5.9
Phenolic compound	0.25	0.120
Ammonia as N	23.4	10.6
Sulfide	0.52	0.099
Total chromium	0.52	0.30
Hexavalent chromium	0.046	0.020
pH	([2])	([2])
	English units (pounds per 1,000 bbl of feedstock)	
BOD5	12.1	6.5
TSS	8.3	5.25
COD[1]	74.0	38.4
Oil and grease	3.9	2.1
Phenolic compounds	0.088	0.0425
Ammonia as N	8.25	3.8
Sufide	0.078	0.035
Total chromium	0.183	0.107
Hexavalent chromium	0.016	0.0072
pH	([2])	([2])

[1] See footnote following table in § 419.13(c).
[2] Within the range of 6.0 to 9.0.

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor.

1,000 barrels of feedstock per stream day	Size factor
Less than 24.9	0.73
25.0 to 49.9	0.76
50.0 to 74.9	0.83
75.0 to 99.9	0.91
100.0 to 124.9	0.99
125.0 to 149.9	1.08
150.0 or greater	1.13

(2) Process factor.

Process configuration	Process factor
Less than 4.49	0.73
4.5 to 5.49	0.80
5.5 to 5.99	0.91
6.0 to 6.49	0.99
6.5 to 6.99	1.08
7.0 to 7.49	1.17
7.5 to 7.99	1.28
8.0 to 8.49	1.39
8.5 to 8.99	1.51
9.0 to 9.49	1.65
9.5 or greater	1.72

(3) See the comprehensive example in Subpart D, § 419.42(b)(3).

(c) The provisions of § 419.12(c) apply to discharges of process wastewater pollutants attributable to ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

(e) Effluent Limitation for runoff - [Reserved].

§ 419.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available techology economically achievable (BAT):

Pollutant or pollutant property	BAT Effluent Limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Metric units (kilograms per 1,000 m^3 of feedstock)	
COD[1]	210.0	109.0
Phenolic compounds	0.25	0.120
Ammonia as N	23.4	10.6
Sulfide	0.22	0.099
Total chromium	0.52	0.30
Hexavalent chromium	0.046	0.020
	English units (pounds per 1,000 bbl of feedstock)	
COD[1]	74.0	38.4
Phenolic compounds	0.088	0.0425
Ammonia as N	8.25	3.8
Sulfide	0.078	0.035
Total chromium	0.183	0.107
Hexavalent chromium	0.016	0.0072

[1] See footnote following table in § 419.13(c).

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor.

1,000 bbl of feedstock per stream day	Size factor
Less than 24.9	0.73
25.0 to 49.9	0.76
50.0 to 74.9	0.83
75.0 to 99.9	0.91
100.0 to 124.9	0.99
125.0 to 149.9	1.08
150.0 or greater	1.13

(2) Process factor.

Process configuration	Process factor
Less than 4.49	0.73
4.5 to 5.49	0.80
5.5 to 5.99	0.91
6.0 to 6.49	0.99
6.5 to 6.99	1.08
7.0 to 7.49	1.17
7.5 to 7.99	1.28
8.0 to 8.49	1.39
8.5 to 8.99	1.51
9.0 to 9.49	1.65
9.5 or greater	1.72

(3) See the comprehensive example in Subpart D, § 419.42(b)(3).

(c) The provisions of § 419.13(c) apply to discharges of process wastewater pollutants attributable to ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/1.

(e)Effluent Limitation for Runoff—[Reserved].

§ 419.34 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of best conventional pollutant control technology (BCT)—[Reserved]

§ 419.35 Pretreatment Standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13 any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES). The following standards apply to the

total refinery flow contribution to the POTW:

Pollutant or pollutant property	Pretreatment standards maximum for any 1 day
	(Milligrams per liter (mg/l))
Oil and grease	100
Ammonia (as N)	[1] 100

[1] Where the discharge to the POTW consists solely of sour waters, the owner or operator has the option of complying with this limit or the daily maximum mass limitation for ammonia set forth in § 419.33 (a) and (b).

§ 419.36 Standards of performance for new sources (NSPS).

(a) Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

Pollutant or pollutant property	NSPS Effluent Limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Metric units (kilograms per 1,000 m^3 of feedstock)	
BOD5	21.8	11.6
TSS	14.9	9.5
COD[1]	133.0	69.0
Oil and grease	6.6	3.5
Phenolic compounds	0.158	.077
Ammonia as N	23.4	10.7
Sulfide	0.140	0.063
Total chromium	0.32	0.19
Hexavalent chromium	0.025	0.012
pH	[2]	[2]
	English units (pounds per 1,000 bbl of feedstock)	
BOD5	7.7	4.1
TSS	5.2	3.3
COD[1]	47.0	24.0
Oil and grease	2.4	1.3
Phenolic compounds	0.056	0.027
Ammonia as N	8.3	3.8
Sulfide	0.050	0.022
Total chromium	0.116	0.068
Hexavalent chromium	0.0096	0.0044
pH	[2]	[2]

[1] See footnote following table in § 419.13(c)(2).
[2] Within the range of 6.0 to 9.0.

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor.

1,000 bbl of feedstock per stream day	Size factor
Less than 24.9	0.73
25.0 to 49.9	0.76
50.0 to 74.9	0.83
75.0 to 99.9	0.91
100.0 to 124.9	0.99
125.0 to 149.9	1.08
150.0 or greater	1.13

(2) Process factor.

Process configuration	Process factor
Less than 4.49	0.73
4.5 to 5.49	0.80
5.5 to 5.99	0.91
6.0 to 6.49	0.99
6.5 to 6.99	1.08
7.0 to 7.49	1.17
7.5 to 7.99	1.28
8.0 to 8.49	1.39
8.5 to 8.99	1.51
9.0 to 9.49	1.65
9.5 or greater	1.72

(3) See the comprehensive example in Subpart D, § 419.42(b)(3).

(c) The provisions of § 419.16(c) apply to discharges of process wastewater pollutants attributable to ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/1.

(e) Effluent Limitations for Runoff—[Reserved]

§ 419.37 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS).

(a) The following standards apply to the total refinery flow contribution to the POTW:

Pollutant or pollutant property	Pretreatment standards for new sources maximum for any 1 day
	Milligrams per liter (mg/l)
Oil and grease	100
Ammonia (as N)	[1] 100

[1] Where the discharge to the POTW consists solely of sour waters, the owner or operator has the option of complying with this limit or the daily maximum mass limitation for ammonia set forth in § 419.36 (a) and (b).

(b) The following standard is applied to the cooling tower discharge part of the total refinery flow to the POTW by multiplying: (1) The standard; (2) by the total refinery flow to the POTW; and (3) by the ratio of the cooling tower discharge flow to the total refinery flow.

Pollutant or pollutant property	Pretreatment standards for new sources maximum for any 1 day
	Miligrams per liter (mg/l)
Total chromium	1

Subpart D—Lube Subcategory

§ 419.40 Applicability; description of the lube subcategory.

The provisions of this subpart are applicable to all discharges from any facility that produces petroleum products by the use of topping, cracking, and lube oil manufacturing processes, whether or not the facility includes any process in addition to topping, cracking, and lube oil manufacturing processes. The provisions of this subpart are not applicable, however, to facilities that include the processes specified in Subparts C and E of this part.

§ 419.41 Specialized definitions.

The general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter and the specialized definitions set forth in § 419.11 shall apply to this subpart.

§ 419.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

Pollutant or pollutant property	BPT effluent limitations: Maximum for any 1 day	BPT effluent limitations: Average of daily values for 30 consecutive days shall not exceed
	Metric units (kilograms per 1,000 m^3 of feedstock)	
BOD[5]	50.6	25.8
TSS	35.6	22.7
COD[1]	360.0	187.0
Oil and grease	16.2	8.5
Phenolic compounds	0.38	0.184
Ammonia as N	23.4	10.6
Sulfide	0.33	0.150
Total chromium	0.77	0.45
Hexavalent chromium	0.068	0.030
pH	(2)	(2)
	English units (pounds per 1,000 bbl of feedstock)	
BOD5	17.9	9.1
TSS	12.5	8.0
COD[1]	127.0	66.0
Oil and grease	5.7	3.0
Phenolic compounds	0.133	0.065
Ammonia as N	8.3	3.8
Sulfide	0.118	0.053
Total chromium	0.273	0.160
Hexavalent chromium	0.024	0.011
pH	(2)	(2)

[1] See footnote following table in § 419.13(c)(2).
[2] Within the range of 6.0 to 9.0.

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor.

1,000 bbl of feedstock per stream day	Size factor
Less than 49.9	0.71
50.0 to 74.9	0.74
75.0 to 99.9	0.81
100.0 to 124.9	0.88
125.0 to 149.9	0.97
150.0 to 174.9	1.05
175.0 to 199.9	1.14
200.0 or greater	1.19

(2) Process factor.

Process configuration	Process factor
Less than 6.49	0.81
6.5 to 7.49	0.88
7.5 to 7.99	1.00
8.0 to 8.49	1.09
8.5 to 8.99	1.19
9.0 to 9.49	1.29
9.5 to 9.99	1.41
10.0 to 10.49	1.53
10.5 to 10.99	1.67
11.0 to 11.49	1.82
11.5 to 11.99	1.98
12.0 to 12.49	2.15
12.5 to 12.99	2.34
13.0 or greater	2.44

(3) Example of the application of the above factors. Example—Lube refinery 125, 000 bbl per stream day throughput.

CALCULATION OF THE PROCESS CONFIGURATION

Process category	Process included	Weighting factor
Crude	Atm crude distillation	1
	Vacuum, crude distillation	
	Desalting	
Cracking and coking.	Fluid cat. cracking	6
	Vis-breaking	
	Thermal cracking	
	Moving bed cat. cracking	
	Hydrocracking	
	Fluid coking	
	Delayed coking	
Lube	Further defined in the development document.	13
Asphalt	Asphalt production	12
	Asphalt oxidation	
	Asphalt emulsifying	

Process	Capacity (1,000 bbl per stream day)	Capacity relative to throughput	Weighting Factor	Processing configuration
Crude:				
Atm	125.0	1.0		
Vacuum	60.0	0.48		
Desalting	125.0	1.0		
Total		2.48	×1	=2.48
Cracking–FCC	41.0	0.328		
Hydrocracking	20.0	0.160		
Total		0.488	×6	=2.93
Lubes	5.3	0.042		
	4.0	0.032		
	4.9	0.039		
Total		0.113	×13	=1.47
Asphalt	4.0	0.032	×12	= .38
Refinery process configuration				=7.26

Notes:
See Table § 419.42(b)(2) for process factor. Process factor = 0.88.
See Table § 419.42(b)(1) for size factor for 125,000 bbl per stream day lube refinery. Size factor = 0.97.
To calculate the limits for each parameter, multiply the limit § 419.42(a) by both the process factor and size factor. BOD5 limit (maximum for any 1 day) = 17.9 × 0.88 × 0.97 = 15.3 lb. per 1,000 bbl of feedstock.

(c) The provisions of § 419.12(c) apply to discharges of process wastewater pollutants attributable to ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/1.

