

Federal Register

Thursday
November 18, 1982

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Federal Communications Commission

Air Carriers

Civil Aeronautics Board

Air Pollution Control

Environmental Protection Agency

Aviation Safety

Federal Aviation Administration

Bridges

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Federal Emergency Management Agency

Handicapped

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Motor Carriers

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Railroads

Interstate Commerce Commission

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National Highway Traffic Safety Administration

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Title 3—

Executive Order 12393 of November 16, 1982

The President

Establishing an Emergency Board To Investigate a Dispute Between The Long Island Rail Road and Certain Labor Organizations

A dispute exists between The Long Island Rail Road and certain labor organizations, designated on the list attached hereto and made a part hereof, representing employees of The Long Island Rail Road.

The dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended ("the Act").

The New York Metropolitan Transportation Authority, the parent body of The Long Island Rail Road, has requested that the President establish an emergency board pursuant to Section 9A of the Act.

Section 9A(c) of the Act provides that the President, upon request of a party, shall appoint an emergency board to investigate and report on the dispute.

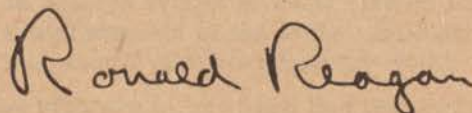
NOW, THEREFORE, by the authority vested in me by Section 9A of the Act, as amended (45 U.S.C. § 159a), it is hereby ordered as follows:

1-101. Establishment of Board. There is established, effective November 16, 1982, a board of three members to be appointed by the President to investigate this dispute. No member shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier. The board shall perform its functions subject to the availability of funds.

1-102. Report. The board shall report its findings to the President with respect to the dispute within 30 days after the date of its creation.

1-103. Maintaining Conditions. As provided by Section 9A(c) of the Act, as amended, from the date of the creation of the Emergency Board, and for 120 days thereafter, no change, except by agreement of the parties, shall be made by the carrier or the employees, in the conditions out of which the dispute arose.

1-104. Expiration. The Emergency Board shall terminate ninety (90) days after the submission of the report provided for in paragraph 1-102 of this Order.



THE WHITE HOUSE,
November 16, 1982.

LABOR ORGANIZATIONS

ARASA Division, Brotherhood of Railway and Airline Clerks
Brotherhood of Locomotive Engineers
Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees
Brotherhood Railway Carmen of the United States and Canada
Brotherhood of Railroad Signalmen
International Association of Machinists and Aerospace Workers
International Brotherhood of Boilermakers and Blacksmiths
International Brotherhood of Electrical Workers
International Brotherhood of Firemen and Oilers
International Brotherhood of Teamsters
Police Benevolent Association
Railroad Yardmasters of America
Sheet Metal Workers International Association
United Transportation Union

[FR Doc. 82-31833

Filed 11-17-82; 10:17 am]

Billing code 3195-01-M

Presidential Documents

Proclamation 5001 of November 16, 1982

Wright Brothers Day, 1982

By the President of the United States of America

A Proclamation

Seventy-nine years ago on December 17 at Kitty Hawk, North Carolina, Wilbur and Orville Wright made man's first successful flight in a mechanically propelled flying machine. Although this first successful flight lasted only 12 seconds and covered a distance of only 120 feet, the Wright brothers' historic feat opened the door to the age of aviation.

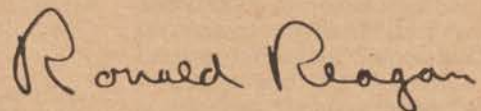
Today aviation is a key element in American life. It has grown to become one of America's greatest enterprises for jobs and services as well as for national defense. America's air transportation system is the finest in the world and a prime public carrier in the United States.

Although the Wright brothers undertook the first flight long ago, the adventurous spirit exhibited by them continues to inspire the Nation's progress in space and aeronautics. Last year, the United States Space Shuttle Columbia made its first space flight. This year, the fourth and final orbital test flight phase of the Space Shuttle program was successfully completed. Completion of this program now opens a new door to the exploration of space and reflects another outstanding contribution to American aviation. This year also marked the Nation's first successful private launch of a space vehicle, giving rise to expectations of a new era of direct private sector involvement in space ventures.

To commemorate the historic achievements of the Wright brothers, the Congress, by a joint resolution of December 17, 1963 (77 Stat. 402, 36 U.S.C. 169), designated the seventeenth day of December of each year as Wright Brothers Day and requested the President to issue a proclamation annually inviting Americans to observe that day with appropriate ceremonies and activities.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby call upon the people of the Nation, and their local and national government officials, to observe Wright Brothers Day on December 17, 1982, both to recall the accomplishments of the Wright brothers and to provide stimulus to aviation in this country and throughout the world.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of Nov., in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.



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OTHER COUNTRIES: SEE LIST OF AGENTS

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Rules and Regulations

Federal Register

Vol. 47, No. 223

Thursday, November 18, 1982

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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 97

[Docket 82-086]

Overtime Services Relating to Imports and Exports; Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. This amendment establishes commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of Veterinary Services performs overtime or holiday duty when such travel is performed solely on account of overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: November 10, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. A. E. Hall, VS, APHIS, USDA, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8695.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final action has been reviewed under Executive Order 12291, and has been determined to be exempt from those requirements. Nicholas E. Bedessem, Special Assistant to the Administrator, made this determination because commuted traveltime allowances are strictly a function of where the APHIS employee lives in

relation to the place overtime or holiday duty is performed. As employees are transferred or change their residence or as the place of inspection changes, the number of hours of commuted traveltime allowed may change. This amendment merely reflects such changes and serves to notify the public of the new allowed hours.

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

List of Subjects in 9 CFR Part 97

Exports, Government employees, Imports, Livestock and livestock products, Poultry and poultry products, Transportation.

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service by § 97.1 of the regulations concerning overtime services relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1982 ed.), as amended May 28, 1982 (FR 23429-23431), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty are further amended by adding or removing (in appropriate alphabetical sequence) the information as shown below:

§ 97.2 Administrative instructions prescribing commuted traveltime.

COMMUTED TRAVELTIME ALLOWANCES

Location covered	Served from	Metropolitan area	
		Within	Outside
Add:		*	*
Maryland:			
Largo	Bowie	2	
Do	Owings Mills	3	
Do	Easton		4
Laurel	Bowie	2	
Do	Owings Mills	3	
Do	Easton		4

(64 Stat. 561 (7 U.S.C. 2260))

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the Federal Register.

Done at Washington, D.C., this 10th day of November 1982.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-31522 Filed 11-17-82; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Airworthiness Docket No. 82-ASW-74; Amdt. 39-4497]

Airworthiness Directives; Enstrom Models F-28A, F-28C, F-28F, F-280, 280C, and 280F Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection and adjustment as necessary of the clutch control and drive belt tension mechanism, and installation of a clutch engagement overcenter lock warning light and a heat shield for the drivebelt clutch actuating mechanism on Enstrom models F-28A, F-28C, F-28F, 280, 280C and 280F helicopters. The AD is needed to prevent in-flight disengagement of the clutch mechanism which could result in forced descent or loss of control of the helicopter.

DATES: Effective November 30, 1982. Compliance schedule as prescribed in the body of the AD.

ADDRESSES: The applicable Service Documents may be obtained from Enstrom Helicopter Corporation, Twin County Airport, P.O. Box 277, Menominee, Michigan 49858. Copies of each of the service bulletins and the service letter are contained in the Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591, and at the office of the Regional Counsel, Southwest Region, Federal

Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Joseph H. McGarvey, ACE-120C, Aircraft Certification Office, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018; telephone number (312) 694-7136.

SUPPLEMENTARY INFORMATION: There have been reports of in-flight drivebelt clutch mechanism disengagements resulting in loss of rotor lift. The FAA and the National Transportation Safety Board (NTSB) have identified two (2) causes for these disengagements: (1) Improper rigging of the main rotor drivebelt clutch mechanism and (2) binding of the engagement mechanism. Radiant heat from the engine exhaust manifold has been found to harden and char grease on the clutch mechanism cable causing binding of the engagement mechanism. This gives operators a false feeling of proper clutch engagement with subsequent in-flight disengagement due to airframe vibration or inadvertent pilot hand pressure on the clutch handle top where it protrudes through the seat deck.

Enstrom Helicopter Corporation has issued the following Service Directive Documents: (1) Bulletin No. 0055, Revision A, on April 2, 1982, alerting operators of the potential problem with precautionary measures consisting of inspection procedures, the institution of a preflight functional check of the clutch mechanism, lubrication procedures, and directions for the installation of a protective heat shield for the clutch cable; (2) Service Information Letter No. 0080, Revision A, on August 4, 1982, providing operators procedures for proper clutch control and drivebelt tension rigging procedures; and (3) Bulletin No. 0061 dated November 12, 1982, providing operators directions for the installation of a clutch engagement overcenter lock warning light.

Since this condition is likely to exist or develop on other helicopters of the same type design, an airworthiness directive is being issued which requires an inspection of the clutch and drive belt tension rigging mechanism, rerigging as necessary, installation of a clutch disengagement warning light, and installation of a clutch cable heat shield on Enstrom F-28A, F-28C, F-28F, 280, 280C, and 280F helicopters. Models equipped with right pilot-in-command kits P/N 28-01002 or P/N 28-01012, or electric clutch actuator kit P/N 28-01005 are exempt from the heat shield installation requirement.

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

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

Approximately 650 aircraft could be affected by the requirements of this AD for an estimated impact of \$239.50 per aircraft, or \$155,675 for the fleet.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

Enstrom Helicopter Corporation: Applies to Model F-28A, F-28C, F-28F, 280, 280C, and 280F helicopters certificated in all categories.

Compliance required as indicated unless already accomplished.

To prevent possible in-flight drivebelt clutch disengagement, accomplish the following:

(a) Before further flight after the effective date of this AD, and thereafter at intervals not to exceed 100 hours' time in service from the last inspection:

(1) Inspect the drivebelt clutch mechanism, in accordance with Enstrom Service Information Letter 0080, Revision A, dated August 4, 1982, or FAA approved equivalent, and the Maintenance Manual/Maintenance Manual Supplement for the respective Models, to ascertain that the mechanism is properly rigged.

Note.—When properly rigged the clutch actuating cable should move freely allowing full clutch engagement. Clutch mechanisms experiencing binding of the clutch actuating cable, although properly rigged and lubricated, may have lubricant hardened in the cable assembly due to engine heat.

(2) Replace any cable found to bind, preventing full clutch engagement, prior to further flight with suitable airworthy parts.

(3) Lubricate the clutch actuating cable with Aero Shell 14 or FAA approved equivalent.

(b) Within the next 25 hours' time in service after the effective date of this AD, unless already accomplished, install clutch cable heat shield P/N 28-16542-11 in accordance with Enstrom Service Directive Bulletin 0055, Revision A, dated April 2, 1982, or FAA approved equivalent.

Note.—Enstrom Helicopter Models equipped with right pilot-in-command kits P/N 28-01002 or P/N 28-01012; or electric clutch actuator kit P/N 28-01005 are exempt from this paragraph.

(c) Within the next 50 hours' time in service after the effective date of this AD, unless already accomplished, install clutch engagement overcenter lock warning light kit P/N 28-19035-3 in accordance with Enstrom Service Directive Bulletin 0061 dated

September 20, 1982, or FAA approved equivalent.

(d) Any equivalent method of compliance with this AD must be approved by the Manager, Chicago Aircraft Certification Office, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

(e) In accordance with FAR 21.197, flight is permitted to a base where the inspection required by this AD may be accomplished.

This amendment becomes effective November 30, 1982.

(Secs. 313(a), 601, and 803, 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 document involves a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and certifies that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since the action prescribed herein is estimated to cost less than 1 percent of the value of any affected aircraft which may be owned by small entities. A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)) it is subject to review by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas on November 3, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 82-31373 Filed 11-17-82; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 262

[Regulation ER-1303; Econ. Reg. Removal of Part 262; Docket 40773]

Agreements Between Air Carriers and Foreign Countries

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is eliminating its reporting requirement that every U.S. air carrier file with the Board evidence of each agreement involving operating

rights between the air carrier and any foreign country. The agreements are rarely used and are unnecessary for the Board's enforcement duties. This rulemaking is at the Board's initiative.

DATES: Adopted: November 4, 1982.
Effective: December 31, 1982.

FOR FURTHER INFORMATION CONTACT:

Patricia DePuy, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5871;

or

Joanne Petrie, Office of the General Counsel, Rules and Legislation Division, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5442.

SUPPLEMENTARY INFORMATION: EDR-445, 47 FR 28683, July 1, 1982, proposed to eliminate 14 CFR Part 262, *Agreements Between Air Carriers and Foreign Countries*. That part requires every U.S. air carrier to file with the Board evidence of each agreement that in any way affects or involves operating rights between that air carrier and a foreign country. "Agreement" is defined as any permit, concession, franchise, contract, understanding, or arrangement, and also any amendment, modification, renewal, rescission, or revocation thereof. Northwest, which filed the only comment in response to the notice of proposed rulemaking, supported elimination of the rule.

The reporting requirement was adopted in 1943 to establish a uniform procedure and to give the Board information about agreements filed under sections 407(a), *Filing Reports*, and 1002, *International Agreements*, of the Civil Aeronautics Act of 1938, as amended. Apart from a recodification of all the Board's rules in 1949, no change has been made in this part since adoption. For many years, the only documents filed under Part 262 have been operating licenses and permits issued to U.S. air carriers by various foreign countries. The Board's records have been incomplete, however, because many carriers have failed to file or keep the information current.

The Board is revoking Part 262 because there are less burdensome ways to obtain the information when it is needed. In the few cases where the Board has wanted to review the agreements filed under Part 262, the licenses have been obtained directly from the carrier. Elimination of the reporting requirement removes a burden on both the reporting carriers and the Board, consistent with the goals of the Paperwork Reduction Act and the

Airline Deregulation Act. Whenever particular information is needed, the Board will use its authority under section 407 of the Federal Aviation Act to require that carriers provide it.

Regulatory Flexibility Act

In EDR-445, the Board certified that the removal of this rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, Pub. L. 96-354. The reason for this negative certification was that few small airlines have agreements with foreign countries, and that removal of the rule would not have a significant practical or financial impact even for those that were required to report. No comments were filed in response to the negative certification, and the Board finds no reason to change its negative certification.

List of Subjects in 14 CFR Part 262

Air carriers, Foreign trade.

PART 262—[REMOVED AND RESERVED]

Accordingly, the Civil Aeronautics Board removes and reserves 14 CFR Part 262, *Agreements Between Air Carriers and Foreign Carriers*.

(Secs. 204, 1102, Pub. L. 85-726, as amended, 72 Stat. 743, 788; 49 U.S.C. 1324, 1502.)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-31685 Filed 11-17-82; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 382

[Reg. SPR-191; Special Regs. Amendment No. 1 to Part 382; Docket 34030]

Nondiscrimination on the Basis of Handicap

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB makes technical changes in its rule prohibiting discrimination against disabled air travelers. These changes are made at the request of the Department of Justice.

DATES: Adopted: September 14, 1982.
Effective: November 18, 1982.

FOR FURTHER INFORMATION CONTACT:

David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW, Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), prohibits discrimination on the basis of handicap in programs and activities receiving

Federal financial assistance. Executive Order 11914 authorized the Department of Health, Education, and Welfare to coordinate enforcement of section 504. This authority was transferred to the Attorney General on November 2, 1980 by Executive Order 12250. On August 11, 1981, the Department of Justice issued a final rule transferring the coordination guidelines issued by HEW at 45 CFR Part 85 to 28 CFR Part 41. See 46 FR 40686, August 11, 1981.

By SPR-189, 47 FR 25936, June 16, 1982, the Board issued its final rule prohibiting discrimination against the handicapped by airlines and implementing section 504. (14 CFR Part 382). This rule is divided into three subparts. Subpart A (§§ 382.1 through 382.5) applies to all certificated air carriers as well as those commuter air carriers that receive a subsidy from the Board. It defines key terms and sets forth general standards of nondiscrimination. Subparts B and C apply only to airlines receiving a subsidy under sections 406 or 419 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1376 or 1389). Subpart B establishes detailed requirements in furtherance of the prohibition on discrimination. Subpart C contains compliance procedures.

The Justice Department requested that changes be made in the Board's rule. We find these changes to be reasonable and have decided to make them.

The Justice Department asked for two changes in the definition of "qualified handicapped person" in § 382.3(c). In sum, a qualified handicapped person is presently defined as a handicapped person (1) who pays, (2) whose carriage will not jeopardize flight safety, and (3) who is willing and able to comply with reasonable requests of airline personnel. In this form, the definition is directed toward handicapped persons who seek to board a flight, i.e. passengers. Yet there may be instances where a handicapped person is not seeking the provision of air transportation itself, but merely some related service, such as access to information or to the carrier's reservation system. To accommodate these cases, a second definition of qualified handicapped person has been added to § 382.3. This definition adopts the phrase "a handicapped person who meets the essential eligibility requirements" from the coordination guidelines, 28 CFR 41.32(b). For the same reason, the word "passenger" in § 382.5(a) has been replaced with the word "persons."

The third criterion of a qualified handicapped person, the willingness and ability to comply with "reasonable

requests" of airline personnel, was also questioned by Justice. The third paragraph presently states that any "request by airline personnel that is inconsistent with this part or beyond standard practices will not be considered reasonable for the purposes of this part." Justice expressed concern about the effect of the phrase "beyond standard practices" as a basis for determining whether an airline request was reasonable.

In the preamble to the final rule, 47 FR at 25939, the Board explained that a request "beyond standard practices" is one based on an "arbitrary or impulsive reaction of a particular employee to a particular passenger." The Board further explained that the prohibition on requests that are beyond standard practice did not preclude airline personnel from making requests of handicapped passengers that they do not make of all passengers, provided that the request was based "on reasonable company policies related to the provision of air transportation." Requesting that some handicapped persons not sit in exit rows was given as an example of such a request. To clarify the matter in the rule, the phrase "beyond standard practice" has been deleted. Instead, requests of airline personnel must be safety-related or necessary for the provision of air transportation to be considered reasonable.

There are two sections in the rule that involve the advance notice requirement. The second sentence of § 382.15(c) permits carriers to "establish reasonable advance notice requirements of up to 48 hours for the provision of extensive special assistance." Extensive special assistance includes such items as medical oxygen for on-board use and boarding and deplaning assistance. Section 382.13(d) authorizes an airline to refuse transportation to a person who fails to comply with these advance notice requirements if "the necessary equipment or personnel cannot, by reasonable efforts, be made available without delaying the flight."

Although § 382.13(d) makes clear that failure to give the proper notice will not justify a refusal of service if the necessary personnel or equipment can otherwise be made available, a reading of § 382.15(c) alone might give the opposite impression. To avoid any misunderstanding on this issue, a phrase has been added to that paragraph stating that an airline may not refuse extensive special assistance to a handicapped person even though that person gave less than 48 hours' notice if

the airline is able to provide the assistance on the lesser notice given.

Since these amendments are interpretative in nature, the Board finds that notice and public comment are unnecessary and that the rule may take effect on less than 30 days' notice.

List of Subjects in 14 CFR Part 382

Air carriers, Civil Rights, Grant programs—transportation, Handicapped, Hazardous materials transportation.

PART 382—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 382, *Nondiscrimination on the Basis of Handicap*, as follows:

The authority for Part 382 is:

Authority: Section 504, Pub. L. 93-112, 87 Stat. 394, 29 U.S.C. 794; Secs. 204, 401, 404, 406, 407, 416, 419, Pub. L. 85-726, as amended, 72 Stat. 743, 754, 760, 763, 766, 771, 92 Stat. 1732, 49 U.S.C. 1324, 1371, 1374, 1376, 1377, 1386, 1389; E.O. 11914, 41 FR 17871.

2. Paragraph (c) of § 382.3 is revised and a new paragraph (d) is added as follows:

§ 382.3 Definitions.

(c) "Qualified handicapped person" means, with respect to the provision of air transportation, a handicapped person—

(1) Who tenders payment for air transportation;

(2) Whose carriage will not violate the requirements of the Federal Aviation Regulations (Chapter I of this title) or, in the reasonable expectation of carrier personnel designated under § 382.13(a), jeopardize the safe completion of the flight or the health or safety of other persons; and

(3) Who is willing and able to comply with reasonable requests of airline personnel or, if not, is accompanied by a responsible adult passenger who can ensure that the requests are complied with. A request will not be considered reasonable if—

(i) It is inconsistent with this part; or

(ii) It is neither safety-related nor necessary for the provision of air transportation.

(d) "Qualified handicapped person" means, with respect to the provision of related services, a handicapped person who meets the essential eligibility requirements for receipt of those services.

3. Introductory text of section and paragraph (a) of § 382.5 are revised by changing the word "passengers" to "persons," as follows:

§ 382.5 General discriminatory practices.

A carrier subject to this part shall not, directly or through contractual, licensing, or other arrangement, on the basis of handicap—

(a) Exclude a qualified handicapped person from or deny that person the benefit of any air transportation or related services that are available to other persons, even if there is separate or different service available for handicapped persons; or

4. Introductory text paragraph (c) of § 382.15 is revised, as follows:

§ 382.15 Availability of service and equipment.

(c) Carriers shall not establish advance notice requirements for the carriage of handicapped passengers who will not need extensive special assistance from the carrier. Carriers may establish reasonable advance notice requirements of up to 48 hours for the provision of extensive special assistance, except that the carrier may not refuse to provide such assistance on the ground of inadequate notice if the service or equipment is available with the lesser notice given. For the purposes of this paragraph, extensive special assistance includes—

By the Civil Aeronautics Board.
Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-31886 Filed 11-17-82; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 21116-228]

15 CFR Parts 379, 385, 390, and 399

Revision of Export Controls Affecting the U.S.S.R. and Poland

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

ACTION: Final rule.

SUMMARY: At the direction of the President, this rule rescinds controls imposed on the U.S.S.R. and Poland by rules effective December 30, 1981 (47 FR 141 and 144, January 5, 1982) and June 22, 1982 (47 FR 27250, June 24, 1982).

DATE: Effective 1:00 p.m. e.s.t., November 13, 1982.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters'

Service Staff, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Telephone (202) 377-4811).

SUPPLEMENTARY INFORMATION:

Regulatory Changes

The President has directed that controls imposed on exports to the U.S.S.R. and Poland effective December 30, 1981 (47 FR 141 and 144, January 5, 1982) and June 22, 1982 (47 FR 27250, June 24, 1982) be removed. This rule implements that directive by rescinding the controls imposed on December 30, 1981 and June 22, 1982.

The December 30, 1981 regulations suspended the processing of license applications for exports to the U.S.S.R., and imposed foreign policy export controls that prohibited export to the U.S.S.R. of oil and gas transmission and refining commodities and technical data.

The June 22, 1982 regulations extended the foreign policy controls in effect after December 30, 1981 to exports of foreign-origin products and technical data to the U.S.S.R. by U.S. owned or controlled foreign firms, and imposed controls on certain foreign produced products of U.S.-origin technical data, regardless of the date of export of the data from the United States. In addition, the June 22 regulations suspended the processing of export license applications for exports to Poland.

The controls in effect prior to December 30, 1981 on exports to the U.S.S.R. of oil and gas exploration and production commodities and technical data remain in effect with two modifications: (1) The description in the Commodity Control List of the commodities subject to these controls is clarified; and (2) the licensing policy applicable to exports of such commodities and technical data that was in effect prior to the suspension of processing of licenses (December 30) is now stated in the regulations. As to commodities, the general licensing policy will be to approve export license applications for exploration and production equipment, except equipment subject to COCOM control and equipment for the manufacture of oil and gas exploration and production equipment. As to technology, the general policy will be to deny applications.

Rulemaking Requirements

This rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act by section 13(a) of the Export Administration Act of 1979 (Pub. L. 97-

72, 50 U.S.C. app. 2401 *et seq.*). Since this rule removes controls on exports, it is also exempt from section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form.

Because this rule removes a regulatory burden and is issued in final form, it is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

The Office of Export Administration has determined that:

(1) This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* As previously stated, it relieves a regulatory burden and its accompanying paperwork.

(2) This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects

15 CFR Part 379

Exports, Science and technology.

15 CFR Part 385

Communist countries.

15 CFR Part 390

Advisory committees, Exports.

15 CFR Part 399

Exports.

PART 379—[AMENDED]

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

1. Part 379 is amended as follows:

§ 379.4 [Amended]

a. Section 379.4 (f)(1)(i)(p) is revised to read:

§ 379.4 General license GTDR: Technical data under restriction.

* * *

(f) * * *

(1) * * *

(i) * * *

(p) Machinery, equipment, instruments, and other commodities designed or modified for the exploration or production of petroleum or natural gas;

* * *

§ 379.8 [Amended]

b. Section 379.8(a)(2) is amended to add the word "or" at the end thereof.

c. Section 379.8(a)(3) is amended to remove the parenthetical phrase "[excluding paragraph (1)(i)(p)]".

d. Section 379.8(a)(4) is removed.

PART 385—SPECIAL COUNTRY POLICIES AND PROVISIONS

2. Section 385.2 is amended as follows:

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

a. Section 385.2(a)(5) is removed.

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

* * *

(c) As authorized by section 6 of the Export Administration Act of 1979, a validated license is required for foreign policy purposes for the export to the U.S.S.R. of oil and gas exploration and production equipment as defined in CCL entries 6098F, 6191F, 6390F, 6391F, 6392F, 6598F, and 6779F. Also included in the scope of this control are technical data related to oil and gas exploration and production, and other commodities that require a validated export license for shipment to the Soviet Union and that are intended for use in oil or gas exploration or production. The general policy will be to approve export license applications for exploration and production equipment, except commodities identified by an "A" following the Export Control Commodity Number on the Commodity Control List or equipment for manufacture of oil and gas exploration or production equipment. The general policy will be to deny export license applications for oil and gas exploration and production related technical data.

§ 390.8 [Removed]

3. Section 390.8 is removed.

PART 399—[AMENDED]

4. The Commodity Control List (Supplement No. 1 to § 399.1) is amended as follows:

a. Entries 6198F, 6388F, 6389F, 6431F, 6491F, 6685F, and 6780F are removed.

b. Entries 6098F, 6191F, 6390F, 6391F, 6598F and 6779F are revised to read as follows:

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

Export control commodity number and commodity description	Unit	Validated license required	GLV dollar value limits T&V	Processing code	Reason for control
6098F Metal cutting and metal forming machines and equipment (including tooling, dies, fixtures, and jigs) specially designed or modified for the production or manufacture of equipment described in entries 6191F, 6390F, and 6391F and specially designed parts, components, and accessories therefor.		SZ, Afghanistan and the USSR ^{1,2}	MG	3	
6191F Other chemical and petroleum equipment specially designed or modified for the exploration or production of petroleum or natural gas; and specially designed parts, components, and accessories therefor. (See Supplement No. 1 to § 399.2, Interpretation 30).		SZ, Afghanistan and the USSR ^{1,2}	MG	3	
6390F Oil and gas pipeline equipment specially designed or modified for pipelaying, pipe coating, or pipewrapping; and specially designed parts, components, and accessories therefor.		SZ, Afghanistan and the USSR ¹	MG	3	
6391F Other industrial equipment specially designed or modified for the exploration or production of petroleum or natural gas; and specially designed parts, components, and accessories therefor. (See Supplement No. 1 to § 399.2, Interpretation 30).		SZ, Afghanistan and the USSR ¹	MG	3	
6598F Other electronic and precision instruments specially designed or modified for geophysical or mineral prospecting or for the examination, testing, or controlling of equipment defined in entries 6098F, 6191F, 6390F, 6391F, and 6392F; and specially designed parts, components, and accessories therefor. (See Supplement No. 1 to § 399.2, Interpretation 30).		SZ, Afghanistan and the USSR ¹	MG	3	
6779F Chemicals and materials (e.g., drilling fluids, muds, lost circulation materials and polymers, surfactants and other detergents) specially formulated or modified for use in the production of petroleum and natural gas.		SZ, Afghanistan and the USSR ^{1,2}	MG	3	

1 * * *

c. The following new entry is added in numerical order, disregarding the first digit:

Export control commodity number and commodity description	Unit	Validated license required	GLV dollar value limits T&V	Processing code	Reason for control
6392F Other industrial equipment and machinery (including tooling, dies, fixtures and jigs) specially designed or modified for the production, manufacture or assembly of the equipment described in entries 6191F, 6390F, and 6391F; and specially designed parts, components, and accessories therefor.		SZ, Afghanistan and the USSR ¹	MG	3	

1 * * *

d. The footnote to 6699G, which reads as follows, is removed:

"A validated license is required for export of commodities to the U.S.S.R., Estonia, Latvia, Lithuania, and Afghanistan if intended for use in the production, transmission or transportation of petroleum or natural gas, or in the refining of petroleum, petroleum products or natural gas for energy usage, excluding petrochemical feedstock. (See Supplement No. 1 to section 399.2, Interpretation 33, for an illustrative list of such commodities.)"