(e) Effluent Limitations for Runoff—[Reserved]

§ 419.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

Pollutant or pollutant property	BAT effluent limitations: Maximum for any 1 day	BAT effluent limitations: Average of daily values for 30 consecutive days shall not exceed
	Metric units (kilograms per	
COD[1]	360.0	187.0
Phenolic compounds	0.38	0.184
Ammonia as N	23.4	10.6
Sulfide	0.33	0.150
Total chromium	0.77	0.45
Hexavalent chromium	0.068	0.030
	English units (pounds per 1,000 bbl of feedstock)	
COD[1]	127.0	66.0
Phenolic compounds	0.133	0.065
Ammonia as N	8.3	3.8
Sulfide	0.118	0.053
Total chromium	0.273	0.160
Hexavalent chromium	0.024	0.011

[1] See footnote following table in § 419.13(c)(2).

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor.

1,000 bbl of feedstock per stream day	Size factor
Less than 49.9	0.71
50.0 to 74.9	0.74
75.0 to 99.9	0.81
100.0 to 124.9	0.88
125.0 to 149.9	0.97
150.0 to 174.9	1.05
175.0 to 199.9	1.14
200.0 or greater	1.19

(2) Process factor.

Process configuration	Process factor
Less than 6.49	0.81
6.5 to 7.49	0.88
7.5 to 7.99	1.00
8.0 to 8.49	1.09
8.5 to 8.99	1.19
9.0 to 9.49	1.29
9.5 to 9.99	1.41
10.0 to 10.49	1.53
10.5 to 10.99	1.67
11.0 to 11.49	1.82
11.5 to 11.99	1.98
12.0 to 12.49	2.15
12.5 to 12.99	2.34

Process configuration	Process factor
13.0 or greater	2.44

(3) See the comprehensive example in Subpart D, § 419.42(b)(3).

(c) The provisions of § 419.13(c) apply to discharges of process wastewater pollutants attributable to ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

(e) Effluent Limitation for Runoff—[Reserved]

§ 419.44 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT)—[Reserved]

§ 419.45 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13 any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES). The following standards apply to the total refinery flow contribution to the POTW:

Pollutant or pollutant property	Pretreatment standards for existing sources—maximum for any 1 day
	Milligrams per liter (mg/l)
Oil and grease	100
Ammonia (as N)	[1]100

[1] Where the discharge to the POTW consists solely of sour waters, the owner or operator has the option of complying with this limit or the daily maximum mass limitation for ammonia set forth in § 419.43 (a) and (b).

§ 419.46 Standards of performance for new sources (NSPS).

(a) Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

Pollutant or pollutant property	NSPS effluent limitations: Maximum for any 1 a day	NSPS effluent limitations: Average of daily values for 30 consecutive days shall not exceed
	Metric units (kilograms per 1,000 m^3 of feedstock)	
BOD5	34.8	18.4
TSS	23.4	14.9
COD [1]	245.0	126.0
Oil and grease	10.5	5.6
Phenolic compounds	0.25	0.12
Ammonia as N	23.4	10.7
Sulfide	0.220	0.10
Total chromium	0.52	0.31
Hexavalent chromium	0.046	0.021
pH	[2]	[2]
	English units (pounds per 1,000 bbl of feedstock)	
BOD [1]	12.2	6.5
TSS	8.3	5.3
COD [1]	87.0	45.0
Oil and grease	3.8	2.0
Phenolic compounds	0.088	0.043
Ammonia as N	8.3	3.8
Sulfide	0.078	0.035
Total chromium	0.180	0.105
Hexavalent chromium	0.022	0.0072
pH	[2]	[2]

[1] See footnote following table in § 419.13(c).
[2] Within the range 6.0 to 9.0.

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor.

1,000 bbl of feedstock per stream day	Size factor
Less than 49.9	0.71
50.0 to 74.9	0.74
75.0 to 99.9	0.81
100.0 to 124.9	0.88
125.0 to 149.9	0.97
150.0 to 174.9	1.05
175.0 to 199.9	1.14
200.0 or greater	1.19

(2) Process factor.

Process configuration	Process factor
Less than 6.49	0.81
6.5 to 7.49	0.88
7.5 to 7.99	1.00
8.0 to 8.49	1.09
8.5 to 8.99	1.19
9.0 to 9.49	1.29
9.5 to 9.99	1.41
10.0 to 10.49	1.53
10.5 to 10.99	1.67
11.0 to 11.49	1.82
11.5 to 11.99	1.98
12.0 to 12.49	2.15
12.5 to 12.99	2.34
13.0 or greater	2.44

(3) See the comprehensive example in Subpart D, § 419.42(b)(3).

(c) The provisions of § 419.15(c) apply to discharges of process wastewater pollutants attributable to ballast water by a point source subject to the provision of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/1.

(e) Effluent Limitations for Runoff—[Reserved].

§ 419.47 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS).

(a) The following standards apply to the total refinery flow contribution to the POTW:

Pollutant or pollutant property	Pretreatment standards for new sources, maximum for any 1 day
	Milligrams per liter (mg/l)
Oil and grease	100
Ammonia (as N)	[1]100

[1] Where the discharge to the POTW consists solely of sour waters, the owner or operator has the option of complying with this limit or the daily maximum mass limitation for ammonia set forth in § 419.46 (a) and (b).

(b) The following standard is applied to the cooling tower discharge part of the total refinery flow to the POTW by multiplying: (1) The standard; (2) by the total refinery flow to the POTW; and (3) by the ratio of the cooling tower discharge flow to the total refinery flow.

Pollutant or pollutant property	Pretreatment standards for new sources, maximum for any 1 day
	Milligrams per liter (mg/l)
Total chromium	1

Subpart E—Integrated Subcategory

§ 419.50 Applicability; description of the integrated subcategory.

The provisions of this subpart are applicable to all discharges resulting from any facility that produces petroleum products by the use of topping, cracking, lube oil manufacturing processes, and petrochemical operations, whether or not the facility includes any process in addition to topping, cracking, lube oil manufacturing processes, and petrochemical operations.

§ 419.51 Specialized definitions.

The general definitions, abbreviations, and methods of analysis set forth in Part 401 of this chapter and the specialized definitions set forth in § 419.31 shall apply to this subpart.

§ 419.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

Pollutant or pollutant property	BPT Effluent Limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Metric units (kilograms per 1,000 m^3 of feedstock)	
BOD_5	54.4	28.9
TSS	37.3	23.7
COD [1]	388.0	198.0
Oil and grease	17.1	9.1
Phenolic compounds	0.40	0.192
Ammonia as N	23.4	10.6
Sulfide	0.35	0.158
Total Chromium	0.82	0.48
Hexavalent chromium	0.068	0.032
pH	([2])	([2])
	English units (pounds per 1,000 bbl of feedstock)	
BOD [1]	19.2	10.2
TSS	13.2	8.4
COD [1]	136.0	70.0
Oil and grease	6.0	3.2
Phenolic compounds	0.14	0.068
Ammonia as N	8.3	3.8
Sulfide	0.124	0.056
Total chromium	0.29	0.17
Hexavalent chromium	0.025	0.011
pH	([2])	([2])

[1] See footnote following table in § 419.13(c).
[2] Within the range 6.0 to 9.0.

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor.

1,000 bbl of feedstock per stream day	Size factor
Less than 124.9	0.73
125.0 to 124.9	0.76
150.0 to 174.9	0.83
175.0 to 199.9	0.91
200 to 244.9	0.99
225 or greater	1.04

(2) Process factor.

Process configuration	Process factor
Less than 6.49	0.75
6.5 to 7.49	0.82
7.5 to 7.99	0.92
8.0 to 8.49	1.00
8.5 to 8.99	1.10
9.0 to 9.49	1.20
9.5 to 9.99	1.30
10.0 to 10.49	1.42
10.5 to 10.99	1.54
11.0 to 11.49	1.68
11.5 to 11.99	1.83
12.0 to 12.49	1.99
12.5 to 12.99	2.17
13.0 or greater	2.26

(3) See the comprehensive example in Subpart D, § 419.42(b)(3).

(c) The provisions of § 419.12(c) apply to discharges of process wastewater pollutants attributable to ballast water by a point source subject to the provision of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

(e) Effluent Limitations for Runoff—[Reserved]

§ 419.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30–32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

Pollutant or pollutant property	BAT Effluent Limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Metric units (kilograms per 1,000 m^3 of feedstock)	
COD [1]	388.0	198.0
Phenolic compounds	0.40	0.192
Ammonia as N	23.4	10.6
Sulfide	0.35	0.158
Total chromium	0.068	0.032
hexavalent chromium	0.068	0.032
	English units (pounds per 1,000 bbl of feedstock)	
COD [1]	136.0	70.0
Phenolic compounds	0.14	0.068
Ammonia as N	8.3	3.8
Sulfide	0.124	0.056
Total chromium	0.29	0.17
Hexavalent chromium	0.025	0.011

[1] See footnote following table in § 419.13(C).

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor.

1,000 bbl of feedstock per stream day	Size factor
Less than 124.9	0.73
125.0 to 149.9	0.76
150.0 to 174.9	0.83
175.0 to 199.9	0.91
200 to 224.9	0.99
225 or greater	1.04

2) Process factor.

Process configuration	Process factor
Less than 6.49	0.75
6.5 to 7.49	0.82
7.5 to 7.99	0.92
8.0 to 8.49	1.00
8.5 to 8.99	1.10
9.0 to 9.49	1.20
9.5 to 9.99	1.30
10.0 to 10.49	1.42
10.5 to 10.99	1.54
11.0 to 11.49	1.68
11.5 to 11.99	1.83
12.0 to 12.49	1.99
12.5 to 12.99	2.17
13.0 or greater	2.26

(3) See the comprehensive example in Subpart D, § 419.42(b)(3).

(c) The provisions of § 419.13(c) apply to discharges of process wastewater pollutants attributable to ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

(e) Effluent Limitations for Runoff—[Reserved].

§ 419.54 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT)—[Reserved]

§ 419.55 Pretreatment standards for existing sources (PSES)

Except as provided in 40 CFR 403.7 and 403.13 any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR 403 and achieve the following pretreatment standards for existing sources (PSES). The following standards apply to the total refinery flow contribution to the POTW:

Pollutant or pollutant property	Pretreatment standards for existing sources—maximum for any 1 day
	Milligrams per liter (mg/l)
Oil and grease	100
Ammonia (as N)	[1]100

[1] Where the discharge to the POTW consists solely of sour waters, the owner or operator has the option of complying with this limit or the daily maximum mass limitation for ammonia set forth in § 419.53 (a) and (b).

§ 419.56 Standards of performance for new sources (NSPS).

(a) Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

Pollutant or pollutant property	NSPS effluent limitation	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Metric units (kilograms per 1,000 m^3 of feedstock)	
BOD5	41.6	22.1
TSS	28.1	17.9
COD [1]	295.0	152.0
Oil and grease	12.6	6.7
Phenolic compounds	0.30	0.14
Ammonia as N	23.4	10.7
Sulfide	0.26	0.12
Total chromium	0.64	0.37
Hexavalent chromium	0.052	0.024
pH	[2]	[2]
	English units (pounds per 1,000 bbl of feedstock)	
BOD5	14.7	7.8
TSS	9.9	6.3
COD [1]	104.0	54.0
Oil and grease	4.5	2.4
Phenolic compounds	0.105	0.051
Ammonia as N	8.3	3.8
Sulfide	0.093	0.042
Total chromium	0.220	0.13
Hexavalent chromium	0.019	0.0084
pH	[2]	[2]

[1] See footnote following table in § 419.13(c).
[2] Within the range 6.0 to 9.0.

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor.

1,000 bbl of feedstock per stream day	Size factor
Less than 124.9	0.73
125.0 to 149.9	0.76
150.0 to 174.9	0.83
175.0 to 199.9	0.91
200 to 224.9	0.99
225 or greater	1.04

(2) Process factor.

Process configuration	Process factor
Less than 6.49	0.75
6.5 to 7.49	0.82
7.5 to 7.99	0.92
8.0 to 8.49	1.00
8.5 to 8.99	1.10
9.0 to 9.49	1.20
9.5 to 9.99	1.30
10.0 to 10.49	1.42
10.5 to 10.99	1.54
11.0 to 11.49	1.68
11.5 to 11.99	1.83
12.0 to 12.49	1.99
12.5 to 12.99	2.17
13.0 or greater	2.26

(3) See the comprehensive example in Subpart D, § 419.42(b)(3).

(c) The provisions of § 419.15(c) apply to discharges of process wastewater pollutants attributable to ballast water by a point source subject to the provision of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

(e) Effluent Limitations for Runoff—[Reserved].

§ 419.57 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS).

(a) The following standards apply to the total refinery flow contribution to the POTW:

Pollutant or pollutant property	Pretreatment standards for new sources—maximum for any 1 day
	Milligrams per liter (mg/l)
Oil and grease	100
Ammonia (as N)	[1]100

[1] Where the discharge to the POTW consists solely of sour waters, the owner or operator has the option of complying with this limit or the daily maximum mass limitation for ammonia set forth in § 419.56 (a) and (b).

(b) The following standard is applied to the cooling tower discharge part of the total refinery flow to the POTW by multiplying: (1) The standards; (2) by the total refinery flow to the POTW; and (3) by the ratio of the cooling tower discharge flow to the total refinery flow.

Pollutant or pollutant property	Pretreatment standards for new sources—maximum for any 1 day
	Milligrams per liter (mg/1)
Total chromium	1

[FR Doc. 82-28206 Filed 10-15-82; 8:45 am]
BILLING CODE 6560-50-M

federal register

Monday
October 18, 1982

Part III

Department of the Interior

Minerals Management Service
Office of the Secretary

Outer Continental Shelf; Gulf of Mexico; Oil and Gas Lease Sale No. 69

UNITED STATES
DEPARTMENT OF THE INTERIOR
Minerals Management Service
Outer Continental Shelf
Gulf of Mexico

Oil and Gas Lease Sale No. 69
(Partial Offering)

1. Authority. This notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331-1343), as amended, (92 Stat. 629), and the regulations issued thereunder (43 CFR Part 3300). A revision of 43 CFR 3300 appeared in the Federal Register of June 16, 1982, at 47 FR 26031 and 25967.

2. Filing of Bids. Sealed bids will be received by the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, by mail, at P. O. Box 7944, Metairie, Louisiana 70010; or, if delivered in person, at 434 Imperial Office Building, 3301 North Causeway Boulevard, Metairie, Louisiana 70002. Bids may be delivered to the above addresses until 4:15 p.m., November 16, 1982, or by personal delivery to the Louisiana Superdome, Gate "A", Hyatt Ramp, Level 200, Rooms 19 and 20, 1500 Poydras St., New Orleans, Louisiana, between the hours of 8:30 a.m., c.s.t., and 9:30 a.m., c.s.t., November 17, 1982. Bids received by the Minerals Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Minerals Manager prior to 9:30 a.m., c.s.t., November 17, 1982. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in the Federal Register on October 6, 1982.

3. Method of Bidding. A separate bid must be submitted for each tract. Each bid must be placed in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10:00 a.m., c.s.t., November 17, 1982." A suggested bid form appears in 43 CFR Part 3300, Appendix A, for bonus bid tracts. Bidders are advised that tract numbers are assigned solely for administrative purposes and that tract numbers are not the same as block numbers found on leasing maps or official protraction diagrams. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft, or certified check, payable to the order of the Minerals Management Service. No bid for less than a full tract as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places after the decimal point, e.g., 50.12345 percent. Other documents may be required of bidders under 43 CFR 3316.4. Partnerships also need to submit a list of signatories authorized to bind the partnership. All documents must be executed in conformance with signatory authorizations on file. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination of intimidation of bidders.

4. Bidding Systems. All leases awarded for this sale will provide for a yearly rental payment of $3 per acre or fraction thereof. The following systems will be utilized:

(a) Bonus Bidding with a Fixed Net Profit Share: Bids on tracts 69-148, 69-149, and 69-270 must be sumbitted on a cash bonus basis with a fixed net profit share rate of 40 percent and a capital recovery factor of 1.00. The net profit share payment shall be calculated according to regulations currently codified in 10 CFR 390.

(b) Bonus Bidding with a 12½ Percent Royalty: Bids on tracts 69-133 through 69-147, and 69-150 through 69-153, must be submitted on a cash bonus basis with a fixed royalty of 12½ percent. All leases awarded under this system will provide for a minimum annual royalty payment of $3 per acre or fraction thereof.

(c) Bonus Bidding with a 16 2/3 Percent Royalty: Bids on the remaining tracts to be offered at this sale must be submitted on a cash bonus bid basis with a fixed royalty of 16 2/3 percent. All leases awarded under this system will provide for a minimum royalty payment of $3 per acre or fraction thereof.

5. Equal Opportunity. Each bidder must have submitted by 9:30 a.m., c.s.t., November 17, 1982, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (June 1982) and the Affirmative Action Representation Form, Form 1140-7 (June 1982). See Item 14, "Information to Lessees."

6. Bid Opening. Bids will be opened on November 17, 1982, beginning at 10:00 a.m., c.s.t., at the last address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing bids received, and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, November 17, 1982, that bid will be returned unopened to the bidder, as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited by the Government in a suspense account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Tracts. The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for the tract.

9. Acceptance or Rejection of Bids. The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) the bidder has complied with all requirements of this notice and applicable regulations;

(b) the bid is the highest valid bid; and

(c) the amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bonus bid will be considered for acceptance unless it provides for a cash bonus in the amount of $150 or more per acre or fraction thereof.

10. Successful Bidders. Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus together with the first year's annual rental, and satisfy the bonding requirements of 43 CFR Subpart 3318 within the time provided in 43 CFR 3316.5. A modification of the payments procedure for successful bidders appears in the revision of regulations discussed in paragraph 1, above. These changes do not apply to the submission of the one-fifth bonus with bids, described in paragraph 3, above.

11. Leasing Maps/Official Protraction Diagrams. Tracts offered for lease may be located on the following leasing maps/official protraction diagrams which are available from the Minerals Manager, Gulf of Mexico

OCS Region at the first address stated in paragraph 2.

(a) Outer Continental Shelf Leasing Maps - Texas Nos. 1 through 8. These maps are arranged in two sets, Nos. 1 through 4 (7 maps), which sell for $5 per set; and Nos. 5 through 8 (9 maps), which sell for $7 per set.

(b) Outer Continental Shelf Leasing Maps - Louisiana Nos. 1 through 12. This is a set of 27 maps which sells for $17.

(c) Outer Continental Shelf Official Protraction Diagrams:

NH 16-10 Mississippi Canyon

NG 15-2 Garden Banks

NG 15-3 Green Canyon

NG 14-6 Port Isabel

These sell for $2 each.

12. Tract Descriptions. The tracts offered for bids are as follows:

Note: There may be gaps in the numbers of the tracts listed. Some of the blocks identified in the final environmental impact statement may not be included in this notice for various reasons, including the reason that this is only a partial offering of OCS Sale No. 69 tracts proposed for leasing. Some or all of the remainder of the OCS Sale No. 69 tracts proposed for leasing may be offered for leasing at a later time, to complete the OCS Sale No. 69 lease-sale process. Some of the blocks are included in prior environmental impact statements rather than the environmental impact statement for this sale.

PROPOSED TRACT LIST
OCS SALE 69

OCS LEASING MAP, SOUTH PADRE ISLAND AREA, TEXAS MAP NO. 1
(Approved July 16, 1954)

Tract	Block	Description	Acreage
69-1	1027	1/	1640
69-2	1028	All	5760
69-3	(1043		
	(1044	1/	5670
69-4	1049	1/	3825
69-5	1063	All	5760
69-6	1064	1/	2176
69-7	1069	1/	591.56
69-8	1070	1/	5746

OCS LEASING MAP, NORTH PADRE ISLAND AREA
TEXAS MAP NO. 2
(Approved July 16, 1954)

Tract	Block	Description	Acreage
69-9	949	All	5760
69-10	954	All	5760
69-11	999	All	5760
69-12	1000	All	5760
69-13	1007	1/	5460
69-14	1008	All	5760
69-15	1021	All	5760
69-16	1022	1/	3675

OCS LEASING MAP, MUSTANG ISLAND AREA, TEXAS MAP NO. 3
(Approved July 16, 1954; Revised October 30, 1961)

Tract	Block	Description	Acreage
69-17	A-2	All	5760
69-18	A-15	All	5760
69-19	A-17	All	5760
69-20	A-18	All	5760
69-21	A-25	All	5760

OCS LEASING MAP, MATAGORDA ISLAND AREA, TEXAS MAP NO. 4
(Approved July 16, 1954)

Tract	Block	Description	Acreage
69–22	518	1/	5675
69–23	666	All	5760
69–24	682	All	5760
69–25	688	All	5760
69–26	A-3	All	5760

OCS LEASING MAP, BRAZOS AREA, TEXAS MAP NO. 5
(Approved July 16, 1954)

Tract	Block	Description	Acreage
69–27	517	All	5760
69–28	577	All	5760
69–29	A-15	All	5760
69–30	A-16	All	5760

OCS LEASING MAP, BRAZOS AREA, SOUTH ADDITION, TEXAS MAP NO. 5B
(Approved September 24, 1959)

Tract	Block	Description	Acreage
69–31	A-73	All	5760
69–32	A-74	All	5760

OCS LEASING MAP GALVESTON AREA, TEXAS MAP NO. 6
(Approved July 16, 1954)

Tract	Block	Description	Acreage
69–33	151	2/	4803.90
69–34	181	All	5760
69–35	189	3/	1815
69–36	A-3	All	5760
69–37	A-10	All	5760

OCS LEASING MAP, HIGH ISLAND AREA, EAST ADDITION, TEXAS MAP NO. 7A
(Approved January 23, 1967; Revised October 19, 1981)

Tract	Block	Description	Acreage
69–38	45	All	4367.10
69–39	A-184	All	2919.68

OCS LEASING MAP, HIGH ISLAND AREA, SOUTH ADDITION, TEXAS MAP NO. 7B
(Approved September 24, 1959)