5. The Commodity Interpretations (Supplement No. 1 to § 399.2) are amended as follows:

a. The introductory paragraph of Commodity Interpretation 24 of Supplement No. 1 § 399.2 is revised to read as follows:

"Interpretation 24: Chemicals

The commodities listed below require a validated license for export to Country Groups S and Z."

b. The following revisions are made to Commodity Interpretation 29: General Industrial Equipment:

(1) Footnote 1 to Interpretation 29 is revised to read:

¹ A validated license is required for export to the U.S.S.R., Estonia, Latvia, Lithuania,

and Afghanistan of any equipment specially designed or modified for use in the exploration or production of petroleum or natural gas, and specially designed parts, components and accessories therefor.

(2) Footnoted commodities are revised as follows:

(i) Footnote 1 is removed from the following listings:

Air or gas compressors, n.e.s.
Gas turbine engines, n.e.s.
Internal pneumatic line-up clamps for welding transmission line pipe
Mechanical instruments, n.e.s., for measurement, transmission, or control of temperature, pressure, or other variables of liquids or gases.
Metering and mixing, n.e.s.
Pipeline cleaning

(ii) Footnote 1 is added and footnote 2 is removed from the following listing:

Oilfield wire line and downhole equipment¹

(iii) Footnote 1 is added to the listing for "special purpose industrial vehicles, n.e.s. * * *" and the listing is revised to read:

Special purpose vehicles, n.e.s., non-military, e.g. cement mixers, street and airfield cleaning equipment, asphalt mixers, mine shuttle vehicles, trucks with derrick assemblies, and similar equipment mounted integral to the truck frame, seismograph thumper mounted trucks and oil/gas well drilling rigs.¹

c. Commodity Interpretation 30 is revised to read as follows:

Interpretation 30: Petroleum and Natural Gas Exploration and Production Equipment

The following is an illustrative list of petroleum and natural gas exploration and production equipment subject to validated license control for export to the U.S.S.R., Estonia, Latvia, Lithuania, and Afghanistan. This list is illustrative only; it does not include all commodities covered by CCL entries 6191F, 6391F, and 6598F.

(1) All equipment specially designed or modified for off-shore floating or bottom-supported drilling and producing structures, including all gathering equipment.

(2) Rotary type well drilling rigs and derricks.

(3) Parts, accessories, and equipment for well drilling machines, including, but not limited to, drill bits, box and pin tool joints, drill pipe, drill collars, rotary tables, and blow-out preventors.

(4) Petroleum gas-lift equipment.

(5) Oil well and oil field pumps, including, but not limited to, high performance types of submersible or conventional pumping units.

(6) Wire line and downhole equipment and accessories, including, but not limited to, collars, stabilizers, mandrels, packers, multi-completion equipment, gun perforators, and telemetry equipment.

(7) Optical, electrical or electronic geophysical and mineral prospecting instruments, including magnetic, gravimetric,

seismic, bore-hole logging and high-resolution remote sensing equipment.

d. Commodity Interpretations 31 and 33 are removed.

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

Dated: November 16, 1982.

Bohdan Denysyk,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 82-31749 Filed 11-18-82; 12:51 pm]

BILLING CODE 3510-25-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 270, 275, and 296

[T.D. ATF-115]

Cigarettes: Increase in Rate of Tax, and Floor Stocks Tax

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Final rule (Treasury decision).

SUMMARY: This document implements section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 by (1) Amending ATF tobacco regulations to conform to the increase in cigarette tax rates, and (2) adding new regulations for the collection of floor stocks tax on certain cigarettes which, on January 1, 1983, are held for sale.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Norman P. Blake, Coordinator, or Steven C. Simon, Specialist, (202) 566-7626. Mailing address: Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385.

SUPPLEMENTARY INFORMATION:

Public Law 97-248, entitled "Tax Equity and Fiscal Responsibility Act of 1982," was enacted on September 3, 1982. Section 283 of this act doubles the tax rates on both small and large cigarettes, and also imposes a floor stocks tax. These provisions take effect on January 1, 1983. All cigarettes removed from factories or imported on and after that date, but before October 1, 1985, will be subject to the higher tax rates. (Under the terms of this law, the cigarette tax rates are scheduled to revert back to the present rates on October 1, 1985.)

Floor Stocks Tax

The floor stocks tax is a one-time tax, equal to the difference between the old

and the new tax rates. It is imposed on all Federally taxpaid or tax-determined cigarettes that are held for sale on the first moment of January 1, 1983, by any person, with the exception of cigarettes in retail stocks held at the place where they are intended to be sold at retail. The exemption for retailers was intended by Congress to apply only to cigarettes held for sale at a place where consumers may ordinarily come to buy them. This exemption is broad enough to include cigarettes in storage facilities that are within or that form an integral part of the retail premises, at the same physical location. However, the exemption does not apply to cigarettes held by retailers in warehouses or other similar facilities located away from the retail premises, where retail consumers do not have regular access to them. Cigarettes held by retailers in these separate facilities are subject to the floor stocks tax in exactly the same manner as are cigarettes held for sale by wholesalers and manufacturers. Cigarettes in vending machines are considered to be retail stocks and are exempt from floor stocks tax, unless the vending machines are in a storage facility that is normally inaccessible to consumers. Military exchanges, commissaries, and other government affiliated stores that sell cigarettes subject to Federal excise taxes must pay floor stocks tax on cigarettes (other than exempt retail stocks as described) in the same manner as any private commercial enterprise.

Manufacturers, importers, and wholesalers, who are not also retailers, are liable for floor stocks tax irrespective of the location where their cigarettes are held. As for manufacturers and importers, the floor stocks tax applies only to cigarettes that were taxpaid or tax-determined before January 1, 1983. Cigarettes that are taxpaid or tax-determined on or after that date are subject to the increased tax rates, but are not subject to the floor stocks tax.

Liability for the floor stocks tax must be established by a physical inventory. This physical inventory will be the basis for establishing the number of cigarettes held subject to the floor stocks tax, as of the first moment of January 1, 1983. If the taxpayer prefers not to take a physical inventory on New Year's Day, it may be taken any time between December 23, 1982, and January 8, 1983. (Or, if the business is closed before December 23 and will remain closed for the rest of the year, the inventory may be taken on the last business day of 1982.) If the physical inventory is not taken between the end of the last business day of 1982 and the beginning

of the first business day of 1983, it must be reconciled to January 1, and supported by records of all receipts and dispositions between January 1 and the date of the inventory.

Every person subject to the floor stocks tax must take the required physical inventory and prepare a floor stocks tax return. Tax returns will be available by December 1, 1982, and may be obtained from any ATF regional office or from the Procedures Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226; telephone: (202) 566-7602. The tax return must be filed on or before January 18, 1983.

Ordinarily, full payment must accompany the tax return. However, if financial hardship would result from paying the full amount at that time, and the taxpayer so certifies in writing on his tax return, then payment of all or a part of the floor stocks tax may be postponed for as much as 30 days (that is, until February 17, 1983). The customary penalties for failure to pay tax will not be imposed in such circumstances; however, interest must be paid at the rate of 16% per annum, compounded daily from January 18, 1983, until the tax is paid. In all cases, the tax return must be filed by January 18, 1983. If a return (with or without payment) is not filed on or before January 18, 1983, the 5% per month penalty imposed by law for failure to file a return may be assessed. However, neither the failure-to-file nor the failure-to-pay penalty will be imposed if the taxpayer can show that his failure was due to reasonable cause and not to willful neglect. Nevertheless, interest must be paid even if a penalty is not imposed.

If, due to financial hardship, a return is not accompanied by full payment, the Internal Revenue Service will endeavor to mail to the taxpayer a statement indicating the amount of tax plus the interest that will be due as of February 17, 1983. However, if for any reason this statement is not received, the taxpayer is still responsible for paying the correct amount on or before February 17, 1983. If the amount indicated on the statement is paid before February 17, 1983, IRS will refund to the taxpayer a proportionate amount of the interest.

If by February 17, 1983, a taxpayer does not make full payment, additional processing of the return will be handled by the Internal Revenue Service in accordance with the provisions of Part V of the Internal Revenue Manual. The interest imposed by law continues to accrue until full payment is made, and

the penalties for failure to pay tax may be applicable.

If any underpayment of floor stocks tax is due to fraud, there is a penalty of 50% of the amount of the underpayment, plus 50% of the interest payable on the portion of the underpayment attributable to fraud. (See 26 U.S.C. 6653). The Internal Revenue Code also prescribes criminal penalties, including fines and/or imprisonment, which are applicable to this floor stocks tax.

Administrative Procedure Act

Because the tax rate increase and floor stocks tax take effect on January 1, 1983, and require immediate taxpayer planning and advance implementation with regard to inventories, method of taxpayment and recordkeeping by wholesalers and distributors not now required to pay such taxes, it is hereby found to be impracticable to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b). Accordingly, the amendments made by this document shall be effective on January 1, 1983.

Executive Order 12291

This document is not a major rule within the meaning of Executive Order 12291, 46 FR 13193 (1981), because the economic effects of the increased cigarette tax rates and the floor stocks tax flow directly from Pub. L. 97-248 and not from this regulation. Therefore, it is found that this regulation will not cause:

- (a) An annual effect on the economy of \$100 million or more;
- (b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- (c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this document, because it was not required to be preceded by a general notice of proposed rulemaking under 5 U.S.C. 553, and because the revenue effects of this rulemaking on small businesses flow directly from the underlying statute. Likewise, any significant secondary or incidental effects, and any significant reporting, recordkeeping, or other compliance burdens flow directly from the statute.

Drafting Information

The principal drafter of this document is Steven C. Simon of the Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, many other people from ATF and from other offices in the Department of the Treasury participated in the development of these regulations.

List of Subjects

27 CFR Part 270

Administrative practice and procedure, Authority delegations, Cigars and Cigarettes, Claims, Electronic fund transfers, Excise taxes, Labeling, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, U.S. possessions, Warehouses.

27 CFR Part 275

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Cigars and cigarettes, Claims, Customs duties and inspection, Electronic funds transfers, Excise taxes, Imports, Labeling, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, U.S. possessions, Warehouses.

27 CFR Part 296

Authority delegations, Cigarette papers and tubes, Cigars and cigarettes, Claims, Disaster assistance, Excise taxes, Penalties, Seizures and forfeitures, Surety bonds.

Authority and Issuance

This document is issued under the authority contained in 26 U.S.C. 7805. Accordingly, the regulations in 27 CFR Parts 270, 275, and 296 are amended as follows:

PART 270—MANUFACTURE OF CIGARS AND CIGARETTES

Paragraph A. Section 270.23 is revised to reflect the increased tax rates prescribed by Pub. L. 97-248. As revised, § 270.23 reads as follows:

§ 270.23 Cigarette tax rates.

On cigarettes, manufactured in or imported into the United States, the following taxes are imposed by law:

(a) *Cigarettes removed before January 1, 1983, and on or after October 1, 1985:*

- (1) *Small cigarettes.* \$4 per thousand.
- (2) *Large cigarettes.* \$8.40 per thousand; except that where such cigarettes are more than 6½ inches in length, the rate of tax is \$4 per thousand, counting each 2¼ inches, or fraction

thereof, of the length of each as one cigarette.

(b) *Cigarettes removed on or after January 1, 1983, but before October 1, 1985:*

- (1) *Small cigarettes.* \$8 per thousand.
- (2) *Large cigarettes.* \$16.80 per thousand; except that where such cigarettes are more than 6½ inches in length, the rate of tax is \$8 per thousand, counting each 2¼ inches, or fraction thereof, of the length of each as one cigarette.

(Sec. 202, Pub. L. 85-859, 72 Stat. 1414, as amended (26 U.S.C. 5701))

PART 275—IMPORTATION OF CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

Par. B. Section 275.32 is revised to reflect the increased tax rates prescribed by Pub. L. 97-248. As revised, § 275.32 reads as follows:

§ 275.32 Cigarettes.

On cigarettes imported or brought into the United States, the following internal revenue taxes are imposed by law:

(a) *Cigarettes removed before January 1, 1983, and on or after October 1, 1985:*

- (1) *Small cigarettes.* \$4 per thousand.
- (2) *Large cigarettes.* \$8.40 per thousand; except that where such cigarettes are more than 6½ inches in length, the rate of tax is \$4 per thousand, counting each 2¼ inches, or fraction thereof, of the length of each as one cigarette.

(b) *Cigarettes removed on or after January 1, 1983, but before October 1, 1985:*

- (1) *Small cigarettes.* \$8 per thousand.
- (2) *Large cigarettes.* \$16.80 per thousand; except that where such cigarettes are more than 6½ inches in length, the rate of tax is \$8 per thousand, counting each 2¼ inches, or fraction thereof, of the length of each as one cigarette.

(Sec. 202, Pub. L. 85-859, 72 Stat. 1414, as amended (26 U.S.C. 5701))

PART 296—MISCELLANEOUS REGULATIONS RELATING TO CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

Par. C. The Table of Contents of Part 296 is revised to add the subpart and section titles of Subpart H. As revised, the Table of Contents is as follows:

* * * * *

Subpart H—Floor Stocks Tax on Cigarettes Held for Sale on January 1, 1983

Sec.	
296.171	Scope of tax.
296.172	Rate of tax.

Sec.	
296.173	Payment of tax.
296.174	Return.
296.175	Inventory.
296.176	Retention of records.
296.177	Refunds of floor stocks tax.
296.178	Penalties and interest.
296.179	Authority of ATF officers.

Par. D. A new Subpart H is added to Part 296. As added, Subpart H reads as follows:

Subpart H—Floor Stocks Tax on Cigarettes Held for Sale on January 1, 1983

Authority: Section 283, Pub. L. 97-248, 96 Stat. 568, or as otherwise noted.

§ 296.171 Scope of tax.

(a) *General.* The floor stocks tax is imposed on all Federally taxpaid or tax-determined cigarettes, not exempt under paragraph (b) of this section, which at the first moment of January 1, 1983, are held by any person for sale. Cigarettes subject to floor stocks tax are regarded as held by the one who owns them at the first moment of January 1, 1983, although at that time the articles may be in transit to the owner, or in a warehouse, storeroom, or distributing depot, and shall be included in the return and inventory of the owner. If ownership does not pass to the consignee until delivery, cigarettes in transit at the first moment of January 1, 1983, shall be regarded as owned or held by the consignor at that time.

(b) *Exempt retail stocks.* The floor stocks tax is not imposed on cigarettes in retail stocks held on the first moment of January 1, 1983, at the place where intended to be sold at retail. This exemption applies only to cigarettes held by retailers for sale at the location where consumers normally come to buy them. Cigarettes held by retailers in storage facilities that are within or that form an integral part of the retail facility, at the same physical location, are exempt under this paragraph. However, cigarettes held by retailers in transit, or in storage facilities that are not physically part of the retail premises, are not exempt.

(c) *Wholesalers, manufacturers, and other persons.* Manufacturers, distributors, wholesalers, and subjobbers, who are not also retailers, are subject to floor stocks tax on all Federally taxpaid or tax-determined cigarettes held by them, without regard to the place where the cigarettes are held. The floor stocks tax does not apply to cigarettes held in ATF or Customs

bond on the first moment of January 1, 1983. **Rate of tax.**

§ 296.172 Rate of tax.

(a) *Small ("Class A") cigarettes.* The rate of floor stocks tax applicable to small cigarettes is \$4 per thousand. This rate is equal to the increase in the rate of tax on small cigarettes prescribed by section 283(a)(1) of the Tax Equity and Fiscal Responsibility Act of 1982. The term "small cigarettes" means cigarettes weighing not more than 3 pounds per thousand, and includes the usual king, 100 mm, and 120 mm sizes of cigarettes.

(b) *Large ("Class B") cigarettes.* The rate of floor stocks tax applicable to large cigarettes is \$8.40 per thousand; except that for large cigarettes more than 6½ inches long, the rate is the same as for small cigarettes, counting each 2½ inches, or fraction thereof, of the length of each as one cigarette. This rate is equal to the increase in the rate of tax on large cigarettes prescribed by section 283(a)(2) of the Tax Equity and Fiscal Responsibility Act of 1982. The term "large cigarettes" means cigarettes weighing more than 3 pounds per thousand, and includes the unusually large cigarettes such as those sometimes referred to as the "Banquet" size.

§ 296.173 Payment of tax.

(a) *General.* The floor stocks tax is payable by every person who holds for sale, at the first moment of January 1, 1983, Federally taxpaid or tax-determined cigarettes, except those retail stocks exempt under § 296.171(b). Except as provided in paragraph (b) of this section, the tax shall be paid on or before January 18, 1983, and shall accompany the floor stocks tax return. Checks and money orders shall be made payable to the Internal Revenue Service, and shall show the taxpayer's name and employer identification number (or social security number).

(b) *Payment in case of financial hardship—*

(1) *Payment.* If financial hardship would result from payment of the entire floor stocks tax on or before January 18, 1983, payment of part or all of the tax may be deferred. In order to defer payment, a taxpayer shall certify on his floor stocks tax return that financial hardship would result from payment of the full amount. Such a taxpayer shall include with his return as much of the floor stocks tax as he is able to pay without hardship. The remainder, with interest as prescribed in § 296.178(b), shall be paid not later than February 17, 1983. As provided in 26 U.S.C. 7502, if the cover (envelope), in which any payment is mailed, is postmarked on or before the date prescribed for payment,

then the payment shall be considered to have been timely made. If a statement has been received from the Internal Revenue Service indicating the amount of tax due plus interest, that statement shall be enclosed with payment of the amount indicated. If no such statement has been received, the payment shall be identified as pertaining to "cigarette floor stocks tax," and shall show the taxpayer's name and employer identification number (or social security number). In no case shall any taxpayer be exempt from timely filing of his floor stocks tax return.

(2) *Financial Hardship.* For the purposes of this subpart, the term "financial hardship" means a financial condition in which the taxpayer's ability to meet his normal business expenses is placed in jeopardy.

§ 296.174 Return.

(a) *General.* Every person who holds for sale, at the first moment of January 1, 1983, Federally taxpaid or tax-determined cigarettes which are not exempt retail stocks under § 296.171(b), shall make and file a return for the cigarettes so held. The return shall be made on ATF Form 5200.18, Floor Stocks Tax Return—Cigarettes. The return shall be prepared in duplicate, in accordance with the headings and instructions on the form. The original shall be filed no later than January 18, 1983, with the Internal Revenue Service at the address indicated on the form. The copy shall be retained by the taxpayer as prescribed in § 296.176. Subject to 26 U.S.C. 7502 any floor stocks tax return that is postmarked on or before January 18, 1983, shall be considered to have been timely filed.

(b) *Consolidated return.* Where cigarettes subject to floor stocks tax are held at more than one location or place of business, the taxpayer shall file either a separate return for each place of business, or a consolidated return. If a consolidated return is filed, the taxpayer shall show, on the form or an attachment, the address of each place of business where he held cigarettes subject to floor stocks tax, the name of the proprietor of each such place of business (if different from the taxpayer) and the number of cigarettes so held at each such place.

§ 296.175 Inventory.

The floor stocks tax liability required to be shown on the floor stocks tax return shall be established by a complete physical inventory. The inventory shall be the basis for establishing the quantity of all large and small cigarettes, subject to floor stocks

tax, held as of the first moment of January 1, 1983. Cigarettes in transit on the first moment of January 1, 1983, shall be included in the inventory of the person—either consignor or consignee—who is the legal owner of the articles at that moment. The inventory shall be recorded in writing as it is being taken by the taxpayer and retained as prescribed in § 296.176. The record of inventory shall show the quantities of large and small cigarettes held for sale by the taxpayer at the first moment of January 1, 1983, except those retail stocks exempt from floor stocks tax under § 296.171(b). Quantities in transit shall be recorded separately from quantities actually on hand. The record of inventory shall show the taxpayer's name and the address of the place of business where the cigarettes are held. The record of inventory shall include complete and accurate information showing the details of the inventory, when, and by whom the inventory was taken. If the inventory was verified by anyone other than the person taking it, the name and title of that other person shall also be shown. The physical inventory shall be taken no later than January 8, 1983, and no earlier than December 23, 1982. However, if any place of business is closed prior to December 23, 1982, and remains closed for the duration of 1982, then the physical inventory for that place of business may be taken following the close of business on the last business day of 1982. If the physical inventory is not taken between the close of business on the last business day of 1982 and the beginning of business on the first business day of 1983, the record of inventory shall be reconciled to the first moment of January 1, 1983, and shall include complete supporting records of receipt and disposition.

(68A Stat. 731, as amended (26 U.S.C. 6001))

§ 296.176 Retention of records.

Every person liable for floor stocks tax shall keep the copy of his floor stocks tax return at his place of business covered thereby, or, in the case of a consolidated return, at his principal place of business. The record of physical inventory shall be kept at the place of business to which the inventory pertains. In the case of a consolidated return, a copy of the record of inventory shall also be kept at the taxpayer's principal place of business. Such documents and records shall be retained for at least 3 years after the date of filing of the floor stocks tax return, and shall be available for inspection by ATF officers. The regional regulatory administrator may also require these

documents and records to be retained for an additional period of not more than 3 years in any case where he deems such retention to be necessary or advisable for the protection of the revenue.

§ 296.177 Refunds of floor stocks tax.

A claim for refund may be filed by any person who has paid a floor stocks tax on cigarettes and who claims that he made an overpayment of that tax. Such a claim shall be filed on IRS Form 843, contain the information required by the form, and be supported by a statement of the facts and evidence upon which the claim is based. The claim shall be filed either with the regional regulatory administrator, Bureau of Alcohol, Tobacco and Firearms, for the region in which the tax was paid, or with the Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226. Claims filed under this section shall comply with the provisions of Subpart A of this part.

§ 296.178 Penalties and interest.

(a) *Penalties.* All civil and criminal penalties and forfeiture provisions of the Internal Revenue Code (Title 26 U.S.C.), which are applicable to excise taxes on cigarettes, are applicable also to floor stocks tax. However, if a taxpayer has certified under § 296.173(b) that financial hardship would result from timely payment of the full floor stocks tax due, the penalties prescribed by law for failure to pay tax shall not be assessed if the taxpayer subsequently pays the full amount of the tax on or before February 17, 1983.

(b) *Interest.* Interest shall accrue at the rate of 16% per annum, compounded daily, on all floor stocks tax that is not paid on or before January 18, 1983. Interest shall be paid regardless of whether the taxpayer has postponed payment of the tax, due to financial hardship under § 296.173(b). Interest shall accrue from January 18, 1983, to the date of payment. (See 26 U.S.C. 6601.)

(68A Stat. 817, as amended (26 U.S.C. 6601); sec. 7, Pub. L. 93-625, 88 Stat. 2114, as amended (26 U.S.C. 6621); sec. 344, Pub. L. 97-248, 96 Stat. 635 (26 U.S.C. 6622))

§ 296.179 Authority of ATF officers.

(a) *Entry of premises; penalties for interference.* Any ATF officer may enter, in the daytime, any premises where cigarettes subject to floor stocks tax are kept, so far as may be necessary for the purpose of examining such products. When such premises are open at night, any ATF officer may enter them, while so open, in the performance of his official duties. If the owner or

other person in charge of such premises refuses to admit any ATF officer, or to permit him to examine such cigarettes, he shall be liable to the penalty prescribed by 26 U.S.C. 7342. Further, if anyone corruptly, or by force or threats of force, attempts to intimidate or impede any ATF officer in the performance of his official duties, he shall be liable to the penalty prescribed by 26 U.S.C. 7212.

(b) *Other authority.* For the purpose of ascertaining, determining, or collecting floor stocks tax, or of inquiring into any offense connected with the administration or enforcement of floor stocks tax:

(1) Any ATF officer may examine any books, papers, records, or other data which may be relevant or material to that inquiry, and may take any testimony of any person concerned, under oath, as may be relevant or material to the inquiry.

(2) Any ATF officer, to whom authority has been delegated by § 70.22 of this chapter, in any case where there is no Justice Department referral, may issue summonses compelling the production of any books of account or other data pertaining to liability for floor stocks tax, or the appearance of any person liable for floor stocks tax or having in his possession such books of account or data, or any other appropriate person, at a place and time stated in the summons.

(68A Stat. 855, 872, 901, as amended, 903, as amended (26 U.S.C. 7212, 7342, 7602, 7606); sec. 204, Pub. L. 85-859, 72 Stat. 1429, as amended (26 U.S.C. 7608))

Signed: October 1, 1982.

Stephen E. Higgins,
Acting Director.

Approved: October 13, 1982.

J. M. Walker, Jr.,
Assistant Secretary (Enforcement and Operations).

[FR Doc. 82-31737 Filed 11-17-82; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 115

[CGD82-074]

Applications for Processing Bridge Permits

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule provides that water quality certification requirements for

bridge permits are waived if a state, interstate agency, or the Environmental Protection Agency (EPA) fails to issue or deny the water quality certification within 30 days after receiving a copy of the notification from the cognizant Coast Guard district commander. The reason for this rule is that the affected states often fail to issue a water quality certification, even though they do not object to proposed bridge project. This practice has resulted in unnecessary delays in the issuance of bridge permits. This rule will provide for expeditious processing of applications and timely issuance of permits.

EFFECTIVE DATE: This rule becomes effective December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Nick E. Mpras, Chief, Bridge Permits Branch, Bridge Administration Division (G-NBR/24), Office of Navigation, U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, D.C. 20593, (202) 426-0942.

SUPPLEMENTARY INFORMATION: On August 5, 1982, the Coast Guard published a notice of proposed rulemaking in the *Federal Register* for these regulations (47 FR 33990). Interested persons were requested to submit comments and eight comments were received.

Drafting Information

The principal persons involved in the drafting of this document are Mr. Nick E. Mpras, Project Manager, Chief, Bridge Permits Branch, Office of Navigation, and LT Walter J. Brudzinski, Project Counsel, Office of Chief Counsel.

Discussion of Comments

Of the eight comments received, three supported the proposed rule without qualification, one requested a minor change in language, one suggested that the Coast Guard's public notice not serve as a request for certification, two requested that the time period for certification be extended to 60 days and one requested that provisions be incorporated into the regulation to allow States the opportunity to inform the Coast Guard if additional time is required.

A request for a minor change in the second to last sentence of the rule was made and is so reflected in the final rule.

We agree with the comment that receipt of the Coast Guard's public notice by the cognizant agency should not in itself constitute a request for water quality certification. It is the applicant's responsibility to file the

request for water quality certification with the proper authority and we want to ensure that this has been done. Although several States had no objection to the 30 day limit for acting on requests for water quality certification, others pointed out circumstances, including lost or misdirected applications for certification, where the time frame would be inadequate or contrary to their procedural requirements.

We have amended the final rule to expressly provide for instances where the request for water quality certification has not been filed. This change, in combination with the provision that additional time for reviewing requests will be granted upon request, adequately responds to both concerns while still allowing expeditious processing of most bridge permits.

Summary of Final Evaluation

This rule has been reviewed under the provisions of Executive Order 12291 and has been determined not to be major. In addition, this rule is considered to be nonsignificant in accordance with the guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). An economic evaluation has not been conducted since its impact is expected to be minimal. This rule would eliminate unnecessary delays in the issuance of bridge permits. It is anticipated that the timely issuance of bridge permits would also help the applicant avoid increasing construction costs while waiting for a state or agency to issue the water quality certification. It is also for these reasons that this rule will not have a significant impact on a substantial number of small entities, in accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164).

List of Subjects in 33 CFR Part 115

Administrative practice and procedure, Bridges.

Final Regulations

In consideration of the foregoing, Part 115 of Title 33, Code of Federal Regulations, is amended as follows:

PART 115—[AMENDED]

1. The authority citation for Part 115 is revised to read as follows:

Authority: c. 425, sec. 9, 30 Stat. 1151 (33 U.S.C. 401); c. 1130, sec. 1, 34 Stat. 84 (33 U.S.C. 491); sec. 5, 28 Stat. 362, as amended

(33 U.S.C. 499); sec. 11, 54 Stat. 501, as amended (33 U.S.C. 521); c. 753, Title V, sec. 502, 60 Stat. 847, as amended (33 U.S.C. 525); 86 Stat. 732 (33 U.S.C. 535); 14 U.S.C. 633; sec. g(6), 80 Stat. 941 (49 U.S.C. 1655(g)); 49 CFR 1.46(c).

2. Section 115.60 is amended by revising paragraph (a) to read as follows:

§ 115.60 Procedures for Handling applications for bridge construction permits.