Tract	Block	Description	Acreage
69–40	A-577	All	5760
69–41	A-592	All	5760
69–42	A-593	All	5760

OCS LEASING MAP, HIGH ISLAND AREA, EAST ADDITION, SOUTH EXTENSION, TEXAS MAP NO. 7C
(Approved September 24, 1959; Revised October 19, 1981)

Tract	Block	Description	Acreage
69–43	A-295	All	5760
69–44	A-296	All	5760
69–45	A-306	All	5760
69–46	A-308	All	5760

OCS LEASING MAP, WEST CAMERON AREA, LOUISIANA MAP NO. 1
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
69–47	202	All	5000
69–48	236	All	5000
69–49	248	All	5000
69–50	250	All	5000
69–51	252	All	5000

OCS LEASING MAP, WEST CAMERON AREA, WEST ADDITION, LOUISIANA MAP NO. 1A
(Approved November 15, 1955; Revised January 30, 1957; Revised October 19, 1981)

Tract	Block	Description	Acreage
69–52	338	All	4034.34

OCS LEASING MAP, WEST CAMERON AREA, SOUTH ADDITION, LOUISIANA MAP NO. 1B
(Approved September 8, 1959; Revised October 19, 1981)

Tract	Block	Description	Acreage
69–53	466	All	5000
69–54	474	All	5000
69–55	475	All	5000
69–56	566	All	5000
69–57	570	All	5000
69–58	588	All	5000

OCS LEASING MAP, EAST CAMERON AREA, LOUISIANA MAP NO. 2
(Approved June 8, 1954; Revised August 1, 1973)

Tract	Block	Description	Acreage
69–59	35	All	5000
69–60	36	All	5000
69–61	230	All	5000

OCS LEASING MAP, EAST CAMERON AREA, SOUTH ADDITION, LOUISIANA MAP NO. 2A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
69–62	241	All	5000
69–63	242	All	5000
69–64	303	All	5000

OCS LEASING MAP, VERMILION AREA, LOUISIANA MAP NO. 3
(Approved June 8, 1954; Revised June 25, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
69–65	32	All	5000
69–66	70	All	5000
69–67	114	All	5000
69–68	115	All	5000
69–69	116	All	5000
69–70	128	All	5000
69–71	129	All	5000
69–72	225	W½NE¼; W½; W½SE¼; SE¼SE¼	4062.50
69–73	226	NE¼NE¼; E½NW¼NE¼; S½NE¼; E½SE¼NW¼; E½NE¼SW¼; S½SW¼; SE¼	3281.25

OCS LEASING MAP, VERMILION AREA, SOUTH ADDITION, LOUISIANA MAP NO. 3B
(Approved September 8, 1959)

Tract	Block	Description	Acreage
69–74	332	All	5000

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, LOUISIANA MAP NO. 3A
(Approved August 7, 1959)

Tract	Block	Description	Acreage
69–75	19	All	5000
69–76	20	All	5000

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, SOUTH ADDITION, LOUISIANA MAP NO. 3C
(Approved September 8, 1959)

Tract	Block	Description	Acreage
69–77	147	All	5000
69–78	158	All	2715.55
69–79	159	All	2692.87

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, NORTH ADDITION, LOUISIANA MAP NO. 3D
(Approved April 16, 1971; Revised January 18, 1972)

Tract	Block	Description	Acreage
69–80	280	All	5000

OCS LEASING MAP, EUGENE ISLAND AREA, LOUISIANA MAP NO. 4
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
69–81	83	All	5000
69–82	84	All	5000

OCS LEASING MAP, EUGENE ISLAND AREA, SOUTH ADDITION, LOUISIANA MAP NO. 4A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
69–83	298	All	5000
69–84	347	All	5000
69–85	393	All	5000

OCS LEASING MAP, SHIP SHOAL AREA, LOUISIANA MAP NO. 5
(Approved June 8, 1954)

Tract	Block	Description	Acreage
69–86	134	All	5000
69–87	164	All	4981.68
69–88	188	All	5027.24
69–89	210	All	5000
69–90	211	All	5050.02

OCS LEASING MAP, SHIP SHOAL AREA, SOUTH ADDITION, LOUISIANA MAP NO. 5A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
69–91	356	All	5000

OCS LEASING MAP, SOUTH TIMBALIER AREA, LOUISIANA MAP NO. 6
(Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954)

Tract	Block	Description	Acreage
69–92	94	All	5000

OCS LEASING MAP, SOUTH TIMBALIER AREA, SOUTH ADDITION, LOUISIANA MAP NO. 6A
(Approved September 8, 1959; Revised July 22, 1968)

Tract	Block	Description	Acreage
69–93	251	All	5000
69–94	262	All	5000
69–95	263	All	5000
69–96	264	All	5000
69–97	266	All	3772.18

OCS LEASING MAP, GRAND ISLE AREA, LOUISIANA MAP NO. 7
(Approved June 8, 1954)

Tract	Block	Description	Acreage
69–98	62	All	4539.89
69–99	73	All	4539.89

OCS LEASING MAP, WEST DELTA AREA, SOUTH ADDITION, LOUISIANA MAP NO. 8A
(Approved September 8, 1959; Revised November 24, 1961)

Tract	Block	Description	Acreage
69–100	113	All	5000
69–101	123	All	5000
69–102	124	All	5000

OCS OFFICIAL PROTRACTION DIAGRAM, MISSISSIPPI CANYON NH 16-10
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
69–132	310	All	5760
69–133	662	All	5760
69–134	663	All	5760
69–135	706	All	5760
69–136	707	All	5760
69–137	750	All	5760
69–138	751	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, GARDEN BANKS NG 15-2
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
69–139	286	All	5760
69–140	287	All	5760
69–141	327	All	5760
69–142	328	All	5760
69–143	330	All	5760
69–144	371	All	5760
69–145	372	All	5760
69–146	416	All	5760
69–147	417	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, GREEN CANYON NG 15-3
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
69–148	104	All	5760
69–149	105	All	5760
69–150	914	All	5760
69–151	915	All	5760
69–152	958	All	5760
69–153	959	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, PORT ISABEL NG 14-6
(Approved June 5, 1974; Revised January 27, 1976)

Tract	Block	Description	Acreage
69–154	33	All	5760
69–155	77	All	5760
69–156	120	All	5760
69–157	121	All	5760
69–158	164	All	5760

OCS LEASING MAP, HIGH ISLAND AREA, TEXAS MAP NO. 7
(Approved July 16, 1954; Revised August 1955)

Tract	Block	Description	Acreage
69–248	20	1/	3515

OCS LEASING MAP, HIGH ISLAND AREA, SOUTH ADDITION, TEXAS MAP NO. 7B
(Approved September 24, 1959)

Tract	Block	Description	Acreage
69–249	A-565	All	5760

OCS LEASING MAP, WEST CAMERON AREA, WEST ADDITION, LOUISIANA MAP NO. 1A
(Approved November 15, 1955, Revised January 30, 1957; Revised October 19, 1981)

Tract	Block	Description	Acreage
69–250	289	All	5000

OCS LEASING MAP, VERMILION AREA, LOUISIANA MAP NO. 3
(Approved June 8, 1954; Revised June 25, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
69–251	17	4/	1723.58
69–252	145	All	5000
69–253	158	All	5000

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, SOUTH ADDITION, LOUISIANA MAP NO. 3C
(Approved September 8, 1959)

Tract	Block	Description	Acreage
69–254	77	All	5000
69–255	176	All	5000

OCS LEASING MAP, EUGENE ISLAND AREA, LOUISIANA MAP NO. 4
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
69–256	28	All	5000

OCS LEASING MAP, SHIP SHOAL AREA, LOUISIANA MAP NO. 5
(Approved June 8, 1954)

Tract	Block	Description	Acreage
69–257	38	4/	2149.94

OCS LEASING MAP, SHIP SHOAL AREA, SOUTH ADDITION, LOUISIANA MAP NO. 5A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
69–258	277	All	5000

OCS LEASING MAP, SOUTH TIMBALIER AREA, SOUTH ADDITION, LOUISIANA MAP NO. 6A
(Approved September 8, 1959; Revised July 22, 1968)

Tract	Block	Description	Acreage
69–259	225	All	5000
69-260	314	All	5000

OCS LEASING MAP, WEST DELTA AREA, LOUISIANA MAP NO. 8
(Approved June 8, 1954)

Tract	Block	Description	Acreage
69–261	78	All	5000

OCS OFFICIAL PROTRACTION DIAGRAM, GREEN CANYON NG 15-3
(Approved February 15, 1973, Revised December 2, 1976)

Tract	Block	Description	Acreage
69-270	143	All	5760

FOOTNOTES

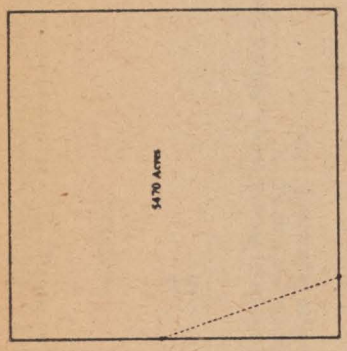
1/ That portion of the lease block seaward of the Three Marine League Line.

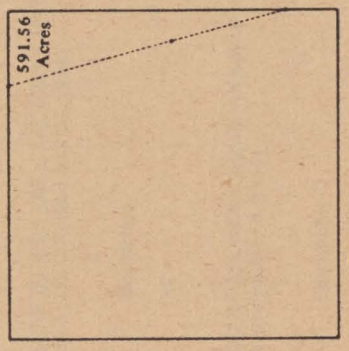
2/ That portion of the lease block seaward of the Three Marine League Line measured from the historic shoreline described in the United States vs. Louisiana, No. 9 Original (394 U.S. 836).

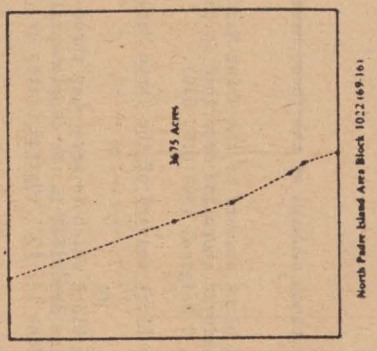
3/ That portion of the lease block seaward of the Three Marine League Line, excluding the SE¼.

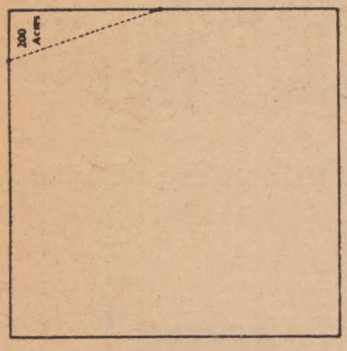
4/ That portion of the lease block which is more than three geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, June 16, 1975 (United States vs. Louisiana, 422 U.S. 13).

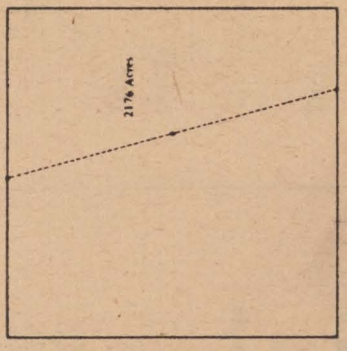
Representation of Configuration of Tracts Indicated (Not to Scale)

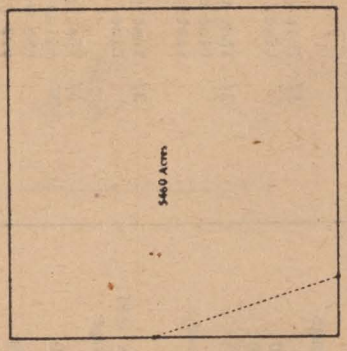


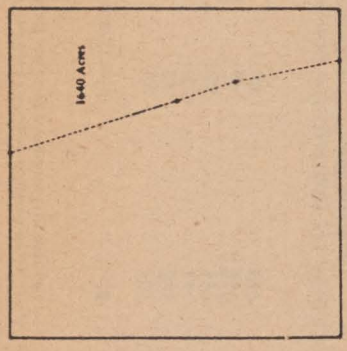


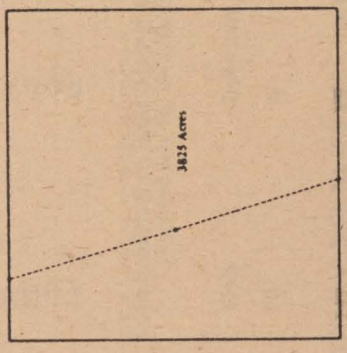


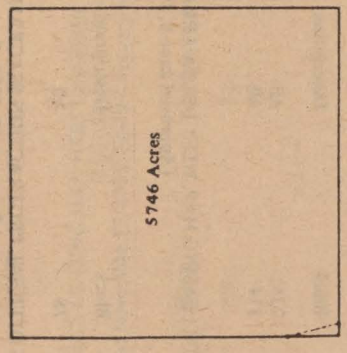




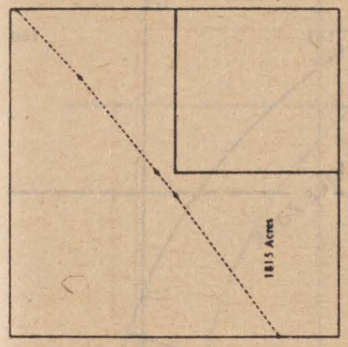




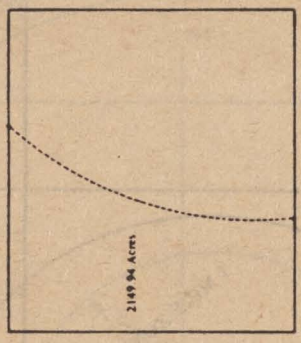




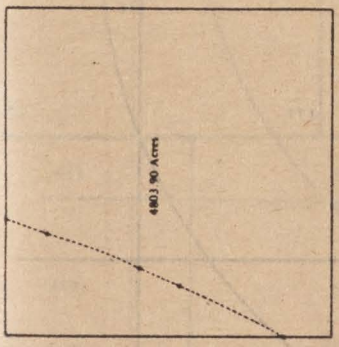
Representation of Configuration of Tracts Indicated (Not to Scale)



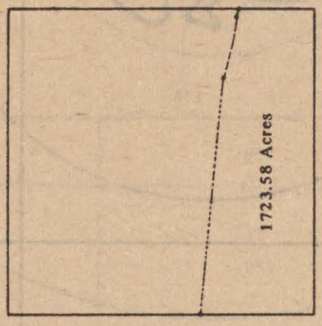
Galveston Area Block 189 (69-35)



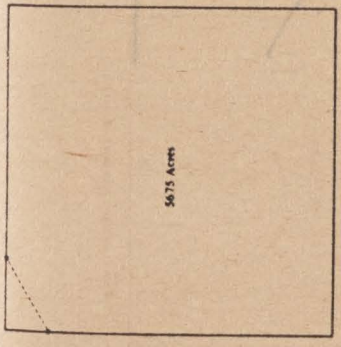
Ship Shoal Area Block 38 (69-257)



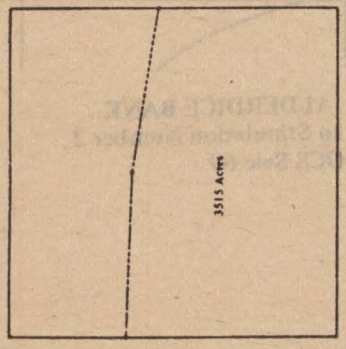
Galveston Area Block 151 (69-33)



Vermilion Area Block 17 (69-251)



Matagorda Island Area Block 518 (69-22)



High Island Area Block 20 (69-248)