(a) *District Commander's review of application and plans.* When an application is received, the District Commander verifies the authority for construction of the bridge, reviews the application and plans for sufficiency, ascertains the views of local authorities and other interested parties, and ensures that the application complies with relevant environmental laws, regulations, and orders. If the application contains any defects that would prevent issuance of a permit (as for example, if the proposed bridge provided insufficient clearance), the applicant is notified that the permit cannot be granted and given reasons for this determination. The applicant may then request that the application be considered by the Commandant. If the applicant makes such a request, or if the application is not found defective, the District Commander notifies the public that it has been received and continues its processing. A copy of this notification will be sent to the state, interstate agency or the Environmental Protection Agency (EPA) responsible for acting on requests for water quality certification for the project. If the state, interstate agency, or the EPA fails to issue or deny the water quality certification within 30 days after receiving the copy of this notification, the requirements for a water quality certification are waived. If the appropriate agency notifies the District Commander that the applicant has not filed a request for water quality certification, or requests additional time to review an application, additional time will be granted.

Dated: November 5, 1982.

R. A. Bauman

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 82-31575 Filed 11-17-82; 8:45 am]

BILLING CODE 4910-14-M

**ENVIRONMENTAL PROTECTION
AGENCY****40 CFR Part 81****[A-4-FRL-2228-2; FL-005]****Designation of Areas for Air Quality
Planning Purposes; Florida:
Redesignation of Jacksonville
Particulate Area****AGENCY:** Environmental Protection
Agency.**ACTION:** Final rule.

SUMMARY: EPA hereby grants a request made by Florida that the total suspended particulate (TSP) attainment status of a portion of the present nonattainment area in downtown Jacksonville be changed to attainment. EPA's decision to change the classification for downtown Jacksonville is based on an analysis of available TSP data for the area by the Florida Department of Environmental Regulations, and EPA's own analysis of all valid data from acceptable monitoring sites for 1980 and 1981 which showed no exceedances within the area being redesignated.

EFFECTIVE DATE: This action will be effective on January 17, 1983 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit,
Library Systems Branch,
Environmental Protection Agency, 401
M Street SW., Washington, D.C. 20460
Air Management Branch, Environmental
Protection Agency, EPA, Region IV,
345 Courtland Street NE., Atlanta,
Georgia 30365
Bureau of Air Quality Mgmt., Twin
Towers Office Building, 2600 Blair
Stone Road, Tallahassee, Florida
32301.

FOR FURTHER INFORMATION CONTACT:
Mr. Barry Gilbert, Air Management
Branch, EPA Region IV, at the above
address or telephone 404/881-3286 (FTS
257-3286).

SUPPLEMENTARY INFORMATION: On
March 3, 1978 (43 FR 8962 at 8980), EPA
designated Duval County (Jacksonville)
nonattainment for the secondary total
suspended particulate (TSP) standard.
On September 11, 1978 (43 FR 40412 at
40423), the Administrator redefined the
Jacksonville TSP nonattainment area as
the area located just north and west of
the St. John's River and east of I-95. On
June 18, 1982, the Florida Department of

Environmental Regulation (FDER)
submitted an analysis of all available
TSP data from the area and requested
that a portion of the area be
redesignated attainment. This would
make the nonattainment area
approximately one-third the size of the
existing nonattainment area. The
amended boundaries of the
nonattainment area are as follows:
south and then west along the St. John's
River from its confluence with Long
Branch Creek, to Main Street; north
along Main Street to Eighth Street; east
along Eighth Street to Evergreen
Avenue; north along Evergreen Avenue
to Long Branch Creek; and east along
Long Branch Creek to the St. John's
River.

Our analysis of all valid data from
acceptable monitoring sites for 1980 and
1981 shows no exceedances within the
area being redesignated to attainment.
Most of the sources located in the
previous original nonattainment area
remain in the amended nonattainment
area. Only one major and several small
sources which were located in the
previous nonattainment area are now
located outside of the reduced
nonattainment area.

These are the most likely effects of the
amendment: (1) New or modified
sources locating outside the reduced
nonattainment area but within the
redesignated attainment area will
benefit economically since they will no
longer be required to obtain external
emissions offsets or to employ Lowest
Achievable Emission Rate (LAER); and
(2) existing sources in the redesignated
attainment area and in the area of
influence of the amended nonattainment
area are not anticipated to have any
change in emissions.

Based on an analysis of all available
data, EPA hereby reduces the size of the
total suspended particulate
nonattainment area as described above.

The public should be advised that this
action will be effective 60 days from the
date of this Federal Register notice.
However, if notice is received within 30
days that someone wishes to submit
adverse or critical comments, this action
will be withdrawn and two subsequent
notices will be published before the
effective date. One notice will withdraw
the final action and another will begin a
new rulemaking by announcing a
proposal of the action and establishing a
comment period.

Under 5 U.S.C. 605(b), the
Administrator has certified that area
redesignations do not have a significant
economic impact on a substantial
number of small entities. (See 46 FR
8709.)

Under Section 307(b)(1) of the Act,
petitions for judicial review of this
action must be filed in the United States
Court of Appeals for the appropriate
circuit by January 17, 1983. This action
may not be challenged later in
proceedings to enforce its requirements.
(See 307(b)(2).)

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

List of Subjects in 40 CFR Part 81

Air pollution control, National parks,
Wilderness areas.

(Sec. 107 of the Clean Air Act (42 U.S.C.
7407))

Dated: November 5, 1982.

Anne M Gorsuch,
Administrator.

PART 81—[AMENDED]

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

**Subpart C—Section 107 Attainment
Status Designations****§ 81.310 [Amended]**

In § 81.310 the attainment status
designation table "Florida—TSP" is
amended by replacing the words "The
downtown Jacksonville area located just
north and west of the St. John's River
and rest of I-95" with the words "The
downtown Jacksonville area located
south and then west along the St. John's
River from its confluence with Long
Branch Creek, to Main Street; north
along Main Street to Eighth Street; east
along Eighth Street to Evergreen
Avenue; north along Evergreen Avenue
to Long Branch Creek; and east along
Long Branch Creek to the St. John's
River."

[FR Doc. 82-31498 Filed 11-17-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 762**[OPTS-211007, TSH-FRL 2194-3]****Fully Halogenated
Chlorofluoroalkanes; Denial of
Exemption for Use of
Chlorofluorocarbons in Aerosol Self-
Defense Chemical Weapons
Processed for Export**

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Rule related notice.

SUMMARY: The Environmental Protection
Agency (EPA) is denying a request for
an essential use exemption to the

chlorofluorocarbon (CFC) rule for the use of CFCs in aerosol self-defense chemical (tear gas) weapons processed for export. This action is being taken because the applicant has failed to establish that this use of CFCs is an essential use under EPA's criteria.

FOR FURTHER INFORMATION CONTACT:

Douglas G. Bannerman, Acting Director, Industry Assistance Office, (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460, Toll-free: (800-424-1404), Outside the U.S.A.: (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION: EPA issued a rule in the Federal Register of March 17, 1978 (43 FR 11318), in 40 CFR Part 762, which prohibits the manufacture, processing, and distribution in commerce of fully halogenated chlorofluoroalkanes (hereinafter referred to as "chlorofluorocarbons" or "CFCs") for aerosol propellant uses. The processing of CFCs for export is explicitly prohibited. Certain "essential" aerosol uses are exempted from the rule. The CFC rule consisted of two separate parts. Part 712 dealt with recordkeeping, while Part 762 addressed specific regulation of the substances. EPA issued a rule in the Federal Register of June 30, 1980 (45 FR 43721), consolidating both Parts into a revised Part 762.

Since the promulgation of the CFC rule, EPA has granted a few exemptions from this general prohibition for uses determined by the Agency to be "essential" according to certain criteria described in "Essential Use Determinations-Revised," a support document to the March 17, 1978, CFC rule.

The four criteria upon which a CFC use is evaluated for essentiality are:

1. Nonavailability of alternative products.
2. Economic significance of the product, including the economic effects of removing the product from the market.
3. Environmental/health significance of the product.
4. Effects on the "Quality of Life" resulting from no longer having the product available or using an alternative product.

On May 18, 1982, AMT Inc. (the Company) requested that EPA grant an essential use exemption to the CFC rule for the use of chlorofluorocarbons in aerosol self-defense chemical weapons processed for export to countries where the use of CFC-propelled aerosols is legal. These weapons are popularly referred to as "tear gas" devices.

The Company stated that it is currently exporting aerosol self-defense chemical weapons to Western Europe and Israel. In compliance with the CFC rule, the active ingredient in these devices is propelled by carbon dioxide. However, according to the Company, the use of carbon dioxide results in emission of the chemical irritant in a jet-stream pattern, which is prohibited by the Israeli authorities because of concern that the stream might cause severe damage to the cornea if sprayed into the eye. The Company further stated that although there are no government restrictions on the jet-stream pattern in Western Europe, chemical aerosol weapons producing such a pattern are at a competitive disadvantage because of alleged difficulties in correctly aiming the jet-stream as compared to a CFC-propelled spray. The Company indicated that as a result of not being able to export aerosol chemical self-defense weapons propelled by CFCs, its share of the foreign market has decreased from 50 percent to 5 percent since 1980, when foreign competitors introduced CFC-propelled chemical weapons.

EPA has determined that the Company failed to demonstrate the essentiality of CFC propellants for aerosol chemical self-defense weapons. Specifically, the Company has not submitted sufficient evidence to demonstrate that the Agency's first criterion of nonavailability of alternative products has been met. The Agency has obtained information indicating that nitrogen and carbon dioxide have been marketed successfully for several years as propellants in aerosol chemical self-defense weapons in the United States. The technical performance of these propellants has been very satisfactory; moreover, at subfreezing ambient temperatures they perform reliably, whereas CFC propellants have been known to malfunction under such conditions. Other aerosol propellants, such as chlorofluoroalkanes that are not fully halogenated and thus not subject to the 1978 CFC rule, could also conceivably be used in chemical self-defense weapons. The Company has not given any indication that it explored the use of propellants other than carbon dioxide. The Company also has failed to provide evidence that it explored the use of all available actuator mechanisms for aerosol devices to produce the desired spray pattern in dispensing the chemical irritant.

As far as the environmental and health impact of the currently employed non-CFC aerosol propellants is concerned, EPA has no information that

would indicate their adverse potential, as compared to CFCs, for causing eye injuries. In 1981, the Consumer Product Safety Commission (CPSC) examined the reported injuries from tear gas personal protection devices (which were not CFC-propelled, because the data were collected from 1980, after CFC aerosols had been banned) and concluded that the incidence of injuries was relatively low and their severity appeared to be minor. The CPSC, therefore, discontinued the investigation of these devices.

For the above reasons, the request is denied.

EPA has established a record of its consideration of this exemption request. It is available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays at: Environmental Protection Agency, Room E-107, 401 M Street SW., Washington, D.C. 20460.

(Sec. 6, Pub. L. 94-409; 90 Stat. 2020 (15 U.S.C. 2605))

List of Subjects in 40 CFR Part 762

Environmental protection, Hazardous materials, Recording and reporting requirements, Fully halogenated chlorofluoroalkanes.

Dated: November 10, 1982.

Anne M. Gorsuch,
Administrator.

[FR Doc. 82-31893 Filed 11-17-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 5450 and 5460

Sales of Forest Products; Amendment to Procedures; Correction of Final Rulemaking

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of correction of final rule.

SUMMARY: The final rulemaking amending the regulations governing sales of forest products (43 CFR Parts 5440, 5450 and 5460) was published in the Federal Register on September 2, 1982 (47 FR 38695). The final rulemaking contained two errors in citations which are corrected by this notice.

FOR FURTHER INFORMATION CONTACT:

Charles Frost, Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240, Telephone: 653-8864.

SUPPLEMENTARY INFORMATION:**§ 5451.2 [Corrected]**

1. In item 3, page 38697, § 5451.2, the fourth line is corrected by changing the citation "§ 5461.1(a)" to read "§ 5451.1(a)".

§ 5461.2 [Corrected]

2. In item 5, page 38697, § 5461.2(b), the third line is corrected by changing the citation "§ 5461.2" to read "§ 5451.2".

Dated: November 9, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-31504 Filed 11-17-82; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA-6444]

Notice of Communities With Minimal Flood Hazard Areas; for the National Flood Insurance Program

AGENCY: Federal Emergency
Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities' Special Flood Hazard Areas are small in size, with minimal flooding problems. Because existing conditions indicate that the area is unlikely to be developed in the foreseeable future, there is no immediate need to use the existing detailed study methodology to determine the base flood elevations for the Special Flood Hazard Areas.

Therefore, the Agency is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of list of Communities with Minimal Flood Hazard Areas.

FOR FURTHER INFORMATION CONTACT: Dr. Brian Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: In these communities, the full limits of flood insurance coverage are available at actuarial, non-subsidized rates. The

rates will vary according to the zone designation of the particular area of the community.

Flood insurance for contents, as well as structures, is available. The maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program.

Flood insurance coverage for property located in the communities listed can be purchased from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program. The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the Federal Register.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have significant economic impact on a substantial number of small entities. This rule provides routine legal notice regarding the completed stage of engineering tasks in delineating the special flood hazards areas of the specified community and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The entry reads as follows:

§ 65.7 List of communities with minimal flood hazard areas.

State	County	Community	Date of conversion to regular program
New York.....	Cattaraugus..	Town of New Albion.	Dec. 3, 1982.
Do.	Ontario	Town of Phelps.	Do.
Do.	Steuben.....	Town of Rathbone.	Do.
Pennsylvania.....	Wayne	Town of Sterling.	Do.
Virginia.....	Mecklen- burg.	Town of Boydton.	Do.
California.....	Mendocino ..	City of Fort Bragg.	Dec. 7, 1982.
Nevada.....	Elko.....	City of Wells.	Do.
Texas.....	Comanche ..	City of Comanche.	Do.
Do.	Morris	City of Daingerfield.	Do.
Do.	Wood and Franklin.	City of Winnsboro.	Do.
Michigan.....	Wayne	City of Grosse Pointe Farms.	Dec. 10, 1982.

State	County	Community	Date of conversion to regular program
New York.....	Delaware.....	Village of Hancock.	Do.
Oregon.....	Malheur.....	City of Nyssa.	Do.
Pennsylvania.....	Mercer.....	Township of Mill Creek.	Dec. 17, 1982.
Do.	Chester.....	Township of Penn.	Do.
Do.	Mercer.....	Township of Perry.	Do.
New York.....	Allegany.....	Town of Willing.	Dec. 24, 1982.
Do.	Allegany.....	Town of Angelica.	Dec. 31, 1982.
Do.	Chester.....	Township of London Britain.	Do.
Do.	Huntingdon ..	Borough of Orbisonia.	Do.
Do.	Lawrence.....	Township of Pulaski.	Do.
Do.	York.....	Borough of Wellsville.	Do.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: October 15, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs
and Support.

[FR Doc. 82-31405 Filed 11-17-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA-6445]

Notice of Communities With No Special Flood Hazard Areas for the National Flood Insurance Program

AGENCY: Federal Emergency
Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities would not be inundated by 100-year flood. Therefore, the Agency is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of list of Communities with No Special Flood Hazards.

FOR FURTHER INFORMATION CONTACT Dr. Brian Mrazik, Acting Chief, Engineering Branch, Natural Hazards

Division, (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: In these communities, there is no reason not to make full limits of coverage available. The entire community is now classified as Zone C. In a Zone C, insurance coverage is available on a voluntary basis as low actuarial nonsubsidized rates. For example, under the Emergency Program in which your community has been participating the rate of a one-story 1-4 family dwelling is \$.40 per \$100 of coverage. Under the Regular Program, to which your community has been converted, the equivalent rate is \$.10 per \$100 coverage. Contents insurance is also available under the Regular Program at low actuarial rates. For example, when all contents are located on the first floor of a residential structure, the premium is \$.15 per \$100 of coverage.

In addition to the less expensive rates, the maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program. For example, a single family residential dwelling now can be insured up to a maximum of \$185,000 coverage for the structure and \$60,000 coverage for contents.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agency or broker serving the eligible community, or from the National Flood Insurance Program.

The effective date of conversion to the Regular Program would not appear in the Code of Federal Regulations except for the page number of this entry in the Federal Register.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the director, Federal Emergency Management Agency, hereby certifies that this rule is promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice regarding the completed stage of engineering tasks in delineating the special flood hazard areas of the specified community and imposes no new requirements or regulations on participating communities.

List of subjects in 44 CFR Part 65

Flood insurance, Flood plains.

The entry reads as follows:

§ 65.8 List of communities with no special flood hazard areas.

State	County	Community	Date of conversion to regular program
New York.....	Chautauque ..	Village of Brocton.	Oct. 29, 1982.
New York.....	Chautauque ..	Town of Ripley.	Do.
Texas.....	Cameron.....	Town of Primera.	Do.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: October 20, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-31407 Filed 11-17-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 82-450]

Discovery Procedures in Adjudicatory Hearings

AGENCY: Federal Communications Commission.

ACTION: Final rule (Memorandum Opinion and Order).

SUMMARY: Action taken herein amends Part 1 of the Federal Communications Commission's Rules of Practice and Procedure to provide that discovery in all adjudicatory hearing cases may be initiated either before or after the initial pre-hearing conference; to authorize the use of recorded depositions where approved by the Presiding Administrative Law Judge; and to authorize the Presiding Judge to issue subpoenas for the production of documents from non-parties to Commission proceedings without requiring an accompanying deposition. The rules were amended in order to further reduce the time and resources now devoted to discovery procedures.

DATE: Effective December 10, 1982.

FOR FURTHER INFORMATION CONTACT: David Silberman, Counsel, Office of General Counsel (202) 832-7112.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

In the matter of amendment of Part 1, Rules of Practice and Procedure, to provide for certain changes in the Commission's discovery procedures in adjudicatory hearings; Memorandum Opinion and Order.

Adopted: October 21, 1982.

Released: November 10, 1982.

1. The Commission has under consideration a "Report on Evaluation of the Federal Communications Commission's Discovery Procedures in Adjudicatory Hearings" (hereafter Report).¹ We have found it extremely helpful in our reevaluation of the discovery process. As a result of this review, we have carefully considered the Report and its recommendations and have concluded that the existing discovery rules are basically sound and effective and should be retained, but that three of them should be amended.² The other rules are not being changed at this time because we are not persuaded that they need to be changed in order to accomplish the original goals of the rules, namely, to make adjudicatory hearings both shorter and more productive. See Report and Order on Discovery Procedures, 11 FCC 2d 185 (1968).

2. In order to understand why we are changing some of our discovery rules and not others, we will first review the existing rules and then summarize the Report. After that, we will discuss the changes we are making. Finally, we will review the other recommendations made in the Report and explain why we are not adopting them.

The Commission's Existing Discovery Rules

3. The Commission's very broad and general discovery rules are derived in part from the Federal Rules of Civil Procedure, which provide for both discovery and the production and preservation of evidence. See Report and Order on Discovery Procedures, *supra*. Section 1.246, entitled "Admission of Facts and Genuineness of Documents," contains a procedure for reaching agreement on the issues prior to hearing. The *Jencks* rule (*Jencks v. United States*, 353 U.S. 657 (1957)) is codified in Section 1.362, which provides

¹ The 96 page report was prepared by Max D. Paglin, Esquire, under contract to the Commission, and was submitted on October 30, 1980. Copies of the report are available for public inspection in our library, Room 639, 1919 M Street, N.W., during normal business hours. Copies are also available for a fee from the Commission's commercial contractor for photocopying.

² The new rules are set forth in the attached appendix.

for the production of statements by witnesses. Procedures governing discovery and the production and preservation of evidence for use at the hearing are found in §§ 1.311 through 1.325.³ Sections 1.311 and 1.313 apply generally to the various discovery procedures available. Sections 1.315–1.319 govern the taking of depositions, and § 1.323 provides for their use at the hearing. Section 1.323 applies to interrogatories to parties to be answered in writing. Section 1.325 provides for the production of documents and things. Commission records are not subject to discovery under § 1.325, but may be available under the Freedom of Information Act (5 U.S.C. 552) and pertinent Commission rules (Sections 0.451–0.467). Collateral subpoena procedures are provided for in § 1.333.

4. In general, the scope of discovery in adjudicatory hearings is regulated on a flexible, case by case basis. Notable exceptions to the flexible approach pervading the discovery rules are the requirement of "relevancy" to specified issues and certain privileged information. Section 1.311. The Commission has placed responsibility for applying the discovery rules primarily upon the presiding administrative law judge, who has broad authority to supervise the use of discovery procedures and the power, by use of protective orders (see § 1.313), "to preclude any use, or particular uses, of these procedures in a particular case if he finds that their use will not contribute to the proper conduct of the [hearing] * * *." *Report and Order on Discovery Procedures*, supra at 187. See *Faith Center, Inc.*, 82 FCC 2d 1 (1980), reconsideration denied, FCC 81–235, released May 12, 1981, affirmed per curiam, 679 F.2d 261 (D.C. Cir. 1982); *Chronicle Broadcasting Co.*, 20 FCC 2d 774 (1969). Neither the Commission nor the Review Board will upset a discovery ruling of a judge absent a strong showing that the ruling is arbitrary, capricious, fundamentally in error or is in disregard of the rights of the parties. See, e.g., *Sumiton Broadcasting Co., Inc.*, 18 FCC 2d 78 (1969); *Florida-Georgia Television Co., Inc.*, 14 RR 2d 365 (1968).

The Report On Evaluation of the Commission's Discovery Procedures

5. The subject Report is based on a lengthy and comprehensive study of the discovery procedures. The purpose of the study was to examine, analyze and evaluate the functioning of the

procedures since they were adopted fourteen years ago to determine whether they had been accomplishing their intended purposes. Much data and information was compiled during the study, including a questionnaire that was sent to Commission attorneys, the administrative law judges, members of the outside bar, and representatives of public interest groups. Based on its analysis of the data, the Report concludes that the current discovery rules are basically sound, but that there are four principal areas which might warrant new approaches and revisions for expediting and simplifying the discovery process. Those areas are:

(a) *Role of the Administrative Law Judges.* The Report recommends enhancing and emphasizing the importance of the judge's role and active participation in, and close supervision of, the discovery process.

(b) *Sanctions.* The Report recommends expanding the nature and scope of the sanctions available to the judge in situations of abuse of, or improper action in connection with, discovery.

(c) *Scope of Discovery.* The Report recommends revising the criteria for the permissible scope of discovery.

(d) *Time Periods.* The Report recommends revising the time periods and forum for commencement and conduct of discovery.

6. The Report emphasizes the role of the presiding judge in the discovery process, and, in general, recommends that the judge should: Supervise the discovery process more closely; issue more prompt and firm rulings on discovery; strictly enforce the time periods imposed by the rules; limit the number and duration of interrogatories and depositions of terminate examination where required; and encourage informal exchanges, admissions, stipulations and resolution of disputes concerning the scope of the issues.

7. A number of specific changes in the Commission's Discovery Rules has been proposed. We have reviewed the proposed rules changes and have decided to adopt three of them. The three changes have to do with commencement of discovery in adjudicatory hearings, the use of recorded depositions in appropriate cases, and the production of documents from non-parties. The other recommended rules changes are not being adopted at this time because, in many cases, the judges now have the authority to take the recommended actions to control the discovery process,

and we do not believe codification of this authority is necessary to ensure its effective use. Basically, we are satisfied that the existing rules are sufficiently flexible to achieve the overall purpose of the rules and to prevent unfairness.

The New Rules

8. First, we have decided to revise § 1.311(c) to provide that discovery in all hearing cases may be initiated either before or after the initial pre-hearing conference provided for in § 1.248 of the Rules. The timing of discovery would depend on the particular facts of each case. Presently, the rule provides that discovery must be initiated before the initial pre-hearing conference, which usually takes place within two months of designation for hearing. This rigid and inflexible rule has proven to be unrealistic, and has been honored more in the breach than in the observance. The proposed change is realistic and sensible, and conforms to the practice now followed in most hearing cases.⁴ However, we wish to emphasize that the permissiveness and desired flexibility of the new rule should not lead parties to believe that they can be dilatory and delay discovery. The judges are urged to take firm control of the discovery process and to encourage the commencement and completion of discovery at an early date.⁵ Abuses of this rule should not be tolerated by the judges, who have the means available under the present rules to prevent and stop abuses.

9. Second, we will amend § 1.318(c) of the Rules by authorizing the permissive use of telephonic and electronically recorded depositions, including videotape, in addition to the methods presently provided for in §§ 1.315 and 1.318–1.321, but only where approved by the presiding judge. As the Report points out, this change would serve the interests of economy, efficiency and expedition. The Commission's processes and the public interest would be protected because the presiding judge would have to approve the procedure. Cf. Sections 1.248(f) and 1.364 of the Rules; *Amendment of Part 1 of Rules*, 69 FCC 2d 1078 (1978).

⁴The Report also recommends the establishing of separate "special conferences" on discovery. We have concluded that this formalization is unnecessary in light of the judges' authority to schedule conferences whenever they would be useful. See para. 17, *infra*.

⁵The judges already have the authority to set dates for the commencement and completion of discovery. That authority will not be upset in the absence of a clear showing of arbitrariness, capriciousness, fundamental error or disregard of the rights of the parties.

³These rules "provide discovery procedures to facilitate preparation for the hearing, eliminate surprise, and promote fairness." 11 FCC 2d at 186.

10. Third, we are also revising § 1.333(b) of the Rules to change the procedure for the production of documents from non-parties to Commission proceedings. The rule is being amended to authorize the presiding judge to issue separate subpoenas for the production of documents from non-parties without requiring an accompanying deposition. The rule presently provides that the only way to obtain documents from non-parties is by issuance of a subpoena *duces tecum* in connection with a deposition notice. It is not necessary in some instances, however, to depose the non-party in order for him to furnish the documents. The present procedure is needlessly cumbersome and expensive and is being changed for those reasons.

The Report's Other Recommendations

11. The Report makes a number of other thoughtful suggestions for changing the discovery rules. Most of the suggestions arise out of what could be characterized as the central theme of the Report, namely, that the administrative law judges should be more intimately involved in the discovery process. We agree with the general view that administrative law judges should take and retain firm control of adjudicatory proceedings, including the discovery process, and we wish to remind all concerned that the judges have "full control over the use of [the discovery] procedures." *Report and Order on Discovery Procedures*, *supra* at 187. As we said when we adopted the discovery rules, "it is within [the judge's] power to preclude any use, or particular uses, of these procedures in a particular case if he finds that their use will not contribute to the proper conduct of the proceeding, and he has adequate authority to prevent use of the procedures for purposes of delay and to prevent the abuse of parties or witnesses." *Id.* We here reaffirm that grant of discretionary power to the judges, and we remind them of their responsibility to exercise firm control of adjudicatory proceedings, including the discovery procedures.⁶

12. Nevertheless, we continue to believe that the existing rules are flexible tools available to all parties to Commission hearings. Viewed in this light, we have carefully examined the Report's various other recommendations and have decided not to adopt them at this time. First, we do not believe it would be sound policy to authorize the judges to order depositions of Commission personnel for purposes of

discovery. § 1.311(b)(2) now provides that Commission personnel may be deposed only by special order of the Commission.⁷ The reasons for this restriction were stated by us in 1968 and are still valid today:⁸

At any one time, there are numerous hearing cases pending before the Commission. A multiplicity of demands on the Commission's limited staff would seriously interfere with its capacity to discharge its regular duties. The Commission is in this respect in a different position from that of private parties, who will normally be called upon to give depositions only in the single case in which they are participating. Furthermore, the written interrogatory may well be the most useful of the several procedural devices, since a party may, in one set of interrogatories, obtain an answer to each of his questions from the person best able to furnish it, without time-consuming questioning to determine in advance the particular staff member who has knowledge of the facts. 11 FCC 2d at 188.

13. Second, it is recommended that we authorize the judges to grant requests by parties for production of non-public Commission records in connection with a party's preparation for hearing. The rules now require such a showing to be made to the Commission, § 1.311(b)(3), and we see no need to change that requirement. The present rule provides for much desired uniformity in this very sensitive area and does not impose an undue hardship or prevent parties from obtaining non-public documents in appropriate cases. *See, e.g. Central Alabama Broadcasters, Inc.*, 70 FCC 2d 1762 (1979). *Cf. NTV Enterprises, Inc.*, 62 FCC 2d 722 (1976).

14. Next, it is suggested that the judges be given the authority to impose a variety of new specific sanctions if parties fail to comply with valid discovery orders. However, we believe that the various sanctions now available to the judges are adequate to prevent or stop abuses of the discovery rules. Moreover, there have not been a significant number of abuses of the discovery rules since they were adopted in 1968. To the contrary, our review of the cases over the years shows that the

⁷ Commission personnel may, of course, be questioned for purposes of discovery by written interrogatories pursuant to § 1.323. However, the rules permit only limited questioning of Commission personnel. *See* § 1.311(b)(4). That rule, with its limitations, continues to be sound and will not be changed.

⁸ This does not mean that Commission personnel can never be deposed. It simply means that, in order to justify such an unusual deposition, the Commission must order it. This provides for uniformity in this very sensitive area. On the other hand, it does not prevent parties from legitimately discovering facts from Commission personnel in appropriate circumstances, and it does not detract from the otherwise plenary authority of the judges in cases of discovery.

existing rules have worked quite well and that the overwhelming majority of discovery cases involves no abuses at all. Those very few cases where abuses have occurred have resulted in appropriate sanctions being imposed on the violators.⁹

15. We are taking this opportunity to remind all parties to our adjudicatory hearings that abuses of our discovery rules or violations of valid discovery orders will not be tolerated. The judges have had ample authority since 1968 to prevent abuses in the first instance or to stop abuses when they have occurred. The authority of the judges over the discovery procedures has been and continues to be very broad. We encourage them to use the tools that are available¹⁰ to assure the continued vitality, integrity and usefulness of the discovery procedures, and to expedite proceedings to the fullest extent possible.¹¹

16. It is also recommended that § 1.362 be amended to authorize the judges, upon the request of any party, to direct that witness statements be furnished to all parties at an appropriate time prior to the witness' appearance at the hearing. Under existing Commission practice, "the statements of witnesses who will testify are normally made available a week or so prior to commencement of the hearing (if disclosure is requested), although the rules (§ 1.362) require disclosure only after the witness has testified." *Amendment of Part 1 of Rules*, 81 FCC 2d 281, 284 (1980). (Footnote omitted.) *But see Gilmore Broadcasting Corp.*, 69 FCC 2d 2105, 2108 (1978). The compelling reasons for not changing the rule (§ 1.362) were stated by us in a Memorandum Opinion and Order released on September 10, 1980. *Amendment of Part 1 of Rules*, *supra*, 81 FCC 2d 281. There, we said:¹²

It would be difficult to obtain the cooperation of witnesses if we were unable to promise that their statements would be kept confidential until they have testified or are about to testify. In many cases, witnesses cooperate and give testimony, even though they are concerned about the personal

⁹ *See Faith Center, Inc.*, *supra* (television license renewal application dismissed); *Vue-Metrics, Inc.*, 69 FCC 2d 1049 (1978), *affirmed per curiam*, 615 F.2d 1369 (D.C. Cir. 1980) (television construction application dismissed). A non-applicant party could be barred from further participation.

¹⁰ *E.g.*, the authority to compel a party to answer interrogatories (§ 1.323(d)) or the authority to ultimately dismiss an application for failing to comply with a valid order (*Vue-Metrics, supra*).

¹¹ *Cf. Tinker, Inc.*, 4 FCC 2d 372, 374 (1966).

¹² 81 FCC 2d at 285. *See also Walton Broadcasting, Inc.*, 56 FCC 2d 814 (1975); *Chesapeake-Portsmouth Broadcasting Corp.*, 52 FCC 2d 854 (1975).

⁶ *Cf. Equal Employment Opportunity Commission*, 38 FCC 2d 33 (1972).

consequences such as current job security and ability to obtain jobs with other employers. . . . Once they are called to testify, they are sworn and cannot as readily be blamed by the licensee for truthfully answering the questions posed. Absent that protection, testimony would be unobtainable, crippling our investigative process.

Aside from the chilling effect on prospective investigations, the two most important reasons for not disclosing witness statements until the witness has testified, or at least until shortly before he is called to testify, are that the licensee may intimidate the witness, and/or construct a false defense. See *e.g.*, *Chronicle Broadcasting Co.*, 19 FCC 2d 240 (Rev. Bd. 1969).

* * * We believe that the Commission's procedures strike a balance between full disclosure and protection of the interests of parties and witnesses found in judicial and other agency proceedings. Licensees are not inherently more believable than witnesses. Determining the truth is the function of the hearing. Licensee's counsel is fully informed concerning allegations against his client well in advance of designation and is given a list of witnesses interviewed by staff investigators. Thus, counsel is already afforded an opportunity for meaningful investigation of the allegations and preparation for cross-examination. Moreover as a matter of practice the Broadcast Bureau makes witness' statements available prior to hearing * * *

17. It is recommended that we expand the concept of pre-hearing conferences to provide for "special" conferences on discovery. This would give the judge and the parties the opportunity to focus solely on discovery and to expedite the proceeding. This point is well taken, but the change is unnecessary because, at present, discovery is generally discussed (sometimes at great length) at the initial conference. With the current crowded hearing calendars, it would be undesirable to require a further conference, entailing, *inter alia*, the time of the judge, Commission counsel, outside counsel, and a court reporter. If further pre-hearing conferences to discuss discovery or anything else are necessary or desired, the existing rules are sufficiently flexible and allow the judge to order them. See §§ 1.243(f), 1.248 and 1.311(c).¹³ In practice, such conferences are held in many cases and are useful.

18. Next, it is recommended that we eliminate or strictly limit discovery in what is characterized as "routine" comparative cases. However, our experience under the present rules teaches us that discovery is potentially useful in *all* hearing cases, including

apparently "routine" cases, which can easily develop into not-so-routine ones.¹⁴ Besides, if a party abuses or attempts to abuse the discovery procedures, the present rules provide a considerable measure of protection by authorizing protective and other orders. See, *e.g.*, § 1.313; *cf. Vue-Metrics, supra*.

19. It is also suggested that we adopt a rule prohibiting the use of information obtained through discovery to support petitions to enlarge issues, unless a persuasive showing can be made that the information so discovered would significantly and decisively affect the outcome of the case. At present, petitions to enlarge based on "new facts or newly discovered facts," including facts obtained through discovery, are presently allowed if filed within fifteen days after such facts are discovered, § 1.229(b).¹⁵ Nevertheless, the Commission's existing policy is to prohibit "the use of discovery to ascertain whether grounds exist for enlargement of the issues." *Report and Order on Discovery Procedures, supra* at 187.¹⁶ The two policies are not necessarily mutually exclusive nor should they be. While it is improper for a party to use the Commission's discovery procedures primarily to obtain information for a petition to enlarge, it is not improper for a party in the course of legitimate discovery to unearth information that is relevant to the public interest and then ask for issues based on that newly disclosed information. The former is an abuse of discovery and is prohibited under our present policy. The latter is permitted under our rules.¹⁷

¹⁴ We have chosen to limit the use of discovery, however, in certain specific types of proceedings in order to expedite the licensing of new services, such as low power television (if lotteries are not eventually utilized), cellular mobile phone systems, and 800 MHz radio. See *Low Power Report and Order*, 47 FR 21468 (1982); *Cellular Communications Systems*, 86 FCC 2d 469, 499 (1981), *procedures modified in part on reconsideration*, 89 FCC 2d 58, 92 (1982); *Second Request and Order*, in the 800 MHz proceeding, 47 FR 41002 (1982); § 22.916(b)(6) of the Commission's Rules.

¹⁵ Late-filed petitions to enlarge are tested under § 1.229(c) of the Rules.

¹⁶ The Commission made clear in 1968 that the scope of discovery would be limited to matters relevant to the specified hearing issues, and that, under no circumstances, would a party be permitted to utilize discovery to ascertain whether there are grounds for enlarging the issues. *Id.*

¹⁷ If a party uncovers information about an applicant's qualifications, in the course of discovery or not, and that party deliberately withholds the information from the Commission, under certain circumstances that could be considered an abuse of the agency's processes. See *Home Service Broadcasting Corp.*, 24 FCC 2d 192, 193 (1970). *Cf. James C. Sliger*, 70 FCC 2d 1565, 1571 (1979), *review denied*, FCC 79-548, released July 26, 1979, *affirmed sub nom. Cumberland Broadcasting Corp. v. FCC*, 647 F. 2d 1341 (D.C. Cir. 1980). But see *Gulf Coast Communications, Inc.*, 81 FCC 2d 498 (1980), *recon-*

denied, FCC 81R-11, released February 4, 1981, *review denied*, FCC 82-128, released April 16, 1982.

Stated otherwise, if a petitioner uncovers information about an applicant that is relevant to the public interest and the petitioner presents that information to the Commission in a timely filed petition to enlarge issues, the Commission presently considers the merits of the petition, even if the underlying facts are derived from discovery. See, *e.g.*, *RKO General, Inc.*, 48 FCC 2d 397 (1974). If there are abuses of discovery, they can be corrected by other means available under the existing rules. We see no need for adopting a more stringent test for petitions based on discovery, as the Report recommends, than for untimely petitions, as governed by § 1.229(c).

20. We are also urged to shorten the time periods for notice, oppositions and motions for protective orders in connection with depositions and interrogatories. While there is some merit to this proposal it is not being adopted because the existing time periods are "reasonable," *Report and Order on Discovery Procedures, supra* at 191,¹⁸ and have not been abused. We do not believe the proposed time periods are necessarily more reasonable. In any event, we expect the judges to strictly enforce the time periods imposed by the rules and, if appropriate in any particular case, to impose different time periods.

21. Another recommendation is to eliminate the use of oral depositions of parties or principals in an application, except in renewal and revocation cases, unless a persuasive showing can be made that interrogatories are inadequate. While oral depositions may not be necessary in many cases, we believe that restricting their use by rules is unnecessary and undesirable for several reasons. Under our existing rules, the judges have sufficient authority to limit discovery in appropriate cases. See, *e.g.*, § 1.313(e). This includes affirmatively requiring the parties to elect either interrogatories or depositions, but not both.¹⁹ In addition,

denied, FCC 81R-11, released February 4, 1981, *review denied*, FCC 82-128, released April 16, 1982.

¹⁸ See §§ 1.315(a), (b), 1.316(a), (b), (c), (d), (f).

¹⁹ For example, in the *Destin, Florida FM* broadcast proceeding (BC Docket Nos. 80-273-274), the presiding judge, in his order prior to the pre-hearing conference, said that the parties could use either written interrogatories or take depositions upon oral examination. However, he specifically forbade the use of both interrogatories and depositions in the absence of a persuasive showing that it was essential. *White Sands Broadcasting, Inc.*, FCC 80M-1026, released June 19, 1980. This is an example of the flexibility and discretion accorded to the judges under the existing rules. That flexibility is desirable and will be continued.

¹³ Section 1.311(c), in particular, now provides that, "The presiding officer may at any time order the parties or their attorneys to appear at a conference to consider the proper use of [the discovery] procedures or the time to be allowed for such use." (Emphasis added.)

the present rules provide for protective orders to prevent abuses. Section 1.313. Thus, if a party attempts both depositions and interrogatories, the other party can file a motion for a protective order. If the motion has merit, the party can expect that it will be granted. The flexibility in the existing rules is, in our view, clearly preferable, especially when it is considered that depositions and interrogatories are complementary means of discovery and may be desirable in combination in any given case, including apparently "routine comparative cases."

22. Finally, it is suggested that we authorize the judges to limit the number of interrogatories and depositions to prevent unnecessary, excessive or onerous burdens on parties or witnesses. While there is some merit to this proposal, we have decided not to adopt it. Under our present rules, if a party files an unduly burdensome number of interrogatories, the judge has the authority to issue a protective order to curb the abuse. Cf. *J.B. Broadcasting of Baltimore, Ltd.*, 70 FCC 217 (1979).

Conclusion

23. In conclusion, the Report has been helpful to us in our assessment of the discovery rules. The Report demonstrates that our discovery rules in general are adequate and have worked well in the past. The rules, which are widely used, have met our initial expectations and goals of facilitating preparation for the hearing, promoting fairness, and expediting and improving the decision-making process. See *Report and Order on Discovery Procedures*, *supra*. No widespread or profound failings are disclosed in the scope, availability or implementation of the discovery procedures. Moreover, discovery frequently provides evidence that would not otherwise be available to the parties and thereby makes for a fairer hearing. Therefore, we have decided to retain the existing rules and to make only minor changes. This does not mean that we are unwilling to revise our rules when necessary. It simply means that we are basically satisfied with the operation of the existing discovery rules. It goes without saying that we expect the judges to vigorously exercise their authority to control and regulate Commission hearings. Section 1.243(f). See *Equal Employment Opportunity Commission, supra; Selma Television, Inc.*, 3 FCC 2d 63 (1965). We also encourage the parties to cooperate in the discovery process. It is expected that all the parties to our hearings will respect and adhere to our rules and not abuse them.

24. A statement we made in a different context several years ago is relevant here:

It is commendable for (an administrative law judge) to exercise firm control of the course and conduct of a proceeding and to adopt such innovations in procedure as are consistent with the statutes, the Rules of the Commission, the rights of the parties, and adapted to achieve expedition of proceedings, the full disclosure of facts and the attainment of justice. *Tinker, Inc., supra*, 4 FCC 2d at 374.

25. Authority for the amendments set out in the attached Appendix 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). Because the amendments are procedural in nature, the prior notice and effective date provisions of 5 U.S.C. 553 do not apply.²⁰ The amendments will be effective thirty days from the release date of this order.

Accordingly, it is ordered, that effective December 10, 1982, §§ 1.311(c), 1.318(c), and 1.333(b) of the Commission's Rules are amended, as set forth in the attached Appendix.²¹

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.²²

William J. Tricarico,

Secretary.

Appendix

Title 47 of the Code of Federal Regulations, Part 1, is amended as follows:

PART 1—[AMENDED]

Section 1.311 is amended by revising paragraph (c) to read as follows:

§ 1.311 General.

(c) *Schedule for use of the procedures.* (1) Except as provided by special order of the presiding officer, discovery may be initiated before or after the prehearing conference provided for in § 1.248(a)(1). The presiding officer may at any time order the parties or their

²⁰ Section 1.412(b)(5) of the Rules provides that, "Rule changes (including adoption, amendment, or repeal of a rule or rules) relating to [Commission procedures or practice] will ordinarily be adopted without prior notice. . . ." In this case, we are making only minor changes in procedural rules with the assistance of a carefully written report prepared after much deliberation and study. Therefore, there is no need to institute a rulemaking proceeding before acting on the Report's various recommendations.

²¹ In cases already designated for hearing prior to the date the rules are effective, the presiding judge should allow or disallow the use of the various amended procedures in the interest of fairness and orderly procedure.

²² Commissioner Rivera absent.

attorneys to appear at a conference to consider the proper use of these procedures or the time to be allowed for such use.

Section 1.318 is amended by revising paragraph (c) to read as follows:

§ 1.318 The taking of depositions.

(c) *Oath; transcript.* The officer before whom the deposition is to be taken shall administer an oath or affirmation to the witness and shall personally, or by someone acting under his direction and in his presence record the testimony of the witness. The testimony may be taken stenographically or, upon approval by the presiding officer, testimony may be taken through the use of telephonically or electronically recorded methods, including videotape. In the event these latter methods are used for the deposition, the parties may agree to the waiver of the provisions of paragraphs (e) and (f) as appropriate and as approved by the presiding officer.

Section 1.333 is amended by revising paragraph (b) to read as follows:

§ 1.333 Requests for issuance of subpoena.

(b) Requests for a subpoena *duces tecum* shall be submitted in writing, duly subscribed and verified, and shall specify with particularity the books, papers, and documents desired and the facts expected to be proved thereby. Where the subpoena *duces tecum* request is directed to a nonparty to the proceeding, the presiding officer may issue the same, upon request, without an accompanying subpoena to enforce a notice to take depositions, provided for in paragraph (e) of this section, where it appears that the testimony of said person is not required in connection with the subpoena *duces tecum*.

[FR Doc. 82-31515 Filed 11-17-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 2

[RM-3855; FCC 82-469]

Use of Certain Frequencies in the Amateur Radio Service on a Secondary, Non-Interference Basis

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting an Order amending the rules to make

the frequencies 10.100-10.150 MHz (the 30 meter band) available to amateur radio operators in the United States for a temporary period on a secondary, non-interference basis. This action is necessary to permit amateur radio operators in the United States to continue to fully communicate with the world amateur community and furthers the policies of both 1979 World Administrative Radio Conference and the United States in this regard.

EFFECTIVE DATE: October 28, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John J. Borkowski, Private Radio Bureau, Special Services Division, (202) 632-7197.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Radio.

In the matter of amendment of Part 2 of the Commission's rules to permit use of the frequencies 10.100 MHz through 10.150 MHz in the Amateur Radio Service on a secondary, non-interference basis; Order.

Adopted: October 28, 1992.

Released: October 28, 1982.

1. We have before us for consideration a request by the American Radio Relay League, Inc., (ARRL) to authorize immediate, temporary use of the frequencies 10.100 MHz through 10.150 MHz in the Amateur Radio Service on a secondary, non-interference basis pending official action by the United States and the Commission on the Final Acts of the World Administrative Radio Conference held at Geneva, Switzerland, in 1979 (WARC-79).¹

2. The Final Acts of the 1979 World Administrative Radio Conference, allocated, *inter alia*, the frequencies 10.100 to 10.150 MHz to the Amateur Radio Service, secondary to Fixed Services. This action was consistent with United States proposals to allocate these frequencies exclusively to the Amateur Radio Service worldwide. The provisions of the Final Acts, unless otherwise provided therein, went into effect January 1, 1982, in countries which have implemented the Final Acts. Thus, many countries now permit licensed amateur radio operators in their respective jurisdictions to utilize the 30 meter band on a secondary, non-interference basis.²

3. The United States has not yet completed the ratification process for the Final Acts of WARC-79. In 1980 we initiated, and presently have under study, a series of Notices of Inquiry, FCC General Docket No. 80-739, looking toward implementation of the Final Acts of WARC-79. Among the issues addressed in the First Notice of Inquiry was the allocation of the frequencies in the band 10.100-10.150 MHz to the Amateur Radio Service on a secondary, non-interference basis to the Fixed Service operating outside the United States and its possessions, following ratification of the Final Acts of WARC-79.

4. Amateur radio operators have expressed a strong interest in the early availability of this band. The ARRL, in Comments filed in response to the First Notice of Inquiry in Docket No. 80-739, stated that the new allocation at 10 MHz was intended to help bridge the gap between the bands presently available to them at 7 and 14 MHz. The propagation characteristics of the 30 meter frequency band would, they contend, better equip amateur radio operators to fulfill their public service obligation to foster international goodwill, and enhance amateur radio operators' ability to provide reliable, voluntary noncommercial communications. No commenters have objected to the proposal.

5. Although the ratification process for the Final Acts of WARC-79 is not yet complete, we believe that the public interest supports amendment of our rules to allow amateur operators in the United States temporary use of the frequencies 10.100-10.109 MHz and 10.115-10.150 MHz on a secondary, non-interference basis.³ Such an amendment will permit amateur operators located in the United States to continue to fully communicate with the world amateur community and furthers both WARC-79 and United States policy in this regard.

6. Our action allowing amateur radio operators temporary access to this band will, of necessity, be subject to final action by the United States on the Final Acts of WARC-79, and will also be subject to Commission rule making

proceedings to implement the treaty provisions. Thus, amateur radio operators availing themselves of opportunities created by this amendment are cautioned that the amendment may be effective for only a brief period, and that official action by the United States and the Commission regarding the Final Acts of WARC-79 will ultimately determine the parameters within which we may act in relation to use of the 30 meter band in the Amateur Radio Service.⁴

7. Given the limited size of the 30 meter band and the temporary nature of this authorization, we will limit application of this amendment to General, Advanced or Amateur Extra Class amateur radio operators using A1 or F1 (including A2J) emissions.

8. Because this rule amendment is temporary in nature, is unlikely to be controversial, and furthers the public interest objectives cited above, we conclude that good cause has been shown that compliance with the notice and comment provisions of Section 553 of the Administrative Procedure Act is unnecessary. See 5 U.S.C. 553(b)(3).

9. Accordingly, it is ordered, pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, that § 2.106 of the Commission's Rule (47 CFR 2.106) is amended to permit temporary use of the frequencies 10.100-10.109 MHz and 10.115-10.150 MHz in the Amateur Radio Service. It is further ordered, that such use shall be limited to operation by amateur radio licensees holding General, Advanced or Amateur Extra Class operator licenses; that such operation shall be limited to A1 and F1 (including A2J) emissions on a secondary, non-interference basis; and that in such operation the power input to the transmitter final amplifying stage supplying radio frequency energy to the antenna shall not exceed 250 watts, exclusive of power for heating the cathode of a vacuum tube(s). This amendment shall remain in effect pending final action by the United States and the Commission upon the Final Acts of the World Administrative Radio Conference held at Geneva, Switzerland, in 1979.

10. It is further ordered that the American Radio Relay League's Application for Review of action by delegated authority in RM-3855 is dismissed because the relief sought

ARRL represents that 39 countries now allow their amateur radio operators to use the 30 meter band, with others to join the list shortly.

¹ITU Radio Regulations permit the use of frequencies inconsistent with the ITU Table of Frequency Allocations "... on the express condition that harmful interference shall not be caused to services carried on by stations operating in accordance with the provisions of the Convention and of these Regulations." ITU Radio Regulation No. 115, Geneva, 1959.

⁴The frequency band 10.109-10.115 MHz must be reserved for ongoing government operations.

¹The frequencies between 10.100 MHz and 10.150 MHz are commonly referred to in the amateur community as the 30 meter band.

²In its Application for Review of action taken under delegated authority to dismiss RM-3855, the

³Therefore, amateur radio operators in the United States would, at this time, be ill-advised to invest heavily in equipment which can only be used for this frequency band.

therein has been, effectively, granted by this Order.

11. It is further ordered that, because this rule change operates to relieve a restriction, and because immediate implementation has been requested by those subject to its provisions, it shall be effective, October 28, 1982. See 5 U.S.C. 553d (1), (3).

12. For further information about this proceeding contact John J. Borkowski, Private Radio Bureau, Special Services Division, Personal Radio Branch, at (202) 632-7197.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission. *

William J. Tricarico,

Secretary.

Appendix

PART 2—[AMENDED]

Part 2 of the Commission's Rules is amended as set forth below:

§ 2.106 [Amended]

Section 2.106 is amended by adding the footnote designation: "(US 295)" to column 6 of the line beginning: "10100-11175 kHz," and by adding a new footnote at the end of the section to read:

* * * * *

US 295. The frequencies in the bands 10.100 to 10.109 MHz and 10.115 to 10.150 MHz may be used in the Amateur Radio Service pending action by the United States and the Federal Communications Commission upon the Final Acts of the World Administrative Radio Conference held at Geneva, Switzerland, in 1979, provided that such use shall be limited to operation by amateur radio licensees holding General, Advanced or Amateur Extra Class operator licenses; and further provided that such operation shall be limited to A1 and F1 (including A2) emissions on a secondary, non-interference basis; and that in such operation the power input to the transmitter final amplifying stage supplying radio frequency energy to the antenna shall not exceed 250 watts, exclusive of power for heating the cathode of a vacuum tube(s).

[FR Doc. 82-31506 Filed 11-17-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 2, 21, 22, 81, 87, 90, and 95

[Gen. Docket No. 82-181; RM-3248; FCC 82-486]

Additional Spectrum Between 72 and 76 MHz for Radio Control of Model Aircraft, Boats, Cars, and Other Similar Devices

AGENCY: Federal Communications Commission.

* Commissioner Rivera absent.

ACTION: Final rule.

SUMMARY: The Commission has adopted changes in its rules to allow radio control of model aircraft, boats, cars and other devices on additional radio frequencies in the 72 to 76 MHz band. This action was requested by the Academy for Model Aeronautics and was supported by other radio control modeler groups. The new rules makes 50 channels available for model aircraft only and 30 channels available for surface model (cars, boats) only. Operation on the existing seven model radio control frequencies in the 72 to 76 MHz band must cease five years after the effective date of the new rules.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: James Vorhies, (202) 653-9097.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 2

Frequency allocation, Radio communications equipment, Radio control, Personal radio.

47 CFR Part 21

Communications common carrier, Microwave radio.

47 CFR Part 22

Communications common carriers, Mobile radio.

47 CFR Part 81

Marine safety.

47 CFR Part 87

Air transportation.

47 CFR Part 90

Industrial radio services, Land transportation radio services.

47 CFR Part 95

Personal radio.

In the matter of amendment of Parts 2, 21, 22, 81, 87, 90 and 95 of the Commission's rules to provide additional spectrum between 72 and 76 MHz for the radio control of model aircraft, boats, cars and other similar devices; Report and Order.

Adopted: November 4, 1982.

Released: November 9, 1982.

Introduction

1. On April 1, 1982 the Commission adopted a Notice of Proposed Rulemaking (Notice ¹) in Docket 82-181

¹ Notice of Proposed Rulemaking in General Docket No. 82-181, adopted April 1, 1982, Released April 13, 1982 (47 FR 19187, 4 May 82).

to amend Parts 2, 21, 22, 81, 87, 90 and 95 of the Commission's Rules to provide additional radio channels for the radio control of model aircraft, boats and cars. This Notice was issued in response to a petition (RM-3248) from the Academy of Model Aeronautics Inc. (Academy) (November 17, 1978) requesting that the Commission provide additional spectrum for the radio control (R/C) of models. The Academy stated in its petition that additional spectrum is needed in order to cope with anticipated expansion in model activities during the next ten years, and to compensate for diminished use of six existing frequencies allocated to radio control between 26.96 and 27.41 MHz,² which the Academy claims are nearly useless for radio control operations because of interference from the Citizens Band Radio Service which is also authorized in this band.

2. The only other spectrum currently available to the Radio Control Service is seven channels in the 72-76 MHz band; however, this use is secondary to operational fixed stations in the Industrial, Land Transportation and Public Safety Services as well as to low power land mobile stations in the Manufacturers Radio and Special Industrial Services. According to the Academy, in some cities, such as Houston, Texas and Tampa, Florida, only a few of the seven channels are available due to interference from high-power fixed station operations and this availability is expected to further diminish because the use of this spectrum by these other services is growing.

3. In the United States, the band segments 72.0-73.0 MHz and 75.4-76.0 MHz (the 72-76 MHz band) are currently allocated on a primary basis to the non-Government Fixed Service.³ In this band, a 20 kHz channeling plan, which begins at 72.02 MHz and proceeds to 72.98 MHz and then from 75.60 through 75.98 MHz (referred to later herein as "even" channels), has been established. These 72-76 MHz channels are predominantly used by licensees in the private and common carrier radio services for control of remote transmitters operating in the 30-50 MHz, 152-162 MHz or 450-470 MHz bands, which provide dispatch and paging services. It is likely that there will be an increasing demand for 72-76 MHz transmitter control links for the land mobile service to replace more

² These are 26.995, 27.045, 27.095, 27.145, 27.195, 27.255 MHz. The latter frequency is shared with other services.

³ Section § 2.106 of the Commission's Rules.

expensive telephone-company-supplied wireline control circuits. The trend in the common carrier paging service is, moreover, to multiple site, simulcast operations. Control of simulcast transmitters, which requires precise matching of the amplitude and phase of audio signals applied to the individual transmitters, is difficult to achieve using wire line control circuits due to day-to-day variations in frequency or phase response of the circuit. However, control of simulcast transmitters is easily achieved with radio circuits.

4. Non-Government Footnote 49 (NG49) permits low power (1 watt or less) mobile service use of a limited number of the 72-76 MHz channels by several of the Industrial and Land Transportation Radio Services.⁴ Additionally, non-Government Footnote 56 (NG56) permits, on a secondary basis, the low power (1 watt or less) mobile service use of seven channels for the control of models by licensees in the Radio Control Radio Service.⁵ (All operations in this band are subject to the condition that no interference is caused to the reception of signals of television channels 4 and 5.)

5. The Academy initially suggested that R/C be allowed use, on a secondary basis, of ten of the 72-76 MHz channels currently allocated to low power land mobile operations in the Special Industrial, Manufacturers and Railroad Radio Services along with eleven "guard band" channels separating the Government and non-Government allocations between 30 and 42 MHz. This would have replaced the use of existing R/C service channels and provided for 20-25 additional channels for growth of the service over the next 10 years. The Academy also asked if

additional spectrum might be found in the 222-224 MHz, the 450-460 MHz or the 900 MHz bands. The Academy requested channels for exclusive use by aircraft models, because model aircraft have a wider area of operation than surface models and coordination of model control activities among the same kinds of models is easier to achieve.

6. Additionally, the Academy submitted a *Report on 72-76 MHz Radio Control Systems*, on September 11, 1980, which was amended by a letter in July 1981. The report considered the viability of expanded radio operations on interlaced, 20 kHz channels in the 72-76 MHz band (i.e., 72.01, 72.03, 72.05 MHz, etc.) and the technical parameters of a workable 72-76 MHz assignment plan. The Academy recommended implementation of additional 72-76 MHz frequencies as follows:

(a) Model aircraft only: fifty 8 kHz channels, starting at 72.01 MHz and proceeding every 20 kHz through 72.99 MHz.

(b) Terrestrial models only: twenty-three 8 kHz channels, starting at 75.41 MHz and proceeding every 20 kHz through 75.85 MHz.

(c) Phase out existing seven 72-76 MHz frequencies within five years.

(d) Permit any type of emission to be used.