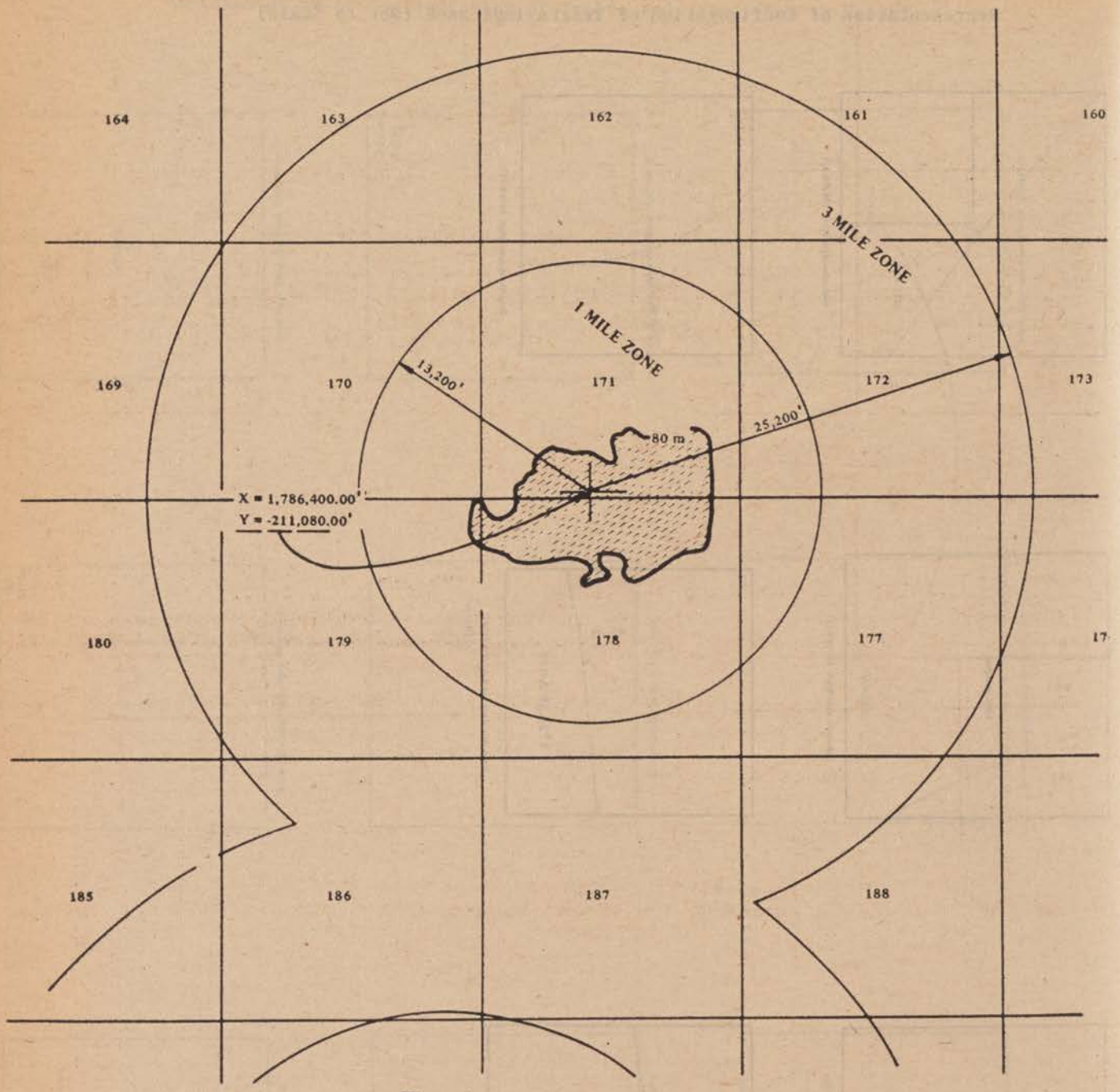


Figure 1. ALDERDICE BANK
Attachment to Stipulation Number 2
OCS Sale 69

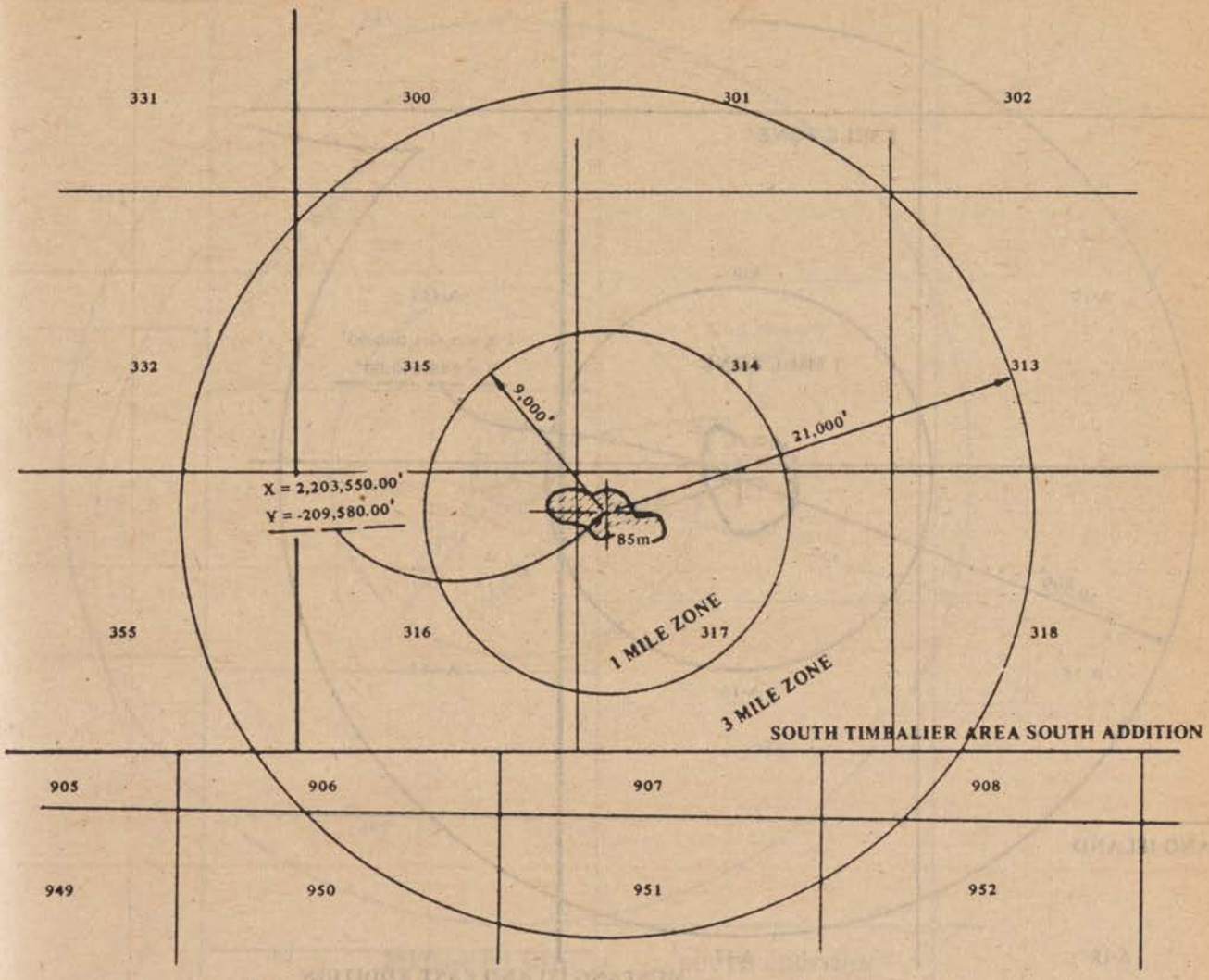


Figure 2. DIAPHUS BANK
Attachment to Stipulation Number 3
OCS Sale 69

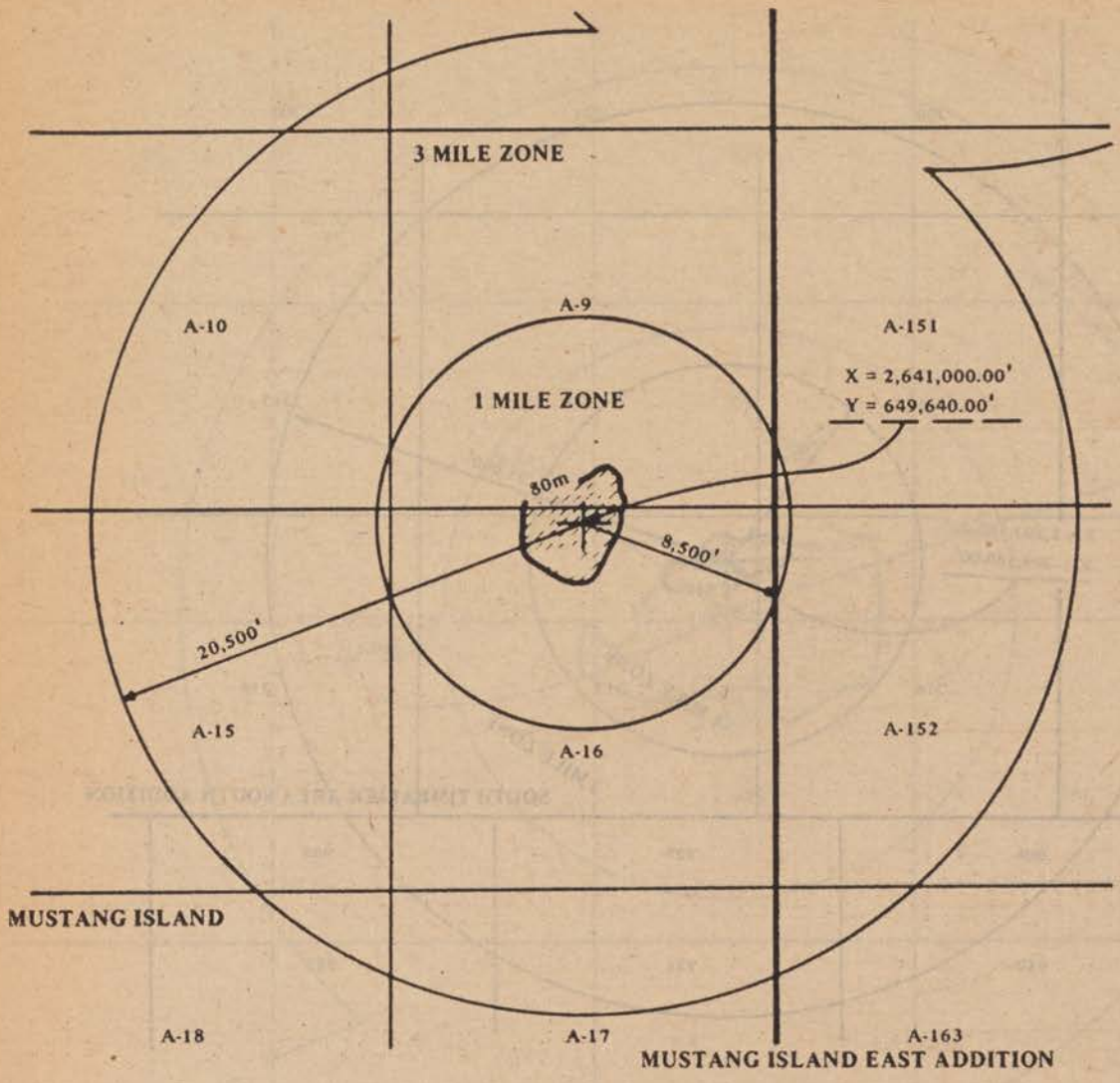


Figure 3. SOUTHERN BANK
Attachment to Stipulation Number 4
OCS Sale 69

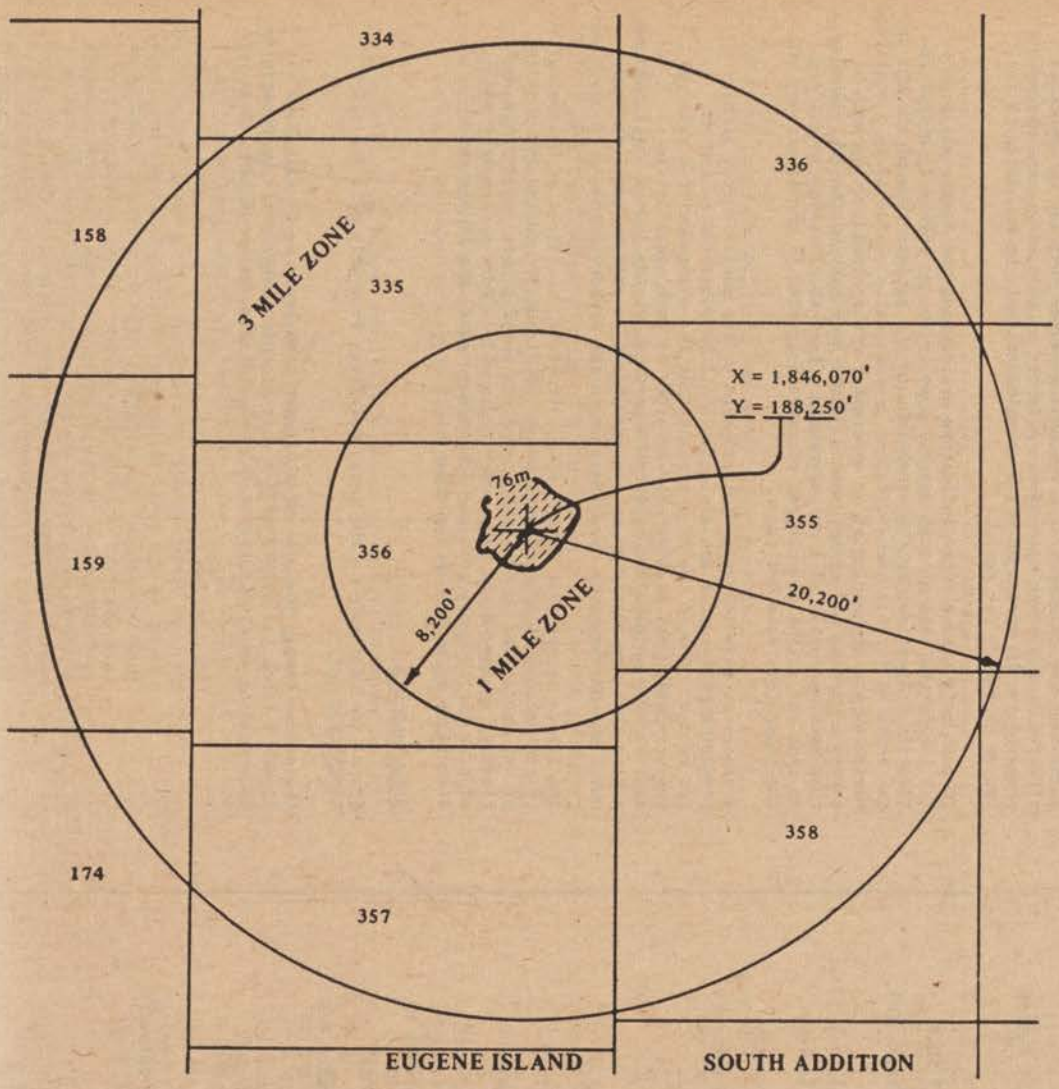


Figure 4. FISHNET BANK
Attachment to Stipulation Number 5
OCS Sale 69

13. Lease Terms and Stipulations.

(a) Leases resulting from this sale for tracts 69-150, 69-151, 69-152 and 69-153 will be for an initial term of 10 years. All other leases issued as a result of this sale will be for an initial term of 5 years. Leases issued as a result of this sale will be on Form 3300-1 (September 1978), revised to change references from "Bureau of Land Management" and "United States Geological Survey" to "Minerals Management Service," available from the Minerals Manager, Gulf of Mexico OCS Region at the first address stated in paragraph 2.

(b) For leases resulting from this sale for tracts offered on a cash bonus basis with a fixed net profit share, listed in paragraph 4(a), Form 3300-1 will be amended as follows:

Sec. 4 Rentals. The phrase "which commences prior to a discovery in paying quantities of oil or gas on the leased area" is hereby deleted and replaced by "which commences prior to the date the first net profit share payment becomes due."

Sec. 5. Minimum Royalty. Hereby deleted.

Sec. 6 Royalty on Production. Hereby replaced by Net Profit Share. The lessee agrees to pay a net profit share rate of 40 percent with 1.00 capital recovery factor, calculated pursuant to 10 CFR 390.

(c) Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale. In the following stipulations the term MM refers to Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service (MMS).

Stipulation 1

If the MM, has reason to believe that a site, structure, or object of historical or archaeological significance hereinafter referred to as "cultural resource," may exist in the lease area, and gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements.

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including, but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation," the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine survey archaeologist to determine if indications are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archaeologist shall be submitted by the lessee to the MM for review.

If such cultural resource indicators are present the lessee shall: (a) locate the site of such operation so as not to adversely affect the identified location; or (b) establish, to the satisfaction of the MM, on the basis of further archaeological investigation conducted by a qualified marine survey archaeologist or underwater archaeologist using such survey equipment and techniques as deemed necessary by the MM, either that such operation will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archaeologist or underwater archaeologist shall be submitted to the MM for review. Should the MM determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the MM has given directions as to its preservation.

The lessee agrees that if any site, structure, or object of historical or archaeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the MM and make every reasonable effort to preserve and protect the cultural resource from damage until the MM has given directions as to its preservation.