7. After the needs of the R/C community were examined, it was proposed in the Notice that eighty new channels be made available for the control of models; 50 for aircraft models and 30 for surface models.⁶ However, not all of these channels would be useable at any given location. Some would be excluded due to interference caused by continued use of the existing seven 72-76 MHz radio control channels during a five year implementation period; while others would be excluded due to interference caused by higher-powered fixed stations. Additionally, intermodulation products caused by the use of an intermediate frequency (IF) of 455 kHz might preclude the use of spectrum between 72.00-72.52 and 75.86-76.00 MHz until such time as equipment manufacturers can develop receiving systems which employ a different IF frequency. The proposal in the Notice also included some editorial changes to Footnote NG49.

Comments

8. Comments in response to the Notice were received from the Academy, the Association of Maximum Service

Telecasters (MST), the Manufacturers Radio Frequency Advisory Committee (MRFAC), Control Chief Corporation, Phonic Ear, Inc., the Solomons Island Model Boat Club, Whitman Flyers, Inc. and Robert L. Bingham. The Academy also filed a reply comment.

9. Robert Bingham supports the proposal as is, while the Academy supports it with only minor changes. The Solomons Island Model Boat Club suggests that more channels be set aside for model boat use. Whitman Flyers, Inc. questions whether R/C use should be secondary to other uses at 72-76 MHz, and how the use of existing 72-76 MHz R/C equipment will be prohibited after the 5 year "phase-in" period, from a practical standpoint. MST states their concern about interference to TV channels 4 and 5 and suggests "probationary" use of the new channels by R/C. Phonic Ear, manufacturers of devices for the hearing impaired, states that R/C licensees should be required to avoid interfering with auditory training devices.⁷

10. Control Chief and MRFAC both state concern about possible interference between the R/C devices and low power industrial control transmitters which operate in the 72 MHz band. They state that while the Notice addressed interference between higher-powered fixed systems operating in the 72 MHz band, it did not discuss interference to low power industrial control devices which are used for such machinery control purposes as overhead crane control in manufacturing plants. These radio devices are usually handheld so that the crane operator can stand away from the machine while it is in operation. They often operate at less than one (1.0) watt. Since R/C devices can operate at 0.75 watts, in some cases an R/C device might operate at a higher power than the industrial control devices. There could be harmful interference then, Control Chief claims, if the R/C devices are operated close to an industrial plant.

11. In its reply comments the Academy states that the chance of interference to industrial low power devices from R/C devices is negligible. Aircraft models are not flown within several hundred feet of any obstructions, which means that an R/C transmitter would probably be several hundred feet away from any industrial

⁴NG49 The following frequencies may be authorized for low-power (1 watt input) mobile operations in the radio services shown subject to the condition that no interference is caused to the reception of television stations operating on channels 4 and 5:

Manufacturers Radio Service: MHz: 72.02, 72.04, 72.06, 72.08, 72.10, 72.12, 72.14, 72.16, 72.18, 72.20, 72.22, 72.24, 72.26, 72.28, 72.30, 72.32, 72.34, 72.36, 72.38, 72.40.

Special Industrial Radio Service, Manufacturers Radio Service, Railroad Radio Service: MHz: 72.44, 72.48, 72.52, 72.56, 72.60, 75.44, 75.48, 75.52, 75.56, 75.60.

⁵NG56 The frequencies 72.08, 72.16, 72.24, 72.32, 72.40, 72.96, and 75.64 MHz may be authorized for low power (1-watt input) mobile operations in the Personal Radio Services for radio control of models subject to the condition that interference will not be caused to remote control of industrial equipment operating on the same or adjacent frequencies and to the reception of television stations operating on Channels 4 and 5. TV interference shall be considered to occur whenever reception of regularly used television signals is impaired or destroyed, regardless of the strength of the television signals or the distance to the television station."

⁶Seven channels, from 75.85 to 75.99, which were not in the Academy proposal were included in the proposed allocation for surface models in the Notice.

⁷The Commission has authorized the use of such devices (renamed auditory assistance devices) in the 72-76 MHz band and recently, in a Report and Order in Docket 81-786 31714 (FCC 82-331 Adopted July 22, 1982, Released July 30, 1982) to be effective September 3, 1982, authorized their use outside of public buildings.

plant containing a radio controlled crane or similar device, and would certainly be much farther away from the device than the operator of the device. The Academy provides an engineering analysis which shows that this difference in distance along with the 10 kHz frequency offset from the "even" channels used by the industrial control devices would prevent interference even in a "worst-case" where the flying field happened to be located adjacent to an industrial plant where radio control systems were being used. Further, it states that the signals which the two radio systems use are sufficiently different so that any interference from R/C devices would not cause the crane to malfunction. Furthermore, the Academy states there have been no reported cases of interference of this sort, to its knowledge, even though the two types of devices currently operate on 5 shared channels⁸ at 72 MHz.

12. In its comments, the Academy suggests three minor changes to the proposed rules: (a) allow all types of non-voice modulation on the proposed R/C channels, (b) add the list of proposed channels to Section 95.611⁹ and (c) modify the language for discontinuance of the use of the existing 72 MHz R/C channels after 5 years to clarify the liability of manufacturers for unauthorized use of the frequencies.

13. After the close of the comment period, Control Chief submitted written *ex parte* comments refuting several of the points in the Academy's Reply Comments. Control Chief states that some cases of uncommanded crane movement have been experienced; however, whether this was caused by radio interference and from what sources could not be determined. Control Chief states that interference to crane operations could be more severe if the model R/C devices switch to the use of frequency modulation (FM), (they currently use amplitude modulation, AM). The crane radio devices use FM and Control Chief states that the equipment it manufactures would not be able to distinguish between two FM signals as successfully as it does now with the AM model radio control signal. Control Chief also states that the Academy's understanding of the "fail-safe" mechanism in some cranes that

prevents uncommanded movement is incomplete. In these cases the crane stops when the carrier signal drops below a specified limit; a strong interfering signal, however, could provide the necessary signal level to keep the control circuit engaged, inhibiting the normal "fail-safe" mechanism. Also some cranes do not use a code sequence for commanding movement, but use only a single discrete frequency tone, again increasing the chance of uncommanded movement.

14. Control Chief contends that since a model aircraft operator would be unaware that he is causing interference, the industrial crane operator would have the burden of locating the source of interference. This would be difficult as the model radio control licensee does not have a station identification requirement. The model radio control licensee's ability to scan channels to avoid using those being already used by industrial control devices would not detect temporarily out-of-service cranes.

15. Control Chief states that the engineering analysis performed for the Academy was not a "worst case." First the analysis did not account for the antenna radiation pattern. Second, the distance between the crane operator and the crane may be several times more than the 100 feet used in the calculation. Third, the analysis did not account for the possibility of multipath fading. The combination of these factors could possibly result in the interfering signal being the stronger of the two received signals. Control Chief also states that even though the industrial radio control devices are authorized to operate at up to one watt, thousands of existing ones only use 0.05 to 0.08 watts and modification would be a "costly, economically wasteful endeavor."

16. Written *ex parte* comments responding to the *ex parte* comments of Control Chief were also filed by the Academy. The Academy points out that no cases of interference attributable to model aircraft operation have been identified. The Academy also states that while Control Chief "mentioned some points of general validity" concerning the Academy's engineering analysis no more likely "scenario" which would change the parameters used in the analysis has been presented. Therefore, the conclusions of the analysis should be taken as the correct view of the interference potential.

Discussion

17. Based on the Academy petition and the comments received to the Notice there appears to be little disagreement on either the needs of

modelers for additional R/C frequencies or that these needs can be met as a secondary service in the 72-76 MHz band. Two issues have been raised, however, (a) possible interference to other services in the 72-76 MHz band and (b) how the use of the existing R/C equipment would be phased-out and new equipment phased-in.

18. As stated in the Notice, the potential of harmful interference being caused by mobile radio model control transmitters to fixed control stations is slight. First, there would be a 10 kHz separation between the model control transmitter frequency and the fixed control station receiver frequency. Second, the model control station has a transmitter output power of about 0.5 watts and utilizes a single "vertical" radiator of approximately a quarter wavelength with the ground plane consisting of the transmitter box. A fixed land mobile control station commonly operates with an output power of 50 to 100 watts and employs directional antennas at both the receiving and transmitting stations. The fixed stations thus operate at a power level in excess of 20 dB above that used for model control. This, combined with the directional characteristics of fixed station antennas, would prevent the possibility of interference problems occurring. No comments were received indicating concern with interference to fixed operations.

19. On the question of interference to low power radio control devices for industrial operations, such as crane operation, it should be noted that the use of these control devices is limited to industrial plant sites. We concur in the Academy analysis that, because model aircraft are not flown near obstructions, there is likely to be substantial distance between R/C transmitters and industrial control receivers.¹⁰ Further, as the Academy noted, much model activity occurs outside of normal business hours. This, along with the 10 kHz frequency offset arising from the channeling plan, means that there is very little probability of harmful interference.¹¹ We

⁸ 72.08, 72.16, 72.24, 72.32, 72.40 MHz. These channels are shared on a secondary basis and are limited to use in manufacturing plants. (see § 95.79(d) (1)).

⁹ Since Part 95 Subpart C (plain language R/C rules) are published separately from Subpart E, Technical Regulations, it would be helpful to have the complete list of authorized R/C frequencies in both Subparts to avoid the need for cross-referencing.

¹⁰ While Control Chief's *ex parte* comments indicate that interference may be more of a possibility under certain circumstances than the Academy stated in its original comments, we find little merit to most of Control Chief's arguments in this specific case. For example, the distance between the two transmitters is much more important than the relative powers of the two devices (received signal levels are a function of distance-squared) and we do not believe multipath effects would be significant at these frequencies.

¹¹ The Commission has successfully used frequency offsetting, with up to 50% overlap of the authorized bandwidths, elsewhere in the Private Radio Services.

can also substantiate that there have been no reports to the FCC of interference caused by R/C devices operating on existing shared channels at 72 MHz as of the end of 1981.

20. There is also only a very slight potential for harmful interference being caused by model control transmitters to television reception on TV channel 4 (66-72 MHz) or 5 (76-82 MHz). In general, the television signal at a TV receiver would be much higher than a low power R/C transmitter signal. Also, R/C transmitters are usually used in open areas away from houses. Interference to TV from R/C operations using existing 72-76 MHz channels has not been a problem. Consequently, we find no merit to MST's proposal for granting new R/C licenses for only one year to see if interference develops.

21. On the issue of phasing out existing R/C equipment operating on 72.08, 72.16, 72.24, 72.32, 72.40, 72.96 and 75.64 MHz, we believe that the five year period proposed is sufficient. The R/C service is substantially self-policing through the Academy and hobbyist clubs. Because of the possibility of interference, persons using unauthorized frequencies after the five year period may risk damage to their own models as well as to others; thus we do not believe that unauthorized use of the seven frequencies will be a significant problem. Further, we believe that the Academy's planned phase-in of the new frequencies will be sufficient to insure a full, useful life for existing R/C devices and, therefore, no additional FCC rules are needed in this regard.

22. On the question raised in the comments concerning why more channels are to be authorized for aircraft models than surface models, we believe that, because aircraft models are more susceptible to interference from fixed and mobile operations (because they are airborne and usually have a wider area of operation and thus more likely to be on an interference path), a substantially greater number of channels must be available to choose from, in a given area, for aircraft models. On the question raised concerning a requirement that the R/C licensees avoid interfering with auditory assistance devices, the authorization for the auditory assistance devices provides for no interference protection from licensed operations, even though the licensed operation is itself secondary.¹²

¹² Part 15 Section 15.3, "interference must be accepted . . . from any authorized radio services." However, no particular problems with interference between auditory training devices and R/C devices is anticipated.

23. We are therefore providing additional channels for the radio control of models as proposed in the Notice. This should alleviate the problem of channel availability and accommodate future growth. We have also adopted minor changes to the proposed rules, as requested by the Academy, concerning modulation types, listing of the available frequencies in Part 95 Subpart C, and modifying language concerning the withdrawal of authorization for operation of R/C devices on the existing 72 MHz R/C channels. After a review of the proposed changes to Footnote NG49 in the Notice, additional changes have been made to clarify the status of stations on the two groups of frequencies.

24. We also note that R/C license holders are now explicitly allowed to change the frequency of R/C transmitters which are type accepted for this purpose under R/C Rule 38(c). This explicit authority was requested by Academy in its original petition and was effected by a Report and Order in Docket 80-8, adopted May 21, 1981. (FCC 81-252)

Conclusion

25. Pursuant to Section 605 of the Regulatory Flexibility Act of 1980, Pub. L. 96-354, we have reviewed this action to determine if there will be a significant financial impact on a substantial number of small businesses. Although no response was received on this question in the Notice, we anticipate

that any impact should be minimal since manufacturing costs of radio control equipment will not change significantly as a result of this Order. Since, the model radio control uses for which this Order allocates spectrum will be on a secondary basis, no impact on other existing licensed users is anticipated.

26. Authority for the issuance of this Order is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended. Accordingly, it is ordered that Commission Rules are amended as set forth in the Appendix effective 30 days after publication in the **Federal Register**. It is further ordered, that this proceeding is terminated.

27. For further information regarding this Order, contact James Vorhies (202) 653-9097, or Donald Draper Campbell, (202) 653-8177.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.¹³

William J. Tricarico,

Secretary.

Appendix

PART 2—[AMENDED]

Part 2 of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

§ 2.106 [Amended]

1. In § 2.106, the Table of Frequency Allocations, between 72 to 73 and 75.4 to 76.0 MHz, columns 7 through 11 is revised to read as follows:

Federal Communications Commission					
Band (MHz)	Service	Class of station		Frequency (MHz)	Nature of services of stations
	(8)	(7)	(9)	(10)	(11)
72-73	FIXED (NG1)	Land mobile.		72.02 72.98	Operational fixed. Radio control.
	FIXED (NG3)	Fixed.			
	MOBILE (NG49)	Operational fixed.		(NG32)	
	MOBILE (NG56)				
75.4-76	FIXED (NG1)	Land mobile.		75.42 75.98	Operational fixed. Radio control.
	FIXED (NG3)	Fixed.			
	MOBILE (NG49)	Operational fixed.		(NG32)	
	MOBILE (NG56)				

In § 2.106, the text of non-Government Footnote 49 (NG49) is revised to read as follows:

¹³ Commissioner Rivera absent.

NG49 The following frequencies may be authorized on a secondary basis for low-power (1 watt input) mobile operations in the Manufacturers Radio Service subject to the condition that no interference is caused to the reception of television stations operation on

channels 4 and 5 and that their use is limited to a manufacturing facility:

MHz: 72.02, 72.04, 72.06, 72.08, 72.10, 72.12, 72.14, 72.16, 72.18, 72.20, 72.22, 72.24, 72.26, 72.28, 72.30, 72.32, 72.34, 72.36, 72.38, 72.40.

Further, the following frequencies may be authorized on a primary basis for mobile operations in the Special Industrial Radio Service, Manufacturers Radio Service, and Railroad Radio Service subject to the condition that no interference is caused to the reception of television stations operating on channels 4 and 5; and that their use is limited to a railroad yard, manufacturing plant, or similar industrial facility.

MHz: 72.44, 72.46, 72.52, 72.56, 72.60, 72.64, 75.48, 75.52, 75.56, 75.60.

3. In § 2.106, the text of non-Government Footnote 56 (NG56) is revised to read as follows:

* * * * *

NG56 In the bands 72.0–73.0 and 75.4–476.0 MHz, the use of mobile radio remote control of models is on a secondary basis to all other fixed and mobile operations. Such operations are subject to the condition that interference will not be caused to common carrier domestic public stations, to remote control of industrial equipment operating in the 72–76 MHz band, or to the reception of television signal on channels 4 (66–72 MHz) or 5 (76–82 MHz). Television interference shall be considered to occur whenever reception of regularly used television signals is impaired or destroyed, regardless of the strength of the television signal or the distance to the television station.

* * * * *

PART 21—[AMENDED]

B. Part 21 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 21.103 is amended by adding paragraph (g) to read as follows:

§ 21.103 Standards and limitations governing authorization and use of frequencies in the 72–76 MHz band.

* * * * *

(g) Mobile radio remote control of models may be found operating on frequencies 10 kHz removed from those frequencies authorized for fixed operation in the 72–76 MHz band. Such use by model radio remote control of models is secondary to operations of fixed stations as provided for by this section.

PART 22—[AMENDED]

C. Part 22 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 22.103 is amended by adding paragraph (g) to read as follows:

§ 22.103 Standards and limitations governing authorization and use of frequencies in the 72–76 MHz band.

* * * * *

(g) Mobile radio remote control of models may be found operating on frequencies 10 kHz removed from those frequencies authorized for fixed operation in the 72–76 MHz band. Such use by model radio remote control of models is secondary to operations of fixed stations as provided for by this section.

PART 81—[AMENDED]

D. Part 81 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 81.603 is amended by revising paragraph (a) and adding paragraph (d) to read as follows:

§ 81.603 Operational fixed frequencies in the band 72–76 MHz.

(a) The following frequencies in the 72–76 MHz band may be assigned to operational fixed stations. These frequencies are available on a shared basis with the Land Mobile and Aviation Radio Services:

MHz: 72.02, 72.04, 72.06, 72.08, 72.10, 72.12, 72.14, 72.16, 72.18, 72.20, 72.22, 72.24, 72.26, 72.28, 72.30, 72.32, 72.34, 72.36, 72.38, 72.40, 72.42, 72.46, 72.50, 72.54, 72.58, 72.62, 72.64, 72.66, 72.68, 72.70, 72.72, 72.74, 72.76, 72.78, 72.80, 72.82, 72.84, 72.86, 72.88, 72.90, 72.92, 72.94, 72.96, 72.98, 75.42, 75.46, 75.50, 75.54, 75.58, 75.62, 75.64, 75.66, 75.68, 75.70, 75.72, 75.74, 75.76, 75.78, 75.80, 75.82, 75.84, 75.86, 75.88, 75.90, 75.92, 75.94, 75.96, 75.98.

* * * * *

(d) Radio remote control of models is permitted on frequencies 10 kHz removed from these frequencies authorized for fixed and mobile operations in the 72–76 MHz band. Radio remote control operations are secondary to operation of fixed and mobile stations as provided for in this section.

PART 87—[AMENDED]

E. Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 87.463 is amended by revising the introductory text of paragraph (a) and adding paragraph (b) to read as follows:

§ 87.463 Frequencies available to fixed stations.

* * * * *

(a) The frequencies listed in this paragraph may be assigned under the conditions set forth in paragraphs (a)(1)

through (a)(6) of this section. These frequencies are available on a shared basis with the Land Mobile and Stations on Land in the Maritime Radio Services. (Stations authorized to operate in the band 73–74.6 MHz as of December 1, 1961, may continue to operate in this band and are not required to afford protection to the radio astronomy service.)

MHz: 72.02, 72.04, 72.06, 72.08, 72.10, 72.12, 72.14, 72.16, 72.18, 72.20, 72.22, 72.24, 72.26, 72.28, 72.30, 72.32, 72.34, 72.36, 72.38, 72.40, 72.42, 72.46, 72.50, 72.54, 72.58, 72.62, 72.64, 72.66, 72.68, 72.70, 72.72, 72.74, 72.76, 72.78, 72.80, 72.82, 72.84, 72.86, 72.88, 72.90, 72.92, 72.94, 72.96, 72.98, 75.42, 75.46, 75.50, 75.54, 75.58, 75.62, 75.64, 75.66, 75.68, 75.70, 75.72, 75.74, 75.76, 75.78, 75.80, 75.82, 75.84, 75.86, 75.88, 75.90, 75.92, 75.94, 75.96, 75.98.

* * * * *

(b) Mobile radio remote control of models may be found operating on frequencies 10 kHz removed from these frequencies authorized for fixed and mobile operations in the 72–76 MHz band. Such use by the mobile radio remote control of models is secondary to operation of fixed and mobile stations as provided for in this section.

PART 90—[AMENDED]

F. Part 90 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 90.257 is amended by revising paragraph (a)(1) and adding paragraph (c) to read as follows:

§ 90.257 Assignment and use of frequencies in the band 72–76 MHz.

(a) * * *

(1) The following frequencies in the band 72–76 MHz may be used for fixed operations:

MHz: 72.02, 72.04, 72.06, 72.08, 72.10, 72.12, 72.14, 72.16, 72.18, 72.20, 72.22, 72.24, 72.26, 72.28, 72.30, 72.32, 72.34, 72.36, 72.38, 72.40, 72.42, 72.46, 72.50, 72.54, 72.58, 72.62, 72.64, 72.66, 72.68, 72.70, 72.72, 72.74, 72.76, 72.78, 72.80, 72.82, 72.84, 72.86, 72.88, 72.90, 72.92, 72.94, 72.96, 72.98, 75.42, 75.46, 75.50, 75.54, 75.58, 75.62, 75.64, 75.66, 75.68, 75.70, 75.72, 75.74, 75.76, 75.78, 75.80, 75.82, 75.84, 75.86, 75.88, 75.90, 75.92, 75.94, 75.96, 75.98.

* * * * *

(c) Radio remote control of models is permitted on frequencies 10 kHz removed from these frequencies authorized for fixed and mobile operations in the 72–76 MHz band.

¹ These frequencies are shared, on a secondary basis, by the Radio Control Radio Service until 5 years after the effective date of the rule change.)

Remote control operations are secondary to operation of fixed and mobile stations as provided for in this section.

PART 95—[AMENDED]

G. Part 95 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 95.216 (R/C Rule 16) is amended by revising paragraphs (a) and (b), and adding paragraph (e) to read as follows:

§ 95.216 (R/C Rule 16) On what channels may I operate?

(a) Your R/C station may transmit only on the following channels (frequencies):

Frequency (MHz)	To operate
26.995	Any kind of device (any object or apparatus except an R/C transmitter).
27.045	
27.095	
27.145	
27.195	
27.255	A model aircraft device (any small imitation of an aircraft).
26.995	
27.045	
27.095	
27.145	
27.195	See paragraph (e) of this section.
27.255	
72.01	
72.03	
72.05	
72.07	See paragraph (e) of this section.
72.08	
72.09	
72.11	
72.13	
72.15	See paragraph (e) of this section.
72.16	
72.17	
72.19	
72.21	
72.23	See paragraph (e) of this section.
72.24	
72.25	
72.27	
72.29	
72.31	See paragraph (e) of this section.
72.32	
72.33	
72.35	
72.37	
72.39	See paragraph (e) of this section.
72.40	
72.41	
72.43	
72.45	
72.47	See paragraph (e) of this section.
72.49	
72.51	
72.53	
72.55	
72.57	See paragraph (e) of this section.
72.59	
72.61	
72.63	
72.65	
72.67	See paragraph (e) of this section.
72.69	
72.71	
72.73	
72.75	
72.77	See paragraph (e) of this section.
72.79	
72.81	
72.83	
72.85	

Frequency (MHz)	To operate
72.87	See paragraph (e) of this section.
72.89	
72.91	
72.93	
72.95	
72.96	See paragraph (e) of this section.
72.97	
72.99	
75.64	
26.995	A model surface craft device (any small imitation of a boat, car or vehicle except aircraft, for carrying people or objects).
27.045	
27.095	
27.145	
27.195	
27.255	See paragraph (e) of this section.
72.16	
72.32	
72.96	
75.41	
75.43	See paragraph (e) of this section.
75.45	
75.47	
75.49	
75.51	
75.53	See paragraph (e) of this section.
75.55	
75.57	
75.59	
75.61	
75.63	See paragraph (e) of this section.
75.65	
75.67	
75.69	
75.71	
75.73	See paragraph (e) of this section.
75.75	
75.77	
75.79	
75.81	
75.83	See paragraph (e) of this section.
75.85	
75.87	
75.89	
75.91	
75.93	See paragraph (e) of this section.
75.95	
75.97	
75.99	

(d) Your R/C station must stop transmitting if it interferes with:
(1) Authorized radio operations in the 72-76 MHz band; Or
(2) Television reception on TV channels 4 or 5.

(e) Authorization for the use of the following frequencies is withdrawn effective (5 years after the effective date of the rule change): 72.08, 72.16, 72.24, 72.32, 72.40, 72.96 and 75.64 MHz.

2. Section 95.219 (R/C Rule 19) is revised to read as follows:

§ 95.219 (R/C Rule 19) How much power may my R/C station use?

Your R/C station transmitter power output must not exceed the following values:

Channel	Transmitter power (carrier power) (watts)
27.255 MHz	25
26.995-27.195 MHz	4
72-76 MHz	0.75

3. Section 95.220 (R/C Rule 20) is amended by revising paragraph (c) to read as follows:

§ 95.220 (R/C Rule 20) What communications may my R/C station transmit?

(c) Your R/C station may only transmit non-voice:

- (1) Amplitude modulated emissions (A9);
- (2) Unmodulated on-off emissions (A9); and
- (3) Frequency (or phase) modulated emissions (F9) on the 72-76 MHz channels only.

H. Subpart E, Part 95 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 95.611 is amended by revising paragraph (c) to read as follows:

§ 95.611 Availability of frequencies.

(c) R/C stations. (1) The following frequencies are authorized for R/C stations (see Subpart C, Part 95, for specific usages):

(i) To operate any device.

MHz: 26.995, 27.045, 27.095, 27.145, 27.195, 27.255.

(ii) To operate only a model aircraft device.

MHz: 72.01, 72.03, 72.05, 72.07, 72.09, 72.11, 72.13, 72.15, 72.17, 72.19, 72.21, 72.23, 72.25, 72.27, 72.29, 72.31, 72.33, 72.35, 72.37, 72.39, 72.41, 72.43, 72.45, 72.47, 72.49, 72.51, 72.53, 72.55, 72.57, 72.59, 72.61, 72.63, 72.65, 72.67, 72.69, 72.71, 72.73, 72.75, 72.77, 72.79, 72.81, 72.83, 72.85, 72.87, 72.89, 72.91, 72.93, 72.95, 72.97, 72.99.

(iii) To operate only a model surface craft device.

MHz: 75.41, 75.43, 75.45, 75.47, 75.49, 75.51, 75.53, 75.55, 75.57, 75.59, 75.61, 75.63, 75.65, 75.67, 75.69, 75.71, 75.73, 75.75, 75.77, 75.79, 75.81, 75.83, 75.85, 75.87, 75.89, 75.91, 75.93, 75.95, 75.97, 75.99.

(iv) To operate a model aircraft or a model surface device.

MHz: 72.16, 72.32, 72.96.

To operate only a model aircraft device.

MHz: 72.08, 72.24, 72.40, 75.64.

Authorization for the use of these seven frequencies is withdrawn effective (5 years after the effective date of the rule change).

2. Section 95.617 is amended by revising paragraph (b) to read as follows:

§ 95.617 Emission limitations.

(b) The authorized emission bandwidth of any transmitter:

(1) In the Radio Control Service shall be 8 kHz unless single sideband modulation is used in which case bandwidth shall be 4 kHz;

(2) In the Citizens Radio Service, employing amplitude modulation, shall be 8 kHz for double sideband and 4 kHz for single sideband;

(3) In the General Mobile Radio Service, employing frequency modulation or phase modulation shall be 20 kHz.

[FR Doc. 82-31512 Filed 11-17-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-467; RM-4127]

Radio Broadcast Services; FM Broadcast Station in Mountain Home, Arkansas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a third FM channel to Mountain Home, Arkansas, in response to a petition filed by Baker Broadcasting Company.

DATE: Effective January 7, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order—Proceeding Terminated

Adopted: November 2, 1982.

Released: November 8, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Mountain Home, Arkansas), BC Docket No. 82-467; RM-4127.

1. In response to a petition filed by Baker Broadcasting Company ("petitioner"), the Commission adopted a Notice of Proposed Rule Making, 47 FR 33285, published August 2, 1982, proposing the assignment of Class C Channel 298 to Mountain Home,

Arkansas. Supporting comments were filed by the petitioner reaffirming that it will apply for the channel, if assigned. Comments were also filed by Jack G. Hunt, applicant for Channel 296A at Birch Tree, Missouri.

2. Hunt comments that his engineering study indicates that a site restriction of 14.48 miles east southeast of Mountain Home is needed to comply with the minimum distance requirement for the Birch Tree assignment.¹ He confirms that acceptable coverage can be provided over the community from the petitioner's suggested site. Hunt adds that he supports the proposed assignment subject to a site restriction protecting Channel 296A at Birch Tree.

3. After consideration of the proposal and comments, we are satisfied that the public interest would be served by the proposed assignment which would provide Mountain Home with its third FM station. A site restriction of 15.7 miles southeast of the city is required (without rounding off) to avoid short spacing to Station KNIB in Poteau, Oklahoma, and the pending application for Channel 296A at Birch Tree, Missouri.

4. In view of the above and pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b) and 0.204(b), It Is Ordered, That effective in 1982, the FM Table of Assignments, § 73.202(b) of the Commission's Rules is amended with regard to the following community:

City	Channel No.
Mountain Home, Ark.....	252A, 288A, and 298.

5. It is further ordered, That this proceeding Is Terminated.

6. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau (202) 632-7792. (Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules, Broadcast Bureau.

[FR Doc. 82-31509 Filed 11-17-82; 8:45 am]

BILLING CODE 6712-01-M

¹ Site restrictions imposed by the Commission are based on stations meeting the minimum spacing requirements, which can be rounded off. Hunt's study is based on distances of 149.9 miles instead of 150 miles for the first adjacent channels and 64.7 miles instead of 65 miles for the second adjacent channels.

47 CFR Part 73

[BC Docket No. 82-485; RM-4125]

Radio Broadcast Services; FM Broadcast Station in Webb City, Missouri; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 232A to Webb City, Missouri, in response to a petition filed by Don Stubblefield ("petitioner"). The assigned channel could provide a first local FM service to Webb City.

DATE: Effective January 7, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Statistics (Webb City, Missouri) BC Docket No. 82-485, RM-4125.

Report and Order—Proceeding Terminated

Adopted: November 1, 1982.

Released: November 8, 1982.

1. The Commission has under consideration a Notice of Proposed Rule Making, 47 FR 34602, published August 10, 1982, proposing the assignment of Channel 232A to Webb City, Missouri, as that community's first FM assignment, in response to a petition filed by Don Stubblefield ("petitioner"). Petitioner file comments in support of the proposal and reaffirmed his interest in applying for the channel, if assigned. A site restriction of 6.7 miles north-northwest of the city is required at Webb City. No oppositions to the proposal were received.

2. The Commission has determined that the public interest would be served by assigning Channel 232A to Webb City, Missouri, since it would provide a first local FM service to that community.

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and sections 0.204(b) and 0.281 of the Commission's Rules, it is ordered, That effective January 7, 1983, § 73.202(b) of the Commission's Rules is

amended with respect to the following community:

City	Channel No.
Webb City, Missouri.....	232A

4. It is further ordered, That this proceeding is terminated.

5. For further information contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 82-31510 Filed 11-17-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-321; RM-4051]

Radio Broadcast Services; FM Broadcast Station in Canyon, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Class C Channel 300 to Canyon, Texas, and retains Channel 296A in that community, in response to requests by Canyon Broadcasting, Inc. and James A. Speegle.

DATE: Effective January 7, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Broadcast Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Canyon, Texas) BC Docket No. 82-321, RM-4051.

Report and Order—Proceeding Terminated

Adopted: November 1, 1982.

Released: November 8, 1982.

1. The Commission has under consideration its Notice of Proposed Rule Making, 47 FR 27385, published June 24, 1982. The Notice was issued in response to a petition filed by Canyon Broadcasting, Inc. ("petitioner"), licensee of Stations KHBQ(AM) and KHBQ(FM) (Channel 296A), Canyon,

Texas. Petitioner requested the substitution of Class C FM Channel 300 for FM Channel 296A in Canyon and modification of the license of Station KHBQ to specify operation on Channel 300.

2. Petitioner stated that the city limits of Canyon and Amarillo are only 9.4 miles apart and that its station provides principal city coverage to Amarillo, Texas. Petitioner further stated that all of the FM stations in Amarillo are Class C stations and that for Station KHBQ to be viable and effectively complete with them, it needs to be upgraded from a Class A to a Class C channel.

3. In response to the Notice, James R. Speegle ("Speegle") filed comments supporting the proposal to assign Channel 300 to Canyon. However, Speegle stated that since he intends to apply for such a facility, "there should be no modification of the license of Station KHBQ(FM) to specify operation on Channel 300."

4. Petitioner filed comments in which it asked to withdraw its request for assignment of Channel 300 to Canyon, Texas, so as not to jeopardize its existing operation on Channel 296A, even though there is no technical conflict in the operation of stations on both Channels 296A and 300 in Canyon. Speegle points out that petitioner's reliance on the case of *Statesboro, Georgia*, 40 RR 2d 1021 (1977), is misplaced. Speegle states that *Statesboro, Georgia*, allowed the petitioner to withdraw its proposal (Channel 260) because an assignment of the Class C channel in that case would have required the deletion of the Class A assignment (Channel 261A) previously licensed to the petitioner.

5. The assignment of Channel 300 to Canyon would not preclude retaining Channel 296A. Therefore, petitioner would not risk losing its existing license in a comparative hearing if Channel 300 were assigned to Canyon. Prior to the adoption of *Revision of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982), the assignment of Channel 300 to Canyon with the retention there of Channel 296A would have violated the Commission's policy against intermixture of classes of channels. However, in *Revision of FM Assignment Policies and Procedures*, *supra*, the Commission decided to eliminate this policy. Thus, this policy change removed the only reason against assigning Channel 300 to Canyon. Since there is another party interested in applying for Channel 300 and since the Commission has no policy objections to assigning Channel 300 while retaining Channel 296A, petitioner's request to withdraw its proposal is denied. See *Appomattox*

and *Farmville, Virginia*, 51 RR 2d 1397 (1982). Therefore, we will add Channel 300 to Canyon and retain Channel 296A in that community. Petitioner will have the option to continue as licensee of Channel 296A or apply for Channel 300.

6. Authority for the adoption of the amendment herein is contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.204(b) and 0.281 of the Commission's Rules.

7. Accordingly, it is ordered, That effective January 7, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended with regard to the following community:

City	Channel No.
Canyon, Texas.....	296A, 300

8. It is further ordered, That this proceeding is terminated.

9. For further information concerning the above, contact Philip S. Cross, Broadcast Bureau, (202) 632-5414.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 82-31508 Filed 11-17-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[PR Docket No. 79-191; RM-3380; PR Docket No. 79-334; RM-3691; PR Docket No. 79-107; PR Docket No. 81-703]

Private Land Mobile Radio Services; Amendment of the Commission's Rules To Release Spectrum in Certain MHz Bands and To Adopt Rules Governing Their Use; and Amendment To Facilitate Authorization of Wide-Area Mobile Radio Communications Systems; and Inquiry Concerning the Multiple Licensing of 800 MHz Radio Systems; and Amendment To Allow Transmission of Nonvoice Signals at 800 MHz; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document contains certain corrections to both the text and Appendix of the Second Report and Order in PR Docket 79-191, 47 FR 41002, September 16, 1982, concerning amendment of Part 90 of the Commission's Rules to release spectrum in the 806-821/851-866 MHz bands for

private land mobile radio services and to adopt rules which govern their use.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION:

Released: November 8, 1982.

In the matter of an amendment of Part 90 of the Commission's Rules to release spectrum in the 806-821/851-866 MHz bands and to adopt rules and regulations which govern their use; PR Docket No. 79-191, RM-3380; amendment of Part 90 of the Commission's Rules to facilitate authorization of wide-area mobile radio communications systems; PR Docket No. 79-334, RM-3691; an Inquiry concerning the multiple licensing of 800 MHz radio systems ("community repeaters"); PR Docket No. 79-107; Amendment of § 90.385(c) of the Commission's Rules to allow transmission of non-voice signals at 800 MHz; PR Docket No. 81-703; erratum.

The Second Report and Order in the above captioned proceeding was released by the Commission on August 16, 1982. It was printed in the Federal Register on September 16, 1982, 47 FR 41002. An erratum was released on August 26, 1982, (FCC Memo 32012) (September 16, 1982; 47 FR 41045). A second erratum was released on September 28, 1982 (FCC Memo 32105). This third erratum makes additional corrections in both the text and Appendix of the item.

1. In the text, the table in paragraph 186 should be changed to read as follows:

Category	Border area offset channels
Public Safety/Special Emergency	55
Industrial/Land Transportation	40
Business	40
SMRS	65
Total	200

2. In the text, add the following sentence to the end of paragraph 187: "—of the Rules. All frequencies are considered new spectrum and are subject to the new rules set out in Subpart S."

§ 90.617 [Corrected]

3. In the Appendix, § 90.617(a), change the last sentence to read: "These frequencies are available in areas further than 110 km (68.4 miles) from the U.S./Mexico border and 160 km from the U.S./Canada border."

§ 90.629 [Corrected]

4. In § 90.629(a)(1), add the word "or" after "—construction."

§ 90.651 [Corrected]

5. § 90.651(c), change the first sentence to read: "Licensees of conventional systems must report the number of mobile units placed in operation within 8 months of the date of the grant of their license."

§ 90.657 [Corrected]

6. In § 90.657, in the last sentence change the word "feel" to "feet".

§ 90.437 [Corrected]

7. In § 90.437(d), change "§ 90.393" to "§ 90.390".

§ 90.213 [Corrected]

8. In § 90.213(a), in the Frequency Tolerance Table, change all references from footnote 15 to footnote 16. Also in the Column "Mobile Stations, over 2 W output power", for the frequency range 851-866 MHz, change the tolerance from ".00015" to ".00025".

§§ 90.617 and 90.619 [Corrected]

9. Add the following sentence to the end of §§ 90.617(a), 90.617(b), 90.619(a)(1), and 90.619(a)(2): "Specialized Mobile Radio Systems (SMRS) will not be authorized in this category".

§ 90.619 [Amended]

10. Add a new § 90.619(b)(7)(iii) to read as follows:

(b) * * *

(iii) The Public Safety Category consists of the Local Government, Police, Fire, Highway Maintenance, Forestry-Conservation and Special Emergency Radio Services. The Industrial/Land Transportation Category consists of the Power, Petroleum, Forest Products, Motion Picture, Relay Press, Special Industrial, Manufacturers, Telephone Maintenance, Motor Carrier, Railroad, Taxicab, and Automobile Emergency Radio Services. The Business Radio Category consists of the Business Radio Service. Specialized Mobile Radio Systems (SMRS) will not be authorized in any of the above mentioned categories, but only in the SMRS Category to those applicants eligible under § 90.603(c).

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 82-31511 Filed 11-17-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81-16; Notice 2]

Federal Motor Vehicle Safety Standards; Motor Vehicle Lighting

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends Motor Vehicle Safety Standard No. 108 to substitute SAE Standard J594f for J594e as the referenced standard on reflex reflectors. This amendment is in response to a petition for rulemaking submitted by Motor Vehicle Manufacturers Association (MVMA). A notice of proposed rulemaking was published on October 13, 1981 (46 FR 50396). The effect of the amendment is to increase the diameter of the circumscribing circle for the photometric test from 7 to 10 inches.

DATE: Effective date is December 20, 1982.

FOR FURTHER INFORMATION CONTACT:

Kevin Cavey, Avoidance Division, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-2153).

SUPPLEMENTARY INFORMATION: Standard No. 108 requires that reflex reflectors be designed to conform to SAE standard J594e *Reflex Reflectors*, March 1970. Section J "Photometry" of the Standard specifies that "reflex reflectors may have any linear or area dimensions, but for the photometric test a maximum of 12 square inches contained within a 7 inch diameter circle shall be exposed." In January 1977 the SAE adopted J594f which increased the diameter of the test circle to 10 inches. MVMA petitioned the agency to substitute J594f as the referenced standard on reflex reflectors arguing that it will relieve a design restriction and permit greater latitude in reflector design with no decrease in safety performance.

Specifically, MVMA noted that the increase in minimum requirements for lens area of rear turn signal lamps from 3.5 to 8 inches adopted by NHTSA in 1976 has resulted in increased use of reflex material in the form of horizontal or vertical strips as well as material incorporated within the lenses. But some types of designs are prohibited by current requirements that would be allowable when 12 square inches of reflex material are circumscribed by a

circle with a diameter increased from 7 to 10 inches. The performance requirements of this reflective material itself would remain unchanged.

In the proposal NHTSA pointed out the following additional differences between the two standards. The option of using visual measurements for determining photometric performance will be eliminated. This change will result in a greater comparability of test results between manufacturers and NHTSA, which uses photometric rather than visual measurements, thus reducing the likelihood of disagreements when agency tests indicate photometric performance does not meet the standard. In addition, a new Table I is provided, "Minimum Milli-candelas per Incident Lux for Red Reflex Reflectors", the current table becoming "1A". The new table is the equivalent of the old in metric units. Either table may be used, a fact not made clear by J594f.

Nine comments were received on the proposal, all of whom supported it. The majority approved of the removal of a design restriction. The Traffic Control Materials Division of 3M Corporation suggested updating Federal Specification L-S-300 which has been revised three times since September 1965, the version cited in S4.1.1.4. However, because such an amendment was beyond the scope of the original proposal and the public has not had an opportunity to comment upon it, this recommendation was not adopted.

The agency's preliminary examination has shown that this rulemaking action is not a major regulation under Executive Order 12291 "Improving Government Regulations," or a significant regulation under the Department's regulatory policies and procedures, and that a regulatory impact analysis is not required. Further, the costs impacts will be so minimal that preparation of a full regulatory evaluation is not warranted. Amendment of the standard will impose no additional manufacturer requirements but will allow producers flexibility to adopt reflex material designs that are now precluded by the current requirements of Standard No. 108. The cost savings resulting from taking advantage of that flexibility would be insubstantial. Although visual measurements for determining photometric conformance will be eliminated, the cost of substituting photometric measures should be minimal. NHTSA believes that most manufacturers, as the best assurance of compliance, have relied on photometric measurements in the past.

The agency has also considered the impacts of this amendment in relation to the Regulatory Flexibility Act. NHTSA

certifies that amending Standard No. 108 to increase the diameter of the circumscribing circle for the photometric tests of reflex reflectors would not have a significant economic effect on a substantial number of small entities. Accordingly, no initial regulatory flexibility analysis has been prepared. Based on available information, the agency believes that few, if any, of the manufacturers of reflex reflectors are small businesses as that term is defined for purposes of the Flexibility Act. Small organizations and governmental jurisdictions which purchase fleets of motor vehicles would probably not be significantly affected. The difference in cost of vehicles equipped with current reflex reflectors and those permitted by the amendment would be insubstantial at most.

Because the amendment relieves a restriction and imposes no additional burden, it is hereby found for good cause shown that an effective date less than 180 days is in the public interest.

NHTSA has analyzed this amendment for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the human environment.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, is amended as follows:

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

1. Paragraph S4.1.1.4 is revised to read:

* * * * *

S4.1.1.4 Reflective material conforming to Federal Specification L-S-300, "Sheeting and Tape, Reflective; Non-exposed Lens, Adhesive Backing," September 7, 1965, may be used for side reflex reflectors if this material as used on the vehicle, meets the performance standards in either Table I or Table IA of SAE Standard J594f, "Reflex Reflectors", January 1977.

* * * * *

2. The first sentence of paragraph S5.1 is amended as follows:

* * * * *

S 5.1 SAE Standards and Recommended Practices subreferenced

by the SAE Standards and Recommended Practices included in Tables I and III and paragraphs S4.1.4 and S4.5.1 are those published in the 1970 edition of the SAE Handbook, except that the SAE standard referred to as "J575" is J575e, *Tests for Motor Vehicle Lighting Devices and Components*, August 1970, for tail lamps, stop lamps, turn signal lamps, and reflex reflectors designed to conform, respectively, to SAE Standards J585d, J586c, J588e, and J594e. * * *

3. In Table I, under the column headed "Item", the term "intermediate reflex reflectors" is revised to read "intermediate side reflex reflectors."

4. Table I and Table III are revised to substitute "J594f, January 1977" in the column headed "Applicable SAE standard or recommended practice" as the referenced standard for reflex reflectors, and intermediate side reflex reflectors.

The program official and attorney responsible for developing this proposal are Kevin Cavey and Taylor Vinson, respectively.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on November 9, 1982

Raymond A. Peck, Jr.,
Administrator.

[FR Doc. 82-31286 Filed 11-17-82; 8:45 am]

BILLING CODE 4910-59-M

49 CFR Part 580

[Docket No. 81-13; Notice 2]

Odometer Disclosure Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends 49 CFR Part 580 to exempt from the Odometer Disclosure Requirements all sales of new motor vehicles by a motor vehicle manufacturer directly to any agency of the United States. The purpose of this exemption, which is being issued pursuant to a petition by General Motors Corporation, is to relieve manufacturers of the burden of complying with this requirement.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Kathleen DeMeter, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-1834).

SUPPLEMENTARY INFORMATION: Since March 1, 1973, a regulation (49 CFR Part 580) has been in effect which requires the transferor of a motor vehicle to make written disclosure to the transferee concerning the odometer reading and its accuracy. This regulation lists four exceptions where the transferor need not disclose the vehicle's mileage.

On December 10, 1981, in response to a petition from General Motors Corporation, NHTSA published (46 FR 60482) a Notice of Proposed Rulemaking (NPRM) which proposed creating a fifth category of exempt transactions. That category consists of all sales in conformity with contractual specifications of motor vehicles by a manufacturer directly to any agency of the United States. GM noted that most of a vehicle manufacturer's transfers are already exempt from the disclosure requirements and this exemption would merely extend the existing exemption. GM stressed that the disclosure requirements were designed to protect consumers against odometer fraud in retail transactions. The conditions lending themselves to fraud in the retail market are, GM argued, non-existent in manufacturer-to-government sales.

Two comments were received in response to the NPRM. Chrysler Corporation supported the proposed change without qualification. PACCAR, Inc. supported the concept of the additional exemption and the rationale behind it, but expressed reservations about the unsettled issue of NHTSA's authority to promulgate any exemption to the odometer disclosure regulation. PACCAR noted correctly that two Federal District Courts have invalidated the exemption for trucks over 16,000 GVWR on the basis that the NHTSA is not authorized to make any exemptions to the law.

Section 408 (a) of the Motor Vehicle Information and Cost Saving Act (15 U.S.C. 1988) states that the Secretary of the Department of Transportation shall prescribe rules requiring transferors to give written mileage disclosures to transferees in connection with the transfer of ownership of a motor vehicle. It is the interpretation of NHTSA that this grant of rulemaking authority empowers the agency to also make exceptions to the requirement where it is shown that no mileage statement is necessary. NHTSA recognizes that there is a conflict between its interpretation of the Act and the interpretation of the United States District Courts for the Districts of Nebraska and Idaho. While these decisions are not binding precedent in other Federal courts, they

may, however, be used as guidance and followed should the issue arise in the future with respect to the same or one of the other exemptions. Therefore, NHTSA has advised interested persons of the two court opinions and their conflict with the current language of the regulation and forewarned them that the issue has not been resolved. NHTSA is proceeding with this rulemaking action on the basis that its interpretation is correct, but is also advising manufacturers to consult with their legal counsel to determine what course of action will most effectively protect their legal rights.

The agency has assessed the economic and other impacts of the change and determined that this is not a major rule within the meaning of Executive Order 12291. This notice has also been evaluated under the Department Regulatory Policies and Procedures, 44 FR 11034, and has been determined to be a nonsignificant regulation. Based on that assessment, the agency concludes also that the economic and other consequences of this rule are so minimal as not to require preparation of a regulatory impact analysis or a regulatory evaluation. I hereby certify that the rule will not have a significant economic impact on a substantial number of small entities and, therefore, preparation of an Initial Flexibility Analysis is not necessary. The amendment applies directly only to motor vehicle manufacturers and does not impose new requirements, but in fact alleviates existing requirements. The amendment applies indirectly to the U.S. Government in that it is the current recipient of those disclosure statements, however, it does not apply to small government units.

List of Subjects in 49 CFR Part 580

Consumer protection, Motor vehicle safety, Motor vehicles, Reporting requirements.

PART 580—[AMENDED]

In consideration of the foregoing, 49 CFR 580.5 is revised to read as follows:

§ 580.5 Exemptions.

Notwithstanding the requirements of § 580.4—

(a) A transferor of any of the following motor vehicles need not disclose the vehicle's odometer mileage;

(1) A vehicle having a gross vehicle weight rating, as defined in § 571.3 of this chapter, of more than 16,000 pounds;

(2) A vehicle that is not self-propelled;

(3) A vehicle that is 25 years old or older; or

(4) A vehicle sold directly by the manufacturer to any agency of the United States in conformity with contractual specifications.

(b) A transferor of a new vehicle prior to its first transfer for any purposes other than resale need not disclose the vehicle's odometer mileage.

(Sec. 408, Pub. L. 92-513, 86 Stat. 947, as amended by Pub. L. 94-364, 90 Stat. 981 (15 U.S.C. 1988); delegation of authority at 49 CFR 1.50(f))

Issued on: October 5, 1982.

Raymond A. Peck,
Administrator.

[FR Doc. 82-31365 Filed 11-17-82; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Forty-Fifth Revised Service Order No. 1473]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Forty-Fifth Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad and Transition Employee Assistance Act, Public Law 96-254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE: 12:01 a.m., November 17, 1982, and continuing in effect until 11:59 p.m., January 31, 1983, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840 or 275-1559.

Decided: November 12, 1982.

Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Public Law 96-254 (RITEA), the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee),

(RI) and to use such tracks and facilities as are necessary for those operations.

In view of the urgent need for continued rail service over RI's lines pending the implementation of long-range solutions, this order permits carriers to provide service to shippers which may otherwise be deprived of essential rail transportation.

Appendix A, to the previous order, is revised by adding Item 25, the authority for the Enid Central Railway, Inc. (ENIC) to operate between North Enid and Ponca City, Oklahoma, a distance approximately 54.8 miles. ENIC also requested overhead rights between Enid and Kremlin, Oklahoma. Section 122 of RITEA is specific with respect to the lines (RI or the Milwaukee) over which the Commission may authorize temporary operations. Since the ownership of this track segment has been transferred to the State of Oklahoma and leased to the Oklahoma, Kansas and Texas Railroad Company (OKKT), the Railroad Service Board is without authority to grant overhead rights as requested by ENIC. The request of ENIC is denied without prejudice. Other forums are available for approval of a trackage rights agreement before the Commission.

Appendix B of Forty-Third Revised Service Order No. 1473 is unchanged and is incorporated into this order by reference.

It has been brought to the attention of the Board that, in certain cases, payment of compensation to the Trustee for the use of Rock Island property is in arrears. All interim operators are reminded that compensation, whether determined by lease, agreement, or the Rock Island Formula, is a requirement of this order and should remain current.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the named appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1473 Revised Service Order 1473

(a) *Various railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee).* Various railroads are authorized to the tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to

provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers as previously authorized in Service Order No. 1435.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Public Law 96-254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least (30) thirty days notice to the Railroad Service Board and affected shippers.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a), operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(1) In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., November 17, 1982.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

(49 U.S.C. 10304, 10305, and Section 122, Pub. L. 96-254)

List of Subjects in 49 CFR Part 1033

Railroads.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

J. Warren McFarland not participating.
 Agatha L. Mergenovich,
 Secretary.

Appendix A

RI Lines Authorized To Be Operated by Interim Operators

1. Peoria and Pekin Union Railway Company (PPU):

A. All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Pekin, Illinois.

B. Mossville, Illinois (milepost 148.23) to Peoria, Illinois (milepost 161.0) including the Keller Branch (milepost 1.55 to 6.15).

2. Union Pacific Railroad Company (UP):

A. Beatrice, Nebraska.

B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.

3. Toledo, Peoria and Western Railroad Company (TPW):

A. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.

4. Chicago and North Western Transportation Company (CNW):

A. From Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.

B. From Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0).

C. From Inver Grove (milepost 344.7) to Northwood, Minnesota.

D. From Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6).

E. From East Des Moines, Iowa (milepost 350.8) to West Des Moines, Iowa (milepost 364.34).

F. From Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7).

G. From Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0).

H. From Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 415.9).

I. From Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).

J. From Iowa Falls (milepost 97.4) to Estherville, Iowa (milepost 206.9).

K. From Brice, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7).

L. From Palmer (milepost 454.5) to Royal, Iowa (milepost 502).

M. From Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2).

N. From Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids.

O. At Sibley, Iowa.

P. At Hartley, Iowa.

Q. From Carlisle to Indianola, Iowa.

R. At Omaha, Nebraska (between milepost 502 to milepost 504).

S. Peoria Terminal Company trackage from Iowa Junction (RI milepost 164.32/PTC milepost 91) through Hollis, Illinois to the Illinois River bridge (milepost 7.40).

5. Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW):

A. From Newport, Minnesota to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.

B. From Davenport (milepost 182.35) to Iowa City, Iowa (milepost 237.01).

6. Missouri Pacific Railroad Company (MP):

A. From Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5).

B. From Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0).

C. From Hot Springs Junction (milepost 0.0) to and including Rock Island milepost 4.7.

7. *Norfolk and Western Railway Company (NW):* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track, for the purpose of serving industries located adjacent to such tracks. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

8. Cadillac and Lake City Railway Company (CLK):

A. From Sandown Junction (milepost 0.1) to and including junction with DRGW Belt Line (milepost 2.7) all in the vicinity of Denver, Colorado, a distance of approximately 6.6 miles.

B. From Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado (milepost 602.8), all in the vicinity of Colorado Springs, Colorado, and Eastwood from Colorado Springs to Falcon, Colorado (milepost 590.3), a total distance of approximately 25.1 miles.

C. From Simla, Colorado (milepost 558.3) to Colby, Kansas (milepost 387.0), a distance of approximately 171.3 miles.

D. Rock Island trackage rights over Union Pacific Railroad Company between Limon and Denver, Colorado, a distance of approximately 83.8 miles.

9. Baltimore and Ohio Railroad Company (BO):

A. From Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

B. From Bureau, Illinois (milepost 114.12) to Henry, Illinois (milepost 126.94) a distance of approximately 12.8 miles.

10. Keota Washington Transportation Company (KWTR):

A. From Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.

B. At Vinton, Iowa (milepost 120.0 to 123.0).

C. From Vinton Junction, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4).

11. The La Salle and Bureau County Railroad Company (LSBC):

A. From Chicago (milepost 0.60) to Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois.

B. From Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8), at Blue Island, Illinois.

C. From Gresham (subdivision 1, milepost 10.0) to South Chicago (subdivision 1B, milepost 14.5) at Chicago, Illinois.

D. From Pullman Junction, Chicago, Illinois, (milepost 13.2) running southerly to the entrance of the Chicago International Port, a distance of approximately five miles, for the purpose of bridge rights and to effect interchange at the Kensington and Eastern Yard.

12. The Atchison, Topeka and Santa Fe Railway Company (ATSF):

A. At Alva, Oklahoma.

B. At St. Joseph, Missouri.

13. The Brandon Corporation (BRAN):

A. From Clay Center, Kansas (milepost 178.37), to Manhattan, Kansas (milepost 143.0), a distance of approximately 35 miles.

14. Iowa Northern Railroad Company (IANR):

A. From Cedar Rapids, Iowa (milepost 100.5), to Manly, Iowa, (milepost 225.1)

B. At Vinton, Iowa, and west on the Iowa Falls Line to milepost 24.3.

15. Iowa Railroad Company (IRRC):

A. From Council Bluffs (milepost 490.15) to West Des Moines, Iowa (milepost 364.34) a distance of approximately 126.81 miles.

B. From Audubon Junction (milepost 440.7) to Audubon, Iowa (milepost 465.1) a distance of approximately 24.4 miles.

C. From Hancock, Iowa (milepost 6.4) to Oakland, Iowa (milepost 12.3) a distance of approximately 5.9 miles.

D. Overhead rights from West Des Moines, Iowa (milepost 364.34) to East Des Moines, Iowa (milepost 350.8). (This trackage is currently leased to the CNW, see Item 5.E.)

E. From East Des Moines, Iowa (milepost 350.8) to Iowa City, Iowa (milepost 237.01) a distance of 113.79 miles.

F. Overhead rights from Iowa City, Iowa (milepost 237.01) to Davenport, Iowa (milepost 182.35), including interchange with the Cedar Rapids and Iowa City Railway. (This trackage is currently leased to the MILW, see Item 6.D.)

G. From Bureau, Illinois (milepost 114.2) to Davenport, Iowa (milepost 182.35.)

H. From Rock Island, Illinois through Milan, Illinois, to a point west of Milan sufficient to serve the Rock Island Industrial Complex.

I. At Rock Island, Illinois including 26th Street Yard.

J. From Altoona to Pella, Iowa.

16. Missouri-Kansas-Texas Railroad Company (MKT):

A. From Oklahoma City, Oklahoma (milepost 496.4) to McAlester, Oklahoma (milepost 365.0), a distance of approximately 131.4 miles.

17. Chicago Short Line Railway Company (CSL):

A. From Pullman Junction easterly for approximately 1,000 feet to serve Clear-View Plastics, Inc., all in the vicinity of the Calumet switching district.

B. From Rock Island Junction westerly for approximately 3,000 feet to Irondale, Wye.

18. Kyle Railroad Company (KYLE):

A. From Belleville (milepost 187.0) to Caruso, Kansas (milepost 430.0), a distance of approximately 243 miles. KYLE will be responsible for the maintenance of the jointly used track between Colby and Caruso as mutually agreed upon with CLK, and for coordinating operations.