Stipulation 2

(To be included only in the lease resulting from this sale for tract 69-255.)

Operations within the area of Alderdice Bank shown as "3 Mile Zone" in Figure 1 (attached to and made a part of this lease) shall be restricted as specified in either (a) or (b) below at the option of the lessee.

(a) All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

(b) The operator (lessee) shall submit a monitoring plan. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified, independent scientific personnel and that these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the MM on a schedule established by the MM, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank are being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the MM shall require shunting as specified in (a) above or other appropriate operational restrictions.

Stipulation 3

(To be included only in the lease resulting from this sale for tract 69-260.)

(a) Operations within the area of Diaphus Bank shown as "1 Mile Zone" in Figure 2 (attached to and made a part of this lease) shall be restricted by shunting all drill cuttings and drilling fluids to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

(b) Operations within the area of Diaphus Bank shown as "3 Mile Zone" in Figure 2 shall be restricted as specified in either (1) or (2) below at the option of the lessee.

(1) All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

(2) The operator (lessee) shall submit a monitoring plan. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified, independent scientific personnel and these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the MM on a schedule established by the MM, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank are being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the MM shall require shunting as specified in (1) above or other appropriate operational restrictions.

Stipulation 4

(To be included only in leases resulting from this sale for tracts 69-18, 69-19, and 69-20.)

(a) Operations within the area of Southern Bank shown as "1 Mile Zone" in Figure 3 (attached to and made a part of this lease) shall be restricted by shunting all drill cuttings and drilling fluids to the bottom through a downpipe that terminates an appropriate distance, but no more than six meters, from the bottom.

(b) All production and development operations within the areas shown as "3 Mile Zone" in Figure 3 shall be restricted by shunting all drill cuttings and drilling fluids to the bottom through a downpipe that terminates an appropriate distance, but no more than six meters, from the bottom.

Stipulation 5

(To be included only in leases resulting from this sale for tracts 69-78 and 69-79.)

Operations within the area of Fishnet Bank shown as "3 Mile Zone" in Figure 4 (attached to and made a part of this lease) shall be restricted as specified in either (1) or (2) below at the option of the lessee.

(1) All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

(2) The operator (lessee) shall submit a monitoring plan. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified, independent scientific personnel and that these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the MM on a schedule established by the MM or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings present no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank are being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the MM shall require shunting as specified in (1) above or other appropriate operational restrictions.

Stipulation 6

(To be included only in leases resulting from this sale for tracts 69-132 through 69-147, 69-149 through 69-158, and 69-270.)

All or portions of this tract may be subject to mass-movement of sediments, unstable slopes, active faulting or gaseous sediments. Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas and the emplacement of pipelines will not be allowed within the potentially unstable portions of this lease block unless or until the lessee has demonstrated to the Minerals Manager's satisfaction that mass movement of sediments is unlikely or that exploratory drilling operations, structures (platforms), casing, wellheads and pipelines can be safely designed to protect the environment in case such mass movement occurs at the proposed location. This may necessitate that all exploration for and development of oil or gas be performed from locations outside of the area of unstable sediments, either within or outside of this lease block. If exploratory drilling operations are allowed, site-specific surveys shall be conducted to determine the potential for slumping and mass movement of sediments. If emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas is allowed, all slump blocks or mass movement of sediment in the lease block must be mapped. The Minerals Manager may also require soil testing before exploration and production operations are allowed.

Stipulation 7

(To be included only in leases resulting from this sale for tracts listed below.)

Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occur in, on, or above the Outer Continental Shelf, to any persons or to any property of any person or persons who are agents, employees, or invitees of the lessee, its agents, independent contractors, or subcontractors doing business with the lessee in connection with any activities being performed by lessee in, on, or above the Outer Continental Shelf if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. government, its contractors or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with the programs and activities of the appropriate military installation, listed below.

Notwithstanding any limitation of the lessee's liability in Sec. 14 of the lease form, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against, all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents, or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installation whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under a theory of strict or absolute liability, or otherwise.

The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors, or subcontractors emanating from individual designated defense warning areas in accordance with requirements specified by the commander of the appropriate military installation to the degree necessary to prevent damage to, or unacceptable interference with, Department of Defense flight, testing, or operational activities, conducted within designated warning areas.

Necessary monitoring control, and coordination with the lessee, its agents, employees, invitees, independent contractors, or subcontractors, will be effected by the commander of the appropriate onshore military installation conducting operations in the particular warning area, provided, however, that control of such electromagnetic emissions shall in no instance prohibit all manner of electromagnetic communication during any period of time between a lessee, its agents, employees, invitees, independent contractors, or subcontractors and onshore facilities.

The lessee when operating or causing to be operated on its behalf boat or aircraft traffic into the individual designated warning areas shall enter into an agreement with the commander of the appropriate military installation on utilizing an individual designated warning area prior to commencing such traffic. Such agreement will provide for positive control of boats and aircraft operating in the warning areas at all times.

The appropriate military installations and affected tracts are:

(1) Naval Air Training Command
Naval Air Station
Corpus Christi, Texas 78419
(Tracts 69-1 through 69-21; 69-23 through 69-26; 69-154 through 69-158.)

(2) Director of Training
Deputy Chief of Staff, Operations
Headquarters Strategic Air Command
Offutt Air Force Base, Nebraska 68113
(Tracts 69-40 through 69-42; and 69-249.)

(3) Naval Air Station
New Orleans, Louisiana 70146
(Tracts 69-150 through 69-153; and 69-260.)

Stipulation 8

(To be included only in the leases resulting from this sale for the net profit share tracts listed in paragraph 4(a) of this notice.)

The net profit share payment specified in Section 6 of this lease may be satisfied in whole or in part by the lessor taking production in amount rather than in value. However, not more than 16 2/3 percent of the production from the lease area may be taken in amount, except as provided in Section 15 (d). The net profit share obligations of the lessee shall be calculated to include as a credit, the value of production taken in amount by the lessor.

14. Information to Lessees. The Department of the Interior will seek the advice of the States of Texas and Louisiana, and other Federal agencies, to identify areas of special concern which might require appropriate protective measures for live bottom areas and areas which might contain cultural resources.

If it is determined that live bottom areas might be adversely affected by the proposed activities, then the Minerals Manager, Gulf of Mexico OCS Region, MMS, after appropriate consultation with the Regional Director, U.S. Fish & Wildlife Service; the States; the Environmental Protection Agency (EPA); and other Federal agencies with jurisdiction and expertise to protect the environment, will require the lessee, pursuant to Section 5(a) of the OCS Lands Act of 1953, as amended, to undertake any measures to protect live bottom areas.

Operations on some of the tracts offered for lease may be restricted by designation of fairways, precautionary zones, or traffic separation schemes established by the Coast Guard pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et. seq.), as amended. Corps of Engineers permits are required for construction of any artificial islands, installations, and other devices permanently or temporarily attached to the seabed located on the OCS in accordance with Section 4(e) of the OCS Lands Act, as amended.

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding, dated May 6, 1976, concerning the design, installation, operation, and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

Bidders are advised that in accordance with Section 16 of each lease offered at this sale, the lessor may require a lessee to operate under a unit, pooling, or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate or a net profit share payment.

For those tracts listed in paragraph 13(a) above providing for leases with an initial period of more than 5 years, bidders are advised that pursuant to 30 CFR 250.34-1(a)(3), the lessee shall submit to MMS either an exploration plan, or a general statement of exploration intention prior to the end of the ninth lease year.

Bidders on Tract 69-8 are advised that this tract contains an artificial fishing reef permitted by the Corps of Engineers.

The permitted area comprises less than one percent of the tract. Oil and gas lessees should exercise due diligence while operating near this reef structure.

Revisions of Department of Labor regulations on Affirmative Action requirements for Government Contractors (including lessees) have been deferred, pending review of those regulations (see Federal Register of August 25, 1981, at 46 FR 42865 and 42968). Should those changes become effective at any time before the issuance of leases resulting from this sale, Section 18 of the lease form, Form 3300-1 (September 1978), would be deleted from leases resulting from this sale. In addition, existing stocks of the Affirmative Action Forms described in paragraph 5 of this notice contain language that would be superseded by the revised regulations at 41 CFR 60-1.5(a)(1) and 60-1.7(a)(1).

Pending the issuance of revised versions of Forms 1140-7 and 1140-8, submission of Form 1140-7 (June 1982) and Form 1140-8 (June 1982) will not invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing Affirmative Action Forms.

15. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Gulf of Mexico OCS Orders, as of their effective dates, and any other applicable OCS Order as it becomes effective.

Acting Director, Minerals Management Service
Robert E. Boldt

Date: 10/13/82

Approved

Donald Paul Hodel

cting Secretary of the Interior
Donald Paul Hodel

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Gulf of Mexico

Notice of Leasing Systems, Sale No. 69
(Partial Offering)

Sec. 8(a)(8) (43 U.S.C. 1337(a)(8)) of the Outer Continental Shelf (OCS) Lands Act, as amended, requires that at least 30 days before any lease sale, a notice be submitted to the Congress and published in the Federal Register:

(A) identifying the bidding systems to be used and the reasons for such use, and

(B) designating the tracts to be offered under each bidding system and the reasons for such designation.

This notice is published pursuant to these requirements.

(A) Bidding systems to be used. In OCS Sale No. 69 (Partial Offering), tracts will be offered under the following three bidding systems as authorized by sec. 8(a)(1) (43 U.S.C. 1337 (a)(1)): (1) bonus bidding with a fixed 16-2/3 percent royalty on 122 tracts, (2) bonus bidding with a fixed 12-1/2 percent royalty on 19 tracts, and (3) bonus bidding with a fixed net profit share on three tracts.

(1) Bonus Bidding with a 16-2/3 Percent Royalty. This system is authorized by sec. (8)(a)(1)(A) of the OCS Lands Act, as amended. This system has been used extensively since the passage of the OCS Lands Act in 1953 and imposes greater risks on the lessee than systems with higher contingency payments but may yield more rewards to firms if a commercial field is discovered. The relatively high front-end payments required may encourage rapid exploration.

(2) Bonus Bidding with a 12-1/2 Percent Royalty. This system is authorized by sec. (8)(a)(1)(A) of the OCS Lands Act, as amended. This system has been chosen for certain deep water tracts proposed for Sale No. 69 (Partial Offering) because these tracts are expected to incur substantially higher exploration, development, and production costs, as well as longer times before initial production, in comparison to more shallow water tracts. Department of the Interior (DOI) analyses indicate that the minimum economically developable discovery on a tract in such high cost areas under a fixed 12-1/2 percent royalty system would be less than for the same tracts under a 16-2/3 percent royalty system. As a result, more tracts may be explored and developed. In addition, the lower royalty rate system is expected to yield more rapid production rates and higher economic profits. It is not anticipated, however, that the larger cash bonus bid associated with a lower royalty rate will significantly reduce competition since the higher costs for exploration and development are the primary restraints to competition.