B. From Belleville (milepost 187.0) to Mahaska, Kansas (milepost 170.0) a distance of approximately 17 miles.

C. From Belleville (milepost 225.34) to Clay Center, Kansas (milepost 178.37) a distance of approximately 47 miles.

19. *North Central Oklahoma Railway, Inc. (NCOK):*

A. From Mangum, Oklahoma (milepost 97.2) to Anadarko, Oklahoma (milepost 18.14).

B. From El Reno, Oklahoma (milepost 515.0) to Hydro, Oklahoma (milepost 553.0) a distance of approximately 38 miles.

C. From Geary, Oklahoma (milepost 0.0) to Okeene, Oklahoma (milepost 39.0) a distance of approximately 39 miles.

20. *South Central Arkansas Railway, Inc. (SCAR):*

A. From El Dorado, Arkansas (milepost 99) to Ruston, Louisiana (milepost 154.77).

21. *Burlington Northern Railroad Company (BN):*

A. At Burlington, Iowa (milepost 0 to milepost 2.06).

B. At Okeene, Oklahoma.

22. *Fort Worth and Denver Railway Company (FWD):*

A. From Amarillo to Bushland, Texas, including terminal trackage at Amarillo, and approximately three (3) miles northerly along the old Liberal Line.

B. At North Fort Worth, Texas (mileposts 603.0 to 611.4).

23. *Omaha, Lincoln and Beatrice Railway Company (OLB):*

A. At Lincoln, Nebraska (milepost 559.16) to (milepost 560.83).

Note.—In the interest of operational clarity and efficiency, and considering OLB's lease with the Trustee, OLB will be the supervising carrier for operations and maintenance for the above segment to be operated jointly with COE.

24. *Colorado and Eastern Railway Company (COE):*

A. At Lincoln, Nebraska (milepost 558.0) to (milepost 562.0) a distance of approximately 4.0 miles. [This authority is joint with OLB between mileposts 559.16 and 560.83, see Item 27, Note].

+25. *Enid Central Railway Company, Inc. (ENIC):*

A. From North Enid, Oklahoma (Milepost 0.12) to Ponca City, Oklahoma (Milepost 54.8).

+ Added.

[FR Doc. 82-31521 Filed 11-17-82; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register

Vol. 47, No. 223

Thursday, November 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-35]

Union of Concerned Scientists; Filing of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of petition for rulemaking.

SUMMARY: The Commission is publishing for public comment this notice of receipt of a petition for rulemaking dated October 14, 1982, which was filed with the Commission by the Union of Concerned Scientists. The petition was docketed by the Commission on October 18, 1982, and has been assigned Docket No. PRM-50-35. The petitioner requests that the Commission amend its regulations in 10 CFR Part 50 to clarify the public's litigation rights in regard to offsite emergency planning for a nuclear power plant prior to issuance of a full power operating license.

DATE: Comment period expires January 17, 1983. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

All persons who desire to submit written comments concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-7086 or Toll Free: 800-368-5642.

SUPPLEMENTARY INFORMATION: The petitioner states that a clarifying amendment is needed (in 10 CFR 50.47) to establish consistency in NRC's treatment of offsite emergency plans and that the current language in § 50.47 would allow serious and illegal infringement of the public's right to litigate health and safety issues under the Atomic Energy Act.

The petitioner proposes that a new paragraph (a)(3) be added to § 50.47 to read as follows:

§ 50.47(a)(3) "Throughout any period of low power operation or fuel loading, the licensing board will retain jurisdiction over the operating license proceeding and maintain an open hearing record. No license for operation at over 5% of rated power will be issued before the completion of adjudicatory hearings on all contested emergency planning issues, including defects in onsite and offsite emergency planning identified as a result of preoperational emergency preparedness exercises."

The petitioner states that its proposed amendment is necessary because § 50.47 currently provides that operating licenses for fuel loading and/or operation at up to 5% of rated power may be issued without NRC or FEMA review findings, or determinations concerning the state of offsite emergency preparedness or the adequacy of and capability to implement state and local offsite emergency plans. The petitioner further states that § 50.47 makes no provision for completion of adjudicatory hearing on the sufficiency of offsite planning before a full power license is issued.

The petitioner states that when the Commission amended § 50.47 on July 13, 1982 (47 FR 30232), to add the provision permitting fuel loading and/or operation at up to 5% of rated power without NRC or FEMA review, findings or determinations concerning offsite emergency preparedness, it set a new hurdle for intervenors in nuclear power plant licensing proceedings to leap in order to litigate emergency planning issues.

Finally, the petitioner states that the Commission has provided no rational basis, nor is there one, for treating

offsite emergency planning contentions any differently than other licensing issues.

At a meeting held November 3, 1982, the petition was discussed by NRC representatives, the petitioner, and a representative of the Commonwealth of Massachusetts. At this meeting, general agreement was reached that the NRC did not intend the July 1982 amendments (see 47 FR 30232) to affect the overall consideration of emergency planning issues in full-power operating license proceedings, except in regard to offsite exercises. Hence, the Commission understands that the principal thrust of the petition lies in the last phrase of the proposed amendment: " * * * including defects in onsite and offsite emergency planning identified as a result of preoperational emergency preparedness exercises." The Commission is therefore particularly interested in public comment on this issue, namely, whether or not the offsite exercise need be held prior to closure of the hearing record in the full-power proceeding.

Dated at Washington, D.C., this 12th day of November 1982.

For the Nuclear Regulatory Commission:

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 82-31579 Filed 11-17-82; 8:45 am]

BILLING CODE 7590-01-M

10 CFR Part 50

Guidance for Implementation of Standard Review Plan Rule, (Request for Comments); Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for comments; correction.

SUMMARY: In a notice published in the Federal Register on October 22, 1982 (47 FR 47019), the Commission requested comment on its "Proposed Guidance for Implementation of Standard Review Plan Rule" (NUREG-0906). This document corrects errors contained in that notice.

FOR FURTHER INFORMATION CONTACT: Thomas H. Novak, (301) 492-7817.

The following corrections are made in the document described above:

1. On Page 47019, the "FOR FURTHER INFORMATION CONTACT" section of

the notice is corrected to read "Thomas H. Novak, (301) 492-7817."

2. On page 47021, column two, first new paragraph, " * * * at least 2% k/k * * *" is corrected to read " * * * at least 2% $\Delta k/k$ * * *"

Dated at Bethesda, Maryland, this 9th day of November 1982.

For the Nuclear Regulatory Commission,

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-31590 Filed 11-17-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 135

[Docket No. 22745; Ref. Notice No. 82-4]

Flight Crewmember Flight Time Limitations and Rest Requirements

Note.—This document originally appeared in the *Federal Register* for Tuesday, November 16, 1982. It is reprinted in this issue to meet requirements for publication on the Monday/Thursday schedule assigned to the Federal Aviation Administration, Department of Transportation.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This notice withdraws Notice 82-4 published in the *Federal Register* on March 11, 1982, (47 FR 10748). That notice proposed to revise the flight time and rest requirements for flight crewmembers used by domestic, flag, and supplemental air carriers and commercial operators, and air taxi operators and commercial operators. The notice is being withdrawn because the proposals have become apparently difficult to understand and the Agency has received widely varying comments. The FAA, however, will continue to review actively the existing flight time limitations regulations and will issue a new proposal after this review is complete.

FOR FURTHER INFORMATION CONTACT: Larry Bedore, Project Development Branch (AFO-240), Office of Flight Operations, Federal Aviation Administration, 800 Independence Ave., SW., Washington, D.C. 20591; telephone (202) 472-4621.

SUPPLEMENTARY INFORMATION:

Background

On February 16, 1982, the FAA issued Notice 82-4 (47 FR 10748; March 11, 1982). The notice proposed a substantial revision to the flight and duty time

regulations applicable to flight crewmembers utilized by domestic, flag, and supplemental air carriers and commercial operators, and air taxi operators and commercial operators. The amount of regulatory material would be substantially reduced and simplified, and a set of common standards would be applied to all flight crewmembers, without distinction based on whether they performed in scheduled airline operations, on-demand air taxi operations, helicopter operations, or other forms of air carrier or commercial flight operations. The notice represented, in effect, a studied attempt to de-regulate in the sense that more discretion would be left to the operator's management to determine the details of flight crewmember flight time and rest periods. At the same time, however, the notice also represented the FAA's best efforts to provide adequate rest provisions and to respond to a changed operating environment.

Reasons for the Withdrawal

As might be expected on a subject so inherently controversial, vast volumes of initial comments and reply comments have been received. The comments contend that the proposals are difficult to understand, do not deal adequately, or at all, with certain operational aspects affecting pilot fatigue (circadian rhythm or diurnal cycle, for example) or do not address the widely varying needs of operators. The FAA appreciates the responses of all commenters. In particular, the Agency notes the response of the Air Line Pilots Association which, in extensive comments, opposed the notice. Similarly, but for different reasons, helicopter operators in the 48 conterminous states, Alaskan operators, and the Regional Airline Association, to name only a few, expressed varying degrees of concern with the concepts in the notice.

Against this mass of material and sincerely voiced opposition and criticism, I have decided that this notice should not go forward and must be withdrawn in order to allow the Agency to conduct an immediate reassessment of this effort. This does not mean, however, that the FAA is cancelling its efforts to streamline and improve these regulations. The FAA will continue its rulemaking efforts in this area and is considering a public hearing to receive views, suggestions, and help from all interested persons as part of the Agency's review. This is consistent with the FAA's record of public participation in rulemaking and illustrates its commitment to continuance of that record. This will also enable the Agency

to better respond to the issues raised in the comments and will enable the Agency to review the rulemaking in accordance with Executive Order 12291.

The Decision and Withdrawal

Accordingly, Notice 82-4 is withdrawn.

(Secs. 313, 314, and 601 through 610, Federal Aviation Act of 1958 [49 U.S.C. 1354, 1355, and 1421 through 1430] and section 6(c), Department of Transportation Act [49 U.S.C. 1655(c)])

Issued in Washington, D.C., on November 10, 1982

Michael J. Fenello,

Deputy Administrator.

[FR Doc. 82-31365 Filed 11-12-82; 12:50 pm]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

31 CFR Part 1

Proposed Notice of Rules Exempting a System of Records From Certain Requirements of the Privacy Act of 1974

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Proposed rule.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), the Comptroller of the Currency gives notice of a proposed revision of 31 CFR 1.36. This revision will (1) change the name of the system, Treasury/CC .013, from "Information File on Individual's and Commercial entities known or suspected of being involved in fraudulent activities" to "Enforcement and Compliance Information System"; (2) exempt a new system of records from the application of certain parts of the Privacy Act in accordance with 31 CFR 1.23(c) and 1.36; and (3) clarify the Comptroller of the Currency's existing notice of rules exempting certain systems of records from the requirements of the Privacy Act of 1974. Section 1.36 is being revised and published in its entirety since these provisions extensively change the language presently used.

DATE: Comments must be received on or before December 20, 1982.

ADDRESS: Comments should be sent to: Docket No. 82-16, Communications Division, Office of the Comptroller of the Currency, Washington, D. C. 20219, ATTN: C. Christine Jones, (202) 447-1800.

FOR FURTHER INFORMATION CONTACT:

Francis S. Rath, Attorney, Legal Advisory Services Division, Comptroller of the Currency, Washington, D.C. 20219, (202) 447-1880.

SUPPLEMENTARY INFORMATION: The following background serves to clarify Item 1 of the preamble. On March 15, 1979, the Comptroller of the Currency published a notice of proposed rulemaking at 44 FR 15734 together with a systems notice at 44 FR 15824. The purpose was to revise an existing exempt system of records and to change the name of that system. The revised systems notice gave a 30-day public comment period and became effective when no comments were received by the end of that period. The proposed rule reflected the system notice by amending the existing rule at 31 CFR 1.36. However, the rule covering the system was not finalized and therefore, the name was not changed. This document, in part, revises the rule at 31 CFR 1.36 to reflect that system's name change.

List of Subjects in 31 CFR Part 1

Privacy.

Dated: November 10, 1982.

Cora P. Beebe,

Assistant Secretary (Administration).

Section 1.36 of Subpart C, Comptroller of the Currency, is revised to read as follows:

§ 1.36 Notice of rules exempting certain systems of records from the requirements of the Privacy Act.

(a) *In general.* The Office of the Comptroller of the Currency exempts the following systems of records from certain provisions of the Privacy Act: (1) Enforcement and Compliance Information, (2) Federal Bureau of Investigation Report Card Index, (3) Chief Counsel's Management Information System. The purpose of the exemption is to maintain confidentiality of data obtained from various sources that may ultimately accomplish a statutory or executive-ordered purpose.

(b) *Authority.* The authority to issue exemptions is vested in the Office of the Comptroller of the Currency, as a constituent unit of the Treasury Department, by 31 CFR 1.20 and 1.23(c).

(c) *Exemptions under 5 U.S.C. 552a(j)(2).* (1) Under 5 U.S.C. 552a(j)(2), the head of any agency may issue rules to exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, if the agency or component that maintains the system performs as its principal function any activities pertaining to the enforcement of criminal laws. Components of the

Comptroller of the Currency are involved in the investigation of fraudulent or other illegal activities as well as other sensitive matters, and in litigation concerning these matters, in order to carry out their bank supervisory function. Exemptions will be claimed for such records only when appropriate.

(2) To the extent that the exemption under 5 U.S.C. 552a(j)(2) does not apply to the above named systems of records, then the exemption under 5 U.S.C. 552a(k)(2) relating to investigatory material compiled for law enforcement purposes is claimed for certain records in the systems. Exemptions will be claimed for such records only where appropriate.

(3) The provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(j)(2) are as follows:

- 5 U.S.C. 552a(c) (3) and (4)
- 5 U.S.C. 552a(d)(1), (2), (3), (4)
- 5 U.S.C. 552a(e)(1), (2) and (3)
- 5 U.S.C. 552a(e)(4) (G), (H), and (I)
- 5 U.S.C. 552a(e) (5) and (8)
- 5 U.S.C. 552a(f)
- 5 U.S.C. 552a(g)

(d) *Exemptions under 5 U.S.C. 552a(k)(2).* (1) Under 5 U.S.C. 552a(k)(2), the head of any agency may issue rules to exempt any system of records within the agency from certain provisions of the Privacy Act of 1974 if the system is investigatory material compiled for law enforcement purposes.

(2) To the extent that information contained in the above named systems have as their principal purpose the enforcement of criminal laws, the exemption for such information under 5 U.S.C. 552a(j)(2) is claimed.

(3) Provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(k)(2) are as follows:

- 5 U.S.C. 552a(c)(3)
- 5 U.S.C. 552a(d)(1), (2), (3), (4)
- 5 U.S.C. 552a(e)(1)
- 5 U.S.C. 552a(e)(4)(G), (H), and (I)
- 5 U.S.C. 552a(f)

(e) *Reasons for exemptions under 5 U.S.C. 552a(j)(2) and (k)(2).* (1) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request. These accountings must state the date, nature and purpose of each disclosure of the record and the name and address of the recipient. The application of this provision would alert subjects of an investigation to the existence of the investigation and that such persons are the subjects of that investigation. Since release of such information to subjects of an investigation would provide the subjects with significant information

concerning the nature of the investigation, it could result in the altering or destruction of documentary evidence, improper influencing of witnesses, and other activities that could impede or compromise the investigation.

(2) 5 U.S.C. 552a(c)(4), (d)(1), (2), (3), and (4), (e)(4)(G) and (H), (f) and (g) relate to an individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to records; the agency procedures relating to access to records and the content of information contained in such records; and the civil remedies available to the individual in the event of adverse determinations by an agency concerning access to or amendment of information contained in record systems. These systems are exempt from the foregoing provisions for the following reasons: To notify an individual at the individual's request of the existence of records in an investigative file pertaining to such individual or to grant access to an investigative file could interfere with investigative and enforcement proceedings; interfere with co-defendants' right to a fair trial; constitute an unwarranted invasion of the personal privacy of others; disclose the identity of confidential sources and reveal confidential information supplied by these sources; and disclose investigative techniques and procedures.

(3) 5 U.S.C. 552a(e)(4)(I) requires the publication of the categories of sources of records in each system of records. The application of this provision could disclose investigative techniques and procedures and cause sources to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality. This would compromise the ability to conduct investigations, and to identify, detect, and apprehend violators.

(4) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose of the agency required by statute of Executive Order. An exemption from the foregoing is needed:

(i) Because it is not possible to detect relevance or necessity of specific information in the early stages of a criminal or other investigation.

(ii) Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may ultimately be determined to be unnecessary. It is only after the

information is evaluated that the relevance can be established.

(iii) In any investigation the Comptroller of the Currency may obtain information concerning violations of laws other than those within the scope of its jurisdiction. In the interest of effective law enforcement, the Comptroller of the Currency should retain this information as it may aid in establishing patterns of criminal activity, and provide leads for those law enforcement agencies charged with enforcing other segments of criminal or civil law.

(iv) In interviewing persons, or obtaining other forms of evidence during an investigation, information may be supplied to the investigator which relates to matters incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated.

(5) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The application of the provision would impair investigations for the following reasons:

(i) In certain instances the subject of an investigation cannot be required to supply information to investigators. In those instances, information relating to a subject's illegal acts, violations of rules of conduct, or any other misconduct, etc., must be obtained from other sources;

(ii) Most information collected about an individual under investigation is obtained from third parties such as witnesses and informers. It is not feasible to rely upon the subject of the investigation as a source for information regarding his activities.

(iii) The subject of an investigation will be alerted to the existence of an investigation if an attempt is made to obtain information from the subject. This would afford the individual the opportunity to conceal any criminal activities in order to avoid apprehension.

(iv) In any investigation it is necessary to obtain evidence from a variety of sources other than the subject of the investigation in order to verify the evidence necessary for successful litigation.

(6) 5 U.S.C. 552a(e)(3) requires that an agency must inform the subject of an investigation who is asked to supply information of:

(i) The authority under which the information is sought and whether disclosure of the information is mandatory or voluntary,

(ii) The purposes for which the information is intended to be used,

(iii) The routine uses which may be made of the information, and

(iv) The effects on the subject, if any, of not providing the requested information. The reasons for exempting these systems of records from the foregoing provision are as follows:

(A) The disclosure to the subject of the investigation as stated in paragraph (e)(6)(ii) of this section would provide the subject with substantial information relating to the nature of the investigation and could impede or compromise the investigation.

(B) If the subject were informed as required by this provision, it could seriously interfere with information gathering activities by requiring disclosure of sources of information and therefore impairing the successful conclusion of the investigation.

(C) Individuals may be contacted during preliminary information gathering in investigations before any individual is identified as the subject of an investigation. Informing the individual of the matters required by this provision would hinder or adversely affect any present or subsequent investigations.

(7) 5 U.S.C. 552a(e)(5) requires that records be maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in making any determination about an individual. Since the law defines "maintain" to include the collection of information, complying with this provision would prevent the collection of any data not shown to be accurate, relevant, timely, and complete at the moment of its collection. In gathering information during the course of an investigation it is not possible to determine this prior to collection of the information. Facts are first gathered and then placed into a logical order which objectively proves or disproves suspected behavior on the part of the suspect. Material which may seem unrelated, irrelevant, incomplete, untimely, etc., may take on added meaning as an investigation progresses. The restrictions in this provision could interfere with the preparation of a complete investigative report.

(8) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public

record. The notice requirement of this provision could prematurely reveal an ongoing investigation to the subject of the investigation.

(f) *Exempt information included in another system.* Any information from a system of records for which an exemption is claimed under 5 U.S.C. 552a(j)(k) which also is included in another system of records retains the same exempt status as in the system for which an exemption is claimed.

(g) *Documents exempted.* Exemption will be claimed for certain records only where appropriate under the above provisions.

Dated: November 10, 1982.

Cora P. Beebe,

Assistant Secretary (Administration)

[FR Doc. 82-31701 Filed 11-17-82; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD13 82-12]

Drawbridge Operation Regulations; Youngs Bay, Lewis and Clark River and Skipanon River, Oreg.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the State of Oregon, Department of Transportation, the Coast Guard will consider changing the regulations governing the highway drawbridges across Youngs Bay at Fifth Street, in Astoria, Oreg. (Old Youngs Bay Bridge) and across the Lewis and Clark River, mile 1.0, near Astoria, Oreg., by requiring one-half hour advance notice of opening be given between the hours of 9:00 p.m. and 5:00 a.m. Vessels requiring openings of these bridges would contact the drawtender at the U.S. 101 highway bridge across Youngs Bay at Smith Point, Astoria (New Youngs Bay Bridge) by marine radio, telephone or other suitable means. The Coast Guard will also consider changing the regulations governing the Burlington Northern Railroad Company bridges across Youngs Bay at Smith Point, and across the Skipanon River at Warrenton, Oreg. The Burlington Northern railroad bridge across Youngs Bay, at Smith Point, would be maintained in the open to navigation position except when required to be closed for the passage of trains. The Burlington Northern railroad bridge across the Skipanon River at Warrenton, would be maintained in the

closed position and need not open for passage of vessels. These proposed changes are being made because of a steady decrease in requests for opening the draws. This action should relieve the bridge owners of the burden of having a person constantly available to open these draws and should still provide for the reasonable needs of navigation. The former Oregon State removable span highway bridge across the Skipanon River at Warrenton, Oreg., has been replaced by a fixed span bridge, thus making unnecessary the need for drawbridge regulations.

DATE: Comments must be received on or before January 3, 1983.

ADDRESS: Comments should be submitted to and are available for examination from 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays, at the office of the Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Wash. 98174. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Bridge Section, Aids to Navigation Branch, Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Wash. 98174 (Telephone: (206) 442-5864).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Thirteenth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in the light of comments received.

Drafting Information

The principal persons involved in drafting this proposal are: Commander Richard E. Cunningham, Bridge Section, Aids to Navigation Branch, Thirteenth Coast Guard District; and Lieutenant Commander D. Gary Beck, Project Attorney, Thirteenth Coast Guard District.

Discussion of the Proposed Regulations

The Old Youngs Bay Bridge was originally built in 1921 and the Lewis and Clark River Bridge, mile 1.0, in 1925. At that time and for many years

thereafter, both bridges were part of U.S. 101, the main coastal highway in the area. The New Youngs Bay Bridge was completed in 1964. Highway U.S. 101 was rerouted over this structure and it is now used by most vehicular traffic. When the Old Youngs Bay Bridge and the Lewis and Clark River Bridge, mile 1.0, were originally constructed the waterways were used extensively by fishing vessels and for log towing. Although these activities still exist, the level of activity has declined significantly. Present navigation on Youngs Bay and the Lewis and Clark River still consists primarily of fishing vessels and tugs towing log rafts. Existing regulations require that the draws of both bridges open on signal for the passage of vessels. The majority of the openings of these bridges occur during the 5:00 a.m. to 9:00 p.m. time period. The average daily number of openings for both bridges over a representative six month period between the hours of 9:00 p.m. to 5:00 a.m. was 2.25. The proposed change would allow the Oregon State Department of Transportation, to leave the bridges unmanned during the hours of 9:00 p.m. to 5:00 a.m. Vessels which require openings of the unmanned bridges would contact the drawtender at the New Youngs Bay Bridge by marine radio, telephone, or other suitable means. The drawtender would leave his station at the New Youngs Bridge unmanned, proceed to the bridge requiring an opening, operate the bridge and return to the New Youngs Bay Bridge. This would result in significant savings in operating costs to the bridge owner and would not unreasonably affect the limited navigation at night, on the waterway. Under existing regulations, the Burlington Northern Railroad Company bridge across the Skipanon River at Warrenton, Oregon is required to open on signal two times a week, at intervals of no closer than every three days. No openings of the bridge have been required since 1979. The proposed change would allow Burlington Northern Railroad Company to maintain the bridge in the closed position. However, the draw would be returned to operable condition within 6 months after notification from the Commandant, U.S. Coast Guard, if marine traffic requirements, in the opinion of the Commandant, warrant such action. Under existing regulations, the Burlington Northern Railroad Company bridge across Youngs Bay at Smith Point, Astoria, Oreg., is required to open on signal. Rail traffic on the line serving the bridge has been reduced so that only two trains a day now cross the bridge. The proposed change would

require Burlington Northern to leave the drawspan of the bridge in the open to navigation position except when actually required to be closed for the necessary passage of trains. When the draw of the bridge is closed during foggy weather, and the visibility at the drawtender's station is less than one mile up or down the channel, the drawtender shall sound two long blasts every minute. When the draw is again in the open position and the channel is clear for the passage of vessels, the drawtender shall sound one long blast followed by one short blast.

These proposed changes would result in significant savings in operating costs to the bridge owners and would not unreasonably affect the navigation on the waterways. There are no known businesses, including small entities, that would be significantly affected by the proposed change. There are only minimal economic impacts on navigation or other interests. Therefore, an economic evaluation has not been prepared for this action. The Oregon State Department of Transportation and the Burlington Northern Railroad Company would benefit economically because they would be relieved of the burden of providing full-time drawtenders for infrequent bridge openings.

The former Oregon State Department of Transportation removable span highway bridge across the Skipanon River at Warrenton, Oreg., has been replaced by a fixed span bridge. The Coast Guard issued permit number 60-76 on October 26, 1976 to construct a new bridge at the site. The bridge was completed in April of 1979. Therefore, drawbridge operating regulations are no longer applicable. This fact has been incorporated in this proposed regulation change.

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). As explained above, an economic evaluation has not been conducted. In accordance with § 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.740 to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.740 Youngs Bay, Lewis and Clark River and Skipanon River, Oreg.; bridges.

(a) The draw of the U.S. 101 highway bridge across Youngs Bay at Smith Point, Astoria (New Youngs Bay Bridge) shall open on signal for the passage of vessels.

(b) The draw of the Burlington Northern railroad bridge across Youngs Bay at Smith Point, Astoria, shall be kept fully open at all times except when actually required for the passage of trains or other railroad equipment or when maintenance to the drawspan is being performed. When the draw is closed and visibility at the drawtender's station is less than one mile up or down the channel, the drawtender shall sound two long blasts every minute. When the draw is reopened, the drawtender shall sound one long blast followed by one short blast.

(c) The draw of the Oregon State highway bridge across Youngs Bay at the foot of Fifth Street, Astoria (Old Youngs Bay Bridge), and the draw of the Oregon State highway bridge across the Lewis and Clark River, mile 1.0, shall open on signal between the hours of 5:00 a.m. and 9:00 p.m. At all other times, at least one-half hour notice shall be given. Advance notice for openings shall be given to the drawtender at the New Youngs Bay Bridge by marine radio, telephone or other suitable means.

(d) The draw of the Burlington Northern railroad bridge across the Skipanon River, at Warrenton, Oreg., need not open for the passage of vessels. However, the draw shall be returned to an operable condition within six months after notification from the Commandant, U.S. Coast Guard, to take such action.

(e) Opening signals for the above listed bridges may be made by a whistle, horn, siren, trumpet, or by shouting. Signals for each bridge are:

- (1) New Youngs Bay Bridge—two long blasts followed by two short blasts.
- (2) Burlington Northern railroad bridge across Youngs Bay at Smith Point—one long blast followed by one short blast.
- (3) Old Youngs Bay Bridge—two long blasts followed by one short blast.
- (4) Oregon State highway bridge across the Lewis and Clark River, mile 1.0—one long blast followed by four short blasts.

(f) The owners of the Old Youngs Bay, New Youngs Bay, and Lewis and Clark River bridges shall keep conspicuously posted on both the upstream and downstream sides, in such a manner that they can be easily read at any time, a summary of these regulations, together with a notice stating exactly how the bridge drawtender may be reached to obtain openings including radio frequencies, telephone numbers, and addresses.

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

Dated: November 1, 1982.

C. F. DeWolf,

Rear Admiral, U.S. Coast Guard, Commander,
13th Coast Guard District.

[FR Doc. 82-31574 Filed 11-17-82; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD13 82-11]

Drawbridge Operation Regulations; Hoquiam and Wishkah Rivers, Wash.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Washington State Department of Transportation; the Coast Guard will consider changing the regulations governing the Riverside Avenue (Sixth Street) highway drawbridge across the Hoquiam River, at Hoquiam, Wash., by requiring that one hour advance notice of opening be given between the hours of 8:00 p.m. and 4:00 a.m. Vessels requiring passage would contact the Washington State Department of Transportation by marine radio, long distance telephone, or other suitable means. Notification could also be made through the drawtender at the U.S. 101 highway bridge across the Chehalis River at Aberdeen. This proposal is being made because of a steady decrease in requests for opening the draw. This action should relieve the bridge owner of the burden of having a person constantly available to open the draw and should still provide for the reasonable needs of navigation.