(3) Bonus Bidding with a Fixed Net Profit Share. This system is authorized by sec. (8)(a)(1)(D) of the OCS Lands Act, as amended. This system was established by Department of Energy (DOE) regulations effective May 14, 1980 (45 Federal Register 36784 May 30, 1980). This system has been used in 11 previous OCS sales. The profit share system designed for this sale may increase competition by generating greater contingency payments to the Government and thereby reducing the initial cash bonus. It

may also increase the volume of production because certain allowable capital costs can be deducted prior to any liability for profit share payments. In addition, the profit share system may foster the development of marginal fields when compared to a royalty system since the Government shares a greater portion of the risk and the lessee's incremental costs are lower in the presence of a capital recovery.

For the three tracts, firms will be permitted a capital recovery factor of 1.00 over their actual allowable costs before any profit share payments are due. The profit share rate for these tracts is 40 percent. These parameters were selected on the basis of DOI studies regarding the effect on bonuses, profit share payments, Government receipts, gross production, minimal economic tract sizes, and particularly on the incentive to alter the production profile.

(B) Designation of Tracts. The selection of tracts to be offered under the three systems was based on the following factors:

(1) Lease terms on adjacent tracts were considered in order to reduce administrative costs and barriers to unitization and to enhance orderly development of each field.

(2) Generally, tracts in deep water were selected for either a 1/8 royalty or fixed net profit share based on the favorable performance of these systems in high cost areas.

The specific tracts to be offered under each system are as follows:

(a) Bonus Bidding with a 12-1/2 Percent Royalty--Tracts 69-133 thru 69-147, and 69-150 thru 69-153;

(b) Bonus Bidding with a Fixed Net Profit Share--Tracts 69-148, 69-149, and 69-270, and

(c) Bonus Bidding with a 16-2/3 Percent Royalty -- All remaining tracts.

Acting Director, Minerals Management Service
Robert E. Boldt

Approved: 10/13/82

Acting Secretary of the Interior
Donald Paul Hodel

[FR Doc. 82-28612 Filed 10-15-82; 8:45 am]
BILLING CODE 4310-MR-C

DEPARTMENT OF THE INTERIOR
Office of the Secretary
Washington, D.C.
Notice

Insignificant Revision in 5-Year Outer Continental Shelf Leasing Schedule; Sale No. 69 Partial Offerings 1 and 2

AGENCY:. Department of the Interior, Office of the Secretary

ACTION: Notice

SUMMARY: The 5-Year Outer Continental Shelf (OCS) Leasing Schedule issued on July 21, 1982, provided for OCS Sale No. 69 (Gulf of Mexico) to be held in October 1982. This has been changed to two partial offerings. The first partial offering consists of tracts off Louisiana and Texas, and would be held in November 1982. The second partial offering involving tracts off Mississippi, Alabama, and Florida, would be held early in 1983. After considering the relative merits of changing Sale No. 69 to two partial offerings and delaying from October 1982 the first partial offering to November 1982 and the second partial offering to early 1983, it has been concluded that dividing the sale in two partial offerings and delaying the sale offerings serves the national interest. After analyzing whether changing Sale No. 69 to two partial offerings and moving the first partial offering by 1 month and the second offering by several months, are significant revisions under section 18 of the OCS Lands Act, we have concluded that the changes would not be significant revisions of the 5-year program. Copies of this analysis are available from the address mentioned later.

FURTHER INFORMATION: Contact Chris Oynes, Division of Offshore Leasing Management, Minerals Management Service, U.S. Department of the Interior, 12203 Sunrise Valley Drive, Reston, Virginia 22091, (202) 343-3116.

Donald Paul Hodel
Acting Secretary of the Interior
Donald Paul Hodel

10/13/82
Date

[FR Doc. 82-28614 Filed 10-15-82; 8:45 am]
BILLING CODE 4310-10-C

Reader Aids

Federal Register

Vol. 47, No. 201

Monday, October 18, 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	523-5237
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, OCTOBER

43351-43658.....1
43659-43934.....4
43935-44110.....5
44111-44222.....6
44223-44536.....7
44537-44702.....8
44703-44980.....12
44981-45856.....13
45857-46066.....14
46067-46244.....15
46245-46482.....18

CFR PARTS AFFECTED DURING OCTOBER

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.

1 CFR

456.....44229

3 CFR

Administrative Orders:

Presidential Determinations:

No. 83-1 of October 1, 1982.....45859

Executive Orders:

8979 (Revoked in part by PLO 6341.....43953
12047 (Amended by EO 12388).....46245
12048 (Amended by EO 12388).....46245
12260 (Amended by EO 12388).....46245
12293 (Amended by EO 12388).....46245
12330 (Superseded by EO 12387).....44981
12384.....43935
12385.....43937
12386.....43939
12387.....44981
12388.....46245

Proclamations:

4707 (Superseded in part by Proc. 4980).....43659
4768 (Superseded in part by Proc. 4980).....43659
4980.....43659
4981.....44223
4982.....44225
4983.....44227
4984.....45857
4985.....45861
4986.....45863

5 CFR

213.....43634
831.....43634
930.....46067

Proposed Rules:

831.....43641, 43981

7 CFR

16.....43941, 45018
51.....43661, 43942
54.....44703
55.....46067
56.....46067
59.....46067
70.....46067
226.....46071
272.....44692
273.....44692
277.....46072
371.....44537
905.....44538, 33704
910.....43662, 44539, 46073
911.....45865
982.....44231
1079.....43351, 44232
1200.....44684
1421.....44540
1464.....44541
1942.....44989
1980.....46247
1990.....46247

Proposed Rules:

68.....46094
274.....46099
282.....46099
910.....46101
967.....45020
1004.....46289
1071.....44268
1073.....44268
1104.....44268
1106.....44268
1124.....43390
1126.....44268
1132.....44268
1135.....45884
1290.....44735
1701.....43391
1942.....46105

8 CFR

103.....44989
204.....44233
212.....44233, 44989
214.....44233, 44989, 46073
223.....44233, 44239
237.....44233
242.....44233, 44989
245.....44233
248.....44233
249.....44233
265.....44233
274.....44239

9 CFR

307.....44990
350.....44990
351.....44990
354.....44990
355.....44990
362.....44990
381.....44990

Proposed Rules:

967.....45020

10 CFR

110.....44111
600.....44076
1004.....44112

1–1 43692
8–1 46087
101–7 44565

Proposed Rules:
14H–71 44678

42 CFR

60 44730
405 ..... 43610, 43618, 43650
433 43644
435 43644
436 43644

Proposed Rules:
405 43578
420 44750

43 CFR

20 43380
2800 43953

Proposed Rules:
426 44356
429 43406
3620 46336
3630 46336
8360 46336

Public Land Orders:
5183 (As Amended by PLO 6341) 43953
6324 44731
6329 44120
6330 45010
6341 43953

44 CFR

312 43380

Proposed Rules:
59 45044
67 ..... 43988, 45044, 46336

45 CFR

205 43383
206 43383
232 ..... 43383, 43953
233 ..... 43383, 43953
234 43383
235 43383
238 43383
239 43383
302 43953
303 43953
1356 44571
1357 44571

46 CFR

4 45881
522 46284
536 45883

Proposed Rules:
33 43736
35 43736
61 46336
63 46336
67 45888
75 43736
78 43736
94 43736
97 43736
160 43736
161 43736
167 43736
180 43736
185 43736
192 43736
196 43736
502 46338

47 CFR

0 43383
73 ..... 43384–43388, 43697, 43698, 44120, 45010, 45014, 46087, 46088, 46287

Proposed Rules:
Ch. I 46117
1 45046
2 ..... 44756, 46118, 46339
22 ..... 43842, 44756, 45046
31 44762–44770
34 44781
35 44781
73 ..... 43410, 43740–43744 45046–45060, 46118–46121
81 45046
90 ..... 44756, 44786, 45046, 46339
94 45046

49 CFR

1 43699
171 44466
172 44466
176 44466
178 44466
192 44263
193 44263
850 46089
1011 44516
1100 44516
1207 44731
1249 44733

Proposed Rules:
173 44356
195 43745
229 44791
571 45889
604 44795
605 44795
1039 ..... 43988, 45891
1100 44517
1113 44518
1114 44518
1115 44518
1121 43747
1206 44359
1207 44359

50 CFR

17 ..... 43699, 43957, 46090
23 43701
260 43704
663 46287
611 ..... 43964, 44264, 44266
651 43705
654 44267
663 ..... 43964, 45014, 45016

Proposed Rules:
17 44125
18 45062

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

List of Public Laws

Last Listing October 15, 1982

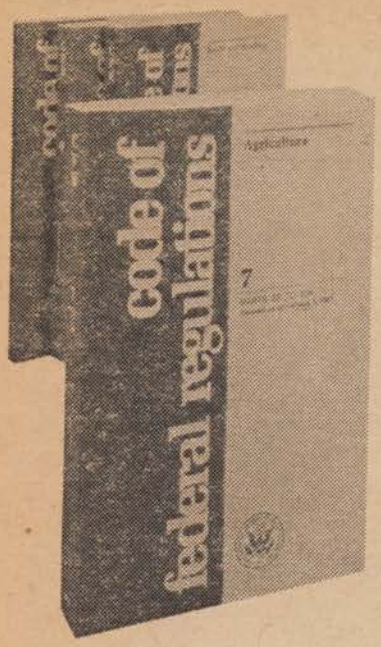
This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S. 2852/Pub. L. 97–301 To require a separate family contribution schedule for Pell Grants for academic years 1983–1984 and 1984–1985, to establish restrictions upon the contents of such schedule, and for other purposes. (October 13, 1982; 96 Stat. 1400) Price: $2.00.

H.R. 3881/Pub. L. 97–302 To direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain lands conveyed to the Arkansas Forestry Commission, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such lands to such Commission. (October 13, 1982; 96 Stat. 1407) Price: $1.75.

H.R. 6156/Pub. L. 97–303 To clarify the jurisdiction of the Securities and Exchange Commission and the definition of security, and for other purposes. (October 13, 1982; 96 Stat. 1409) Price: $1.75.

H.R 6133/Pub. L. 97–304 Endangered Species Act Amendments of 1982. (October 13, 1982; 96 Stat. 1411) Price: $2.75.



Just Released

Code of Federal Regulations

Revised as of July 1, 1982

Quantity	Volume	Price	Amount
_____	Title 29—Labor (Parts 1911 to 1919)	$6.00	$_____
_____	Title 40—Protection of Environment (Parts 0 to 51)	8.50	_____
		Total Order	$_____

A Cumulative checklist of CFR issuances for 1981 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).

Please do not detach

Order Form

Mail to: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed find $_____. Make check or money order payable to Superintendent of Documents. (Please do not send cash or stamps). Include an additional 25% for foreign mailing.

Charge to my Deposit Account No.

☐☐☐☐☐☐☐–☐

Order No._____

VISA®

MasterCard

Credit Card Orders Only

Total charges $_____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me the **Code of Federal Regulations** publications I have selected above.

Name—First, Last

Street address

Company name or additional address line

City State ZIP Code

(or Country)

PLEASE PRINT OR TYPE

For Office Use Only.

	Quantity	Charges
Enclosed		
To be mailed		
Subscriptions		
Postage		
Foreign handling		
MMOB		
OPNR		
UPNS		
Discount		
Refund		