At the request of the Burlington Northern Railroad Company, the Coast Guard will consider changing the regulations governing the railroad drawbridge across the Hoquiam River, mile 0.3, at Hoquiam, Wash., and the railroad drawbridge across the Wishkah River, mile 0.1, at Aberdeen, Wash., by permitting the draws to be maintained in the open to navigation position, except when required to be closed for the passage of trains.

This proposal is being made because the amount of rail traffic using the bridges has declined. This action should relieve the bridge owner of the burden of having a person constantly available to open the draw and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before January 3, 1983.

ADDRESS: Comments should be submitted to and are available for examination from 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays, at the office of the Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Wash. 98174. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT:

John E. Mikesell, Chief, Bridge Section, Aids to Navigation Branch, Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Wash. 98174 (Telephone: (206) 442-5864).

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Thirteenth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in the light of comments received.

Drafting Information

The principal persons involved in drafting this proposal are: Commander Richard E. Cunningham, Bridge Section, Aids to Navigation Branch, Thirteenth Coast Guard District; and Lieutenant Commander D. Gary Beck, Project Attorney, Thirteenth Coast Guard District.

Discussion of the Proposed Regulations

The change for the Washington State Riverside Avenue drawbridge at Hoquiam, Wash., is being proposed because of a decrease in vessel traffic and as a cost saving measure for the Washington State Department of Transportation. A summary of river traffic for the period of January 1979 through June 1981 shows that there were 147 openings between the hours of 8:00

p.m. and 4:00 a.m. during that 30 months, with a maximum of 15 openings in any one month.

The majority of the vessels using the river are tugs (towing log rafts) and fishing boats of various sizes, which travel upstream for moorage and service. A public meeting was held by the State of Washington on October 21, 1981, at Hoquiam, Wash., to discuss the proposed regulation change. The State of Washington notified all known users of the meeting by mail; and a public notice was published in the local newspaper. There was no reported opposition to the proposed change. A decline in logging activity in the area has resulted in a corresponding decline in log towing operations, particularly at night. A boat yard and a fish company located upstream of the bridge had some reservations about the proposed change, but offered no objection. Under existing regulations, the bridge opens to the passage of vessels immediately upon signal. The proposed change would allow the Washington State Department of Transportation to leave the bridge unmanned between the hours of 8:00 p.m. and 4:00 a.m. Vessels requiring openings of the bridge during these hours would provide one-hour advance notice to the Washington State Department of Transportation by marine radio, long distance telephone, or other suitable means. Arrangements for openings could also be made by contacting the drawtender at the U.S. 101 highway bridge across the Chehalis River at Aberdeen. This would result in significant savings in operating costs to the bridge owner and not unreasonably affect the limited navigation on the waterway during the evening hours.

The change for the Burlington Northern railroad bridges across the Hoquiam River, at Hoquiam, Wash., and the Wishkah River, at Aberdeen, Wash., is being proposed because of a decrease in rail traffic, and as a cost saving measure for the Burlington Northern Railroad Company. The proposed change would require that the draws of both railroad bridges be kept in the open to navigation position at all times, except when actually required to be closed for the passage of trains. When the draws of these bridges are closed during foggy weather, and the visibility at the drawtender's station is less than one mile up or down the channel, the drawtender shall sound two long blasts every minute. When the draw is again in the open position and the channel is clear for the passage of vessels, the drawtender shall sound one long blast followed by one short blast. Under existing regulations these bridges are

required to open on call for the passage of vessels. The proposed change would allow Burlington Northern to maintain the draws in the open position without a drawtender in attendance unless required for the passage of trains. This would result in savings in operating costs to the owner of the bridges and not unreasonably affect navigation on the waterways.

Other than the Burlington Northern Railroad Company, and the Washington State Department of Transportation, there are no known businesses, including small entities, that would be significantly affected by the proposed changes. There are only minimal economic impacts on navigation or other interests. Therefore, an economic evaluation has not been prepared for this action. The Burlington Northern Railroad Company, and the Washington State Department of Transportation, would benefit because they would be relieved of the burden of providing salaried full time operators for infrequent bridge openings and closures.

Existing regulations incorrectly identify railroad bridges across the Hoquiam River and Wishkah River as "Northern Pacific Railway" bridges. This has been corrected in the proposed change to read "Burlington Northern".

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for the Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). As explained above, an economic evaluation has not been conducted. In accordance with section 605(b) of the Regulation Flexibility Act (94 Stat. 1164), it is also certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.775(b) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.775 Grays Harbor and tributaries, Wash.; bridges.

(a) * * *

(b) *Special regulations.* (1) The following signals are prescribed for

vessels wishing to have the draws opened:

(i) Washington State highway bridge over the Hoquiam River at Simpson Avenue, Hoquiam: two long blasts of whistle followed quickly by one short blast of whistle.

(ii) Washington State Riverside Avenue (Sixth Street) Bridge over the Hoquiam River, Hoquiam: two long blasts of whistle followed quickly by two short blasts of whistle.

(iii) Burlington Northern railroad bridge over the Hoquiam River near forks of river, Hoquiam: One long blast of whistle followed quickly by one short and one long blast of whistle.

(iv) Burlington Northern railroad bridge over the Wishkah River at Aberdeen: One long blast of whistle followed quickly by one short blast of whistle.

(v) Washington State highway bridges over the Wishkah River at Heron Street and at Wishkah Street, Aberdeen: One long blast of whistle followed quickly by two short blasts of whistle.

(2) The draw of the Washington State Riverside Avenue (Sixth Street) Bridge across the Hoquiam River, Hoquiam, shall open on signal between the hours of 4:00 a.m. and 8:00 p.m. At all other times the draw shall open on signal if at least one hour advance notice is given. Advance notice for opening shall be given to the Washington State Department of Transportation by marine radio, long distance telephone, or other suitable means. Advance notice may also be given to the drawtender at the U.S. 101 highway bridge across the Chehalis River at Aberdeen.

(3) The draws of the Burlington Northern Railroad Company bridges across the Wishkah River, mile 0.1, at Aberdeen, Washington, and across the Hoquiam River, mile 0.3, at Hoquiam, Washington, shall be kept fully open at all times except when actually required to be closed for the passage of trains or other railroad equipment, or when maintenance to the drawspan is being performed. When the draw of either bridge is closed and the visibility at the drawtender's station is less than one mile up or down the channel, the drawtender shall sound two long blasts every minute. When the draw is reopened, the drawtender shall sound one long blast followed by one short blast.

(4) The owner of the Riverside Avenue (Sixth Street) Bridge across the Hoquiam River shall keep conspicuously posted on both the upstream and downstream sides, in such a manner that they can be easily read at any time, a summary of these regulations, together with a notice

stating exactly how the drawtender may be reached to obtain openings including radio frequencies, and telephone numbers.

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

Dated: October 25, 1982.

C. F. DeWolf,

Rear Admiral, U.S. Coast Guard, Commander,
13th Coast Guard District.

[FR Doc. 82-31573 Filed 11-17-82; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY-004; TN-004; A-4-FRL 2239-6]

Approval and Promulgation of Implementation Plans; Kentucky and Tennessee; Variances and Individual Compliance Schedule for Volatile Organic Compound Sources

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve variances for several dry cleaning establishments in northern Kentucky and an extended compliance schedule for a paper coating establishment in Chattanooga, Tennessee since the affected companies satisfy EPA criteria for such extensions and variances.

DATE: To be considered, comments must be submitted on or before December 20, 1982.

ADDRESSES: Written comments should be addressed to Douglas Cook of EPA Region IV, Air Management Branch (see EPA Region IV address below). Copies of the material submitted by Kentucky and Tennessee may be examined during normal business hours at the following locations:

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

Division of Air Pollution Control,
Kentucky Department for
Environmental Protection, 18 Reilly
Road, Bldg. #2, Ft. Boone Plaza,
Frankfort, Kentucky 40601

Division of Air Pollution Control,
Tennessee Department of Public
Health, 159 9th Avenue North,
Nashville, Tennessee 37203.

FOR FURTHER INFORMATION CONTACT:

Douglas Cook, EPA Region IV, Air Management Branch, at the above listed address and phone 404/881-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION:

Following public hearing, Kentucky and Tennessee have adopted and submitted plan revisions involving a number of sources of volatile organic compounds (VOC).

Kentucky. In compliance with Kentucky regulation 401 KAR 61:160, Existing Perchloroethylene Dry Cleaners, the Commonwealth of Kentucky has approved variances for seven perchloroethylene dry cleaning establishments in northern Kentucky. The variances are for Stevenson Plaza Clothing Care Center, Tex-Craft Cleaners, Hytone Cleaners, Ft. Thomas Dry Cleaners, Main Street Cleaners and Latonia Cleaners and are based on economic justification. These dry cleaners are relatively small family operations and the cost per ton of controlled emissions ranges from \$650.00 per ton to \$3,015.00 per ton. A justified cost for control was determined to be \$450.00 per ton in 1981. Heck's Dry Cleaners was also granted a variance. That variance was granted because it is physically impossible to locate the required control equipment at the establishment without major reconstruction of the building. Although the variances end the requirement for carbon absorbers, good housekeeping and leak prevention requirements have not been waived; the total uncontrolled tonnage from these seven variances amounts to 16.5 tons of perchloroethylene per year.

Tennessee. The Chattanooga-Hamilton County Air Pollutant Control Bureau has approved a 10-month variance from their VOC paper coating regulation for Knowlton Brothers of Chattanooga. Knowlton Brothers is a coater of specialty paper used mainly as filters in the automotive field. The company's manufacturing process produces filter paper on a paper machine and then impregnates the filter paper with resin to protect it from the liquid or gas environment in which it will be used. A typical use for the filter paper is in oil filters for automobiles.

The company is using resins which must be dispersed or diluted with alcohol in various forms. The filter paper is coated with a resin-alcohol solution, and the alcohol is then driven off with heat, leaving the resin to coat and protect the fiber. An oven is used to drive off the alcohol.

Knowlton Brothers is in the process of installing and testing an incinerator and has spent over \$269,000 to date on this project. This is almost 20 percent of the company's budget for capital expenditures last year. Further, it is estimated that the incinerator will add

approximately \$300,000 to their yearly operating cost.

After the company had designed and ordered the incinerator, they learned that new equipment developed in the textile industry would allow them to apply water-based resins efficiently. Since this development offered a way to eliminate or significantly reduce the use of solvents, the company skipped the pilot programs normally used to develop experimental processes on a small scale and purchased full-size equipment. The cost of this equipment, its installation, the necessary storage tanks, and the experimentation to date is over \$235,000. In other words, they have spent and are spending significant sums of money in developing two solutions to the same VOC problem at the same time. The extended compliance schedule allows them to avoid incurring additional cost of two solutions to the same VOC program at the same time. Using the extra time for compliance, they will be able to concentrate their efforts on refining the new water dispersed application techniques for their paper coating process.

In order for Knowlton Brothers to achieve compliance with the applicable limitation, 2.9 pounds per gallon, they need to reduce emissions by about 50%. Their proposal to convert to water-based resin will yield a reduction of 50 to 80 percent. Knowlton Brothers is the largest single VOC source in the area. If they achieve a 50 percent reduction, the area's total emissions will be reduced by 11%. An 80 percent reduction will yield even greater benefits to the Chattanooga area.

After the expiration of the variance period (10 months), Knowlton Brothers' permit requires them to operate a VOC emission control incinerator on the dryer operation whenever they use a solvent coating method of production. Further, it has been determined that the proposed 10 month variance will not violate "reasonable further progress" toward attainment of the National Ozone Standard in Chattanooga.

Action: EPA has reviewed the submitted material and found it to be consistent with present EPA requirements and policies. Therefore, EPA is today proposing to approve the states' submittals.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. The Office of Management and Budget has exempted this regulation from the requirement of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

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

(Sec 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: October 22, 1982.

Charles R. Jeter,
Regional Administrator.

[FR Doc. 82-31690 Filed 11-17-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 123

[W-3-FRL 2246-5]

**Proposed Modification of Delaware/
EPA NPDES Memorandum of
Understanding**

AGENCY: Environmental Protection
Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The State of Delaware and the Environmental Protection Agency, Region III have executed a proposed modification to the Memorandum of Understanding (MOU), which establishes the Delaware/EPA terms, responsibilities and procedures in which Delaware will administer its National Pollutant Discharge Elimination System (NPDES) permit program. This Memorandum of Agreement (MOA) will replace the MOU dated April 1, 1974, which was approved by the Administrator as part of the State's NPDES permit program. The notice provides for a comment period on the proposed MOU modification. Under EPA regulations, the Administrator shall approve or disapprove the MOA after taking into consideration all comments received.

DATE: Comments must be submitted on or before December 20, 1982.

Interested persons may also request a public hearing on the MOA. If there is significant public interest expressed in the comments received to have public hearing, EPA will schedule such a hearing. In the event EPA determines to hold a public hearing on the MOA, prior notice of the date, time and location of such hearing will be given. All requests for a public hearing on the MOA must be submitted on or before December 20, 1982.

ADDRESSES: Copies of the Memorandum of Agreement are available from:
U.S. EPA, Region III (3WM51), 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Attn.: Alex Slinsky

The Department of Natural Resources and Environmental Control for the State of Delaware, Tatnall Building, Post Office Box 1401, Dover, Delaware 19901, Attn.: Robert Touhey or Robert Zimmerman

All comments regarding the MOA submitted on or before December 20, 1982 and any comments received during a public hearing, if one is held, will be considered. All comments and hearing requests should be directed to: Greene A. Jones, Director, Water Management Division (3WM00), U.S. EPA, Region III, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

FOR FURTHER INFORMATION CONTACT:

Alex Slinsky (3WM51), U.S. EPA, Region III, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597-8813.

SUPPLEMENTARY INFORMATION: On April

1, 1974, the Administrator of EPA (Administrator) approved Delaware to administer its own NPDES permit program. The approval was made pursuant to Section 402(b) of the Federal Water Pollution Control Act Amendments of 1972. On the same date the Administrator executed the Delaware/EPA MOU which set forth the responsibilities of both Delaware and EPA concerning the State's administration of the NPDES program. The MOU also provided for periodic modification as agreed in writing by EPA and Delaware to simplify and refine the procedures contained in the MOU. In accordance with this mandate, Delaware and EPA Region III have executed an MOA which replaces the MOU dated April 1, 1974. The MOA contains provisions describing the general purpose of the MOA, the State/EPA principles upon which Delaware's administration of the NPDES program is premised, procedures for compliance monitoring and enforcement, pretreatment requirements, requirements for reporting and transmittal of information and procedures for EPA review of Delaware's administration of the NPDES program.

The Administrator's decision to approve or disapprove the MOA will be based on the comments received, including those submitted at any public hearing, and a determination of whether the MOA meets the applicable requirements of 40 CFR Part 123. According to 40 CFR 123.6, the MOA does not become effective until approved by the Administrator.

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

List of Subjects in 40 CFR Part 123

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

Dated: October 26, 1982.

Peter N. Bibko,
Regional Administrator, EPA Region III.

[FR Doc. 82-31689 Filed 11-17-82; 8:45 am]

BILLING CODE 6560-50-M

**FEDERAL EMERGENCY
MANAGEMENT AGENCY**

44 CFR Part 67

[Docket No. FEMA-6447]

**Proposed Base Flood Elevation and
Zone Designation Determinations for
the City of Pacific, Franklin and St.
Louis Counties, Missouri, Under
National Flood Insurance Program**

AGENCY: Federal Emergency
Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Office of the City Clerk, Pacific City Hall, 221 South First Street, Pacific, Missouri.

Send comments to: Honorable Kenneth Quennoz, Sr., Mayor, City of Pacific, 221 South First Street, Pacific, Missouri 63063.

FOR FURTHER INFORMATION CONTACT:

Mr. Brian R. Mrazik, Acting chief Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of Pacific, Missouri, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by Section 60.3 of the program regulations, zone designations for the City of Pacific, Missouri, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968

(Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Office of the City Clerk, Mount Vernon City Hall, 319 East Dallas, Mount Vernon, Missouri.

Send comments to: Honorable Neal Underwood, Mayor, City of Mount Vernon, 319 East Dallas, P.O. Box 70, Mount Vernon, Missouri 65712.

FOR FURTHER INFORMATION CONTACT: Mr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0230.

Source of flooding	Location	Elevation in feet, National Geodetic Vertical Datum	Zone designation
Meramec River	At the easternmost corporate limits	463	A15
	At the confluence of Brush Creek	464	A15
	At a point located approximately 550 feet downstream of Highway F.	465	A15
	At a point located approximately 200 feet north of Industrial Drive.	466	A15
Brush Creek	At a point located approximately 700 feet upstream of the confluence of Thornton Branch.	481	A2
	At a point located approximately 200 feet downstream of Cedarbrook Drive extended.	486	A2
	At a point located approximately 100 feet downstream of the confluence of an unnamed stream.	494	A2
	At the westernmost corporate limits	499	A2

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support.)

Issued: October 19, 1982.

Lee M. Thomas,
Associate Director, State and Local Programs and Support.

[FR Doc. 82-31410 Filed 11-17-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6446]

Proposed Base Flood Elevation and Zone Designation Determinations for the City of Mount Vernon, Lawrence County, Missouri, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of Mount Vernon, Missouri, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations are as follows:

Source of flooding	Location	Elevation in feet, National Geodetic Vertical Datum	Zone designation
Williams Creek	At a point located approximately 800 feet downstream of County Highway Y.	1,166	A3
	At a point located approximately 100 feet upstream of County Highway Y.	1,168	A3
	At the eastern corporate limits	1,171	A3

Additional annexed areas have been identified as Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support.)

Issued: October 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-31409 Filed 11-17-82; 8:45 am]

BILLING CODE 6718-01-M

44 CFR Part 67

[Docket No. FEMA-6401]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 47 FR 41774 on September 22, 1982. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Town of Islip, Suffolk County, New York.

FOR FURTHER INFORMATION CONTACT: Brian R. Mrazik, Ph. D., Federal

Emergency Management Agency, National Flood Insurance Program, (202) 287-0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Town of Islip, Suffolk County, New York, previously published at 47 FR 41774 on September 22, 1982, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The following location descriptions have been amended to read as follows. The remainder of the Notice of Proposed Base Flood Elevations remains unchanged.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act

Source of flooding	Location	Elevation in feet, National Geodetic Vertical Datum
Atlantic Ocean...	Shoreline of Great South Bay, east of the vicinity of the Coast Guard station on Fire Island Inlet.	*6
	Western corporate limits of the Village of Saltair.	*6
	Shoreline of Great South Bay from the eastern corporate limits of the Village of Saltair to Cranberry Walk (extended).	*5
	Shoreline of Great South Bay from Cranberry Walk (extended).	*6

of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director.)

Issued: October 15, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-31401 Filed 11-17-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA 6451]

National Flood Insurance Program; Proposed Base Flood Elevations for the City of Columbia, South Carolina

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations described below.

The proposed base flood elevations will be the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Map and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Mayor's Office.

Send comments to: Honorable Kirkman Finley, Mayor, City of Columbia, P.O. Box 147, Columbia, South Carolina 29217.

FOR FURTHER INFORMATION CONTACT: Mr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations (100 year flood) for the City of Columbia, South Carolina in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

The base flood elevations together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. The proposed base flood elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations for selected locations are:

Source of Flooding	Location	(NGVD) Elevations	
		Existing	Proposed
Gills Creek.	700' Downstream of Gamers Ferry Road.	151.0	152.0
Gills Creek.	1,100' Downstream of Gamers Ferry Road.	150.0	151.0

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended: 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19387; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: October 15, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-31408 Filed 11-17-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-542; RM-4110]

FM Broadcast Station in Kailua and Honolulu, Hawaii; Dismissal of Proposed Rule

AGENCY: Federal Communications Commission.

ACTION: Dismissal of proposed rule.

SUMMARY: This action dismisses a proposal to have Channel 242 deleted from Kailua and reassigned to Honolulu, Hawaii, in response to a petition filed by Mauna Kea Broadcasting Company. The rule making is dismissed at the request of the petitioner.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Kailua and Honolulu, Hawaii) BC Docket 82-542, RM-4110.

Report and Order (Proceeding Terminated)

Adopted: November 1, 1982.

Released: November 8, 1982.

1. Before the Commission is the Notice of Proposed Rule Making, 47 FR 36247, published August 19, 1982, proposing the reassignment of Channel 242 from Kailua, Hawaii, to Honolulu, Hawaii. The Notice was issued in response to a petition filed by Mauna Kea Broadcasting Company (petitioner), licensee of Station KSHO-FM, Kailua, Hawaii. Supporting comments were filed by the petitioner.

2. In its comments, petitioner refers to para. 3 of the Notice in which the Commission refuses to modify its license to specify Honolulu, citing the cases of *Ashbacker Radio Corp. v. FCC*, 326 U.S. 327 (1945), and *Riverside and Santa Ana, California*, 65 F.C.C. 2d 920 (1977)

recon. denied 68 F.C.C. 2d 557 (1978). Petitioner claims that the cases cited by the Commission are distinguishable in that these cases propose to cease providing transmission service to its former specified city of license. Petitioner contends that the critical distinction here appears to be a continuation of service to the former community of license. It argues that it has asserted its intention to continue to serve Kailua and maintain its main studio there. Thus, it believes it falls within the policy set forth in the *Santa Ana and Riverside* proceeding. As an additional matter, petitioner argues that if Channel 242 is reassigned to Honolulu, an application to change its station location should not be subject to the filing of competing applications. However, if a competing application is tendered, it would then dismiss its application and operate on Channel 242 at Kailua under § 73.203, since Kailua is within 15 miles of Honolulu. Petitioner submits that it does not wish to risk a comparative application proceeding. In the alternative, petitioner has requested to withdraw from this proceeding without any action on its request.

3. We have held that under existing law, we cannot approve a modification of license to specify a new city, without the opportunity to permit other interested persons to apply for the assigned channel. Petitioner would have us bypass this procedural right either by a modification of license or by applying § 73.203(b), the 15 mile rule we have consistently held that we cannot assign a channel for the first time to a community without permitting interested parties to apply for a station there. *Riverside and Santa Ana, California, supra*. Petitioner argues that the instant case is distinguishable on the basis that the cities of license would not have to change as it did in the *Riverside-Santa Ana* proceeding. However, the *Ashbacker* doctrine provides that the right to comparative consideration on one's application must be given to all newly available frequencies. To assign Channel 242 to Honolulu and not allow interested parties to apply would circumvent the opportunity contemplated under the court's holding. The same type of circumvention would occur in our opinion if Channel 242 were to be assigned to Honolulu and used at Kailua under the 15 mile rule. We see no public benefit in assigning the channel to Honolulu if that city is not to be the community of license. Therefore, we shall permit petitioner to withdraw its petition and continue to operate the channel at Kailua.

4. In view of the foregoing, it is ordered, That the petition of Mauna Kea Broadcasting Company, requesting the reassignment of Channel 242 from Kailua to Honolulu, Hawaii, is hereby dismissed.

5. It is further ordered, That this proceeding is terminated.

6. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau (202) 632-7792.

Federal Communications Commission.
Roderick K. Porter,
Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-31507 Filed 11-17-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 97

[PR Docket No. 82-727; RM-4044; FCC 82-457]

Amendment of the Commission's Rules To Revise the Procedures for Determining Eligibility for the Novice Class Amateur Radio Operator License

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend the Amateur Radio Service Rules to eliminate the mail-back step in the Novice Class written test procedure and instead require that the eligible amateur radio operator who conducts the telegraphy element of the Novice Class exam also prepare, conduct and grade the written element of that exam. We also propose to require that the eligible amateur radio operator who conducts the examination base it on the syllabus for the Novice examination contained in the FCC publication *Study Guide for the Amateur Radio Operator License Examinations*. This action is being proposed to reduce the delay in obtaining Novice Class licensees and to conserve resources now directed to what the Commission believes is an unnecessary and burdensome method of determining Novice Class license eligibility.

DATES: Comments are due by February 15, 1983 and replies by March 15, 1983.

FOR FURTHER INFORMATION CONTACT: Harold Salters, Private Radio Bureau, FCC, Washington, DC 20554.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Radio.

In the matter of amendment of Part 97 of the Commission's rules to revise the procedures for determining eligibility for the Novice Class Amateur Radio

Operator License; PR Docket No. 82-727, RM-4044.

Notice of Proposed Rule Making

Adopted: October 21, 1982.

Released: November 4, 1982.

Introduction

1. Notice of Proposed Rule Making in the above-entitled matter is hereby given.

2. The Commission proposes to amend the Amateur Radio Service rules, Part 97, to eliminate the mail-back procedure in the certification of applicants for the Novice Class amateur radio operator license. We expect that the revised procedure herein proposed will reduce the delay in obtaining a Novice Class license, and will allow the Commission to conserve resources now directed to what we believe is an unnecessary and burdensome method of determining Novice Class license eligibility.^{1,2}

Background

3. Amateur Rule § 97.28(b), 47 CFR 97.28(b), sets forth the current procedure for obtaining a Novice Class amateur radio operator license. The applicant must select an amateur radio operator to administer the slow speed telegraphy test, Element 1(A), and written test, Element 2. The person selected is required to determine the content of the Element 1(A) test and judge whether the applicant has passed it. The written Element 2 test papers, however, must be obtained from the Commission and then mailed back to the Commission to be graded. Element 2 tests the applicant's knowledge of elementary telegraphy operating practices. The passing score for all amateur license written tests is seventy-four percent.

4. The person selected by the applicant must hold an amateur radio operator license of the General Class or higher, must be at least 18 years old, and must be unrelated to the applicant. Within ten days after the Novice applicant has successfully passed the Element 1(A) telegraphy test, the applicant must send a completed license application form (FCC Form 610) to the

¹The current Radio Regulations of the International Telecommunications Union require the Commission to ascertain that "(a)ny person operating the apparatus of an amateur station shall have proved that he is able to send correctly by hand and to receive correctly by ear, texts in Morse code signals." The Radio Regulations also require the Commission to "take such measures as they judge necessary to verify the technical qualifications of any person operating the apparatus of an amateur station." Article 41, Amateur Stations, paragraphs 1563 and 1564, Section 3 (1) and (2).

²Section 303(l)(1) of the Communications Act of 1934, as amended, authorizes the Commission to prescribe the qualifications of station operators.

Commission. Upon receipt of the properly completed license application, the Commission verifies the certifications and mails a packet containing instructions and the Element 2 written test papers to the amateur radio operator to administer to the applicant.

5. The Element 2 papers must be mailed back to the Commission, either completed or unopened if the test has not been taken, no later than sixty days after the date the papers were mailed. To enforce this mail-back system, the Commission maintains a tickler file to discover if there has been a failure to return the papers. A forfeiture of \$25.00 may be imposed against an amateur radio operator for failure to reply to Commission correspondence regarding missing test papers.

6. Element 2 tests returned in a timely fashion are graded by Commission personnel. If the applicant receives a passing score, a Novice Class license is issued. If not, the applicant is notified of failure to pass the exam.

Problems With The Current Novice Certification Procedure

7. We have received many complaints from the amateur radio community about the long delays inherent in the mail-back system. In some cases, eight weeks have elapsed from the time the Commission received the request for Element 2 test papers until a license or notice of failure was issued. We have also received numerous complaints about the necessity for scheduling separate test dates to complete Elements 1(A) and 2.

8. Dennis M. Dutton, an amateur radio operator, filed a petition for rulemaking, RM-4044, on December 10, 1981.³ In his petition, Mr. Dutton requests the amendment of the Commission's Rules to permit the amateur radio operator who administers the Element 1(A) telegraphy test, to also grade the written Element 2 examination. The petitioner concludes that this procedure would reduce the delay between the time the applicant for the Novice license takes the examination and the time the applicant receives his license and commences station operations. The Commission believes the petitioner's argument has merit.

9. The cost of the Element 2 mail-back program far exceeds any benefits the Commission, and by extension, the public, receives. The Commission expends resources on preparation,

³RM-4044 was placed on Public Notice on February 12, 1982. No comments on this petition were received in response to our Notice.

printing, distribution, grading and enforcement functions associated with administering the mail-back procedure. The mail-back step for the Novice Class exam is essentially a *pro forma* matter, considering that approximately 97 percent of the applicants pass. This high pass rate can be attributed to two factors. First, both the Novice telegraphy and written exams are, due to the elementary skills and operating knowledge required of a Novice class operator, relatively easy to pass. Second, the Novice Class license conveys limited operating privileges in the telegraphy mode only; no voice communications are permitted. Thus, any applicant must have sufficient telegraphy skill and knowledge of radio practice and operating regulations just to take advantage of the privileges granted to Novice Class licensees.

Proposal

10. In view of the foregoing, the Commission proposes eliminating the mail-back step in the Novice test procedure and requiring that the amateur radio operator selected by the applicant prepare, conduct and grade the written element of the Novice class license examination in addition to the telegraphy element. We propose to require the amateur radio operator administering the written exam to the applicant to prepare examination questions based on the Element 2 syllabus contained in the Commission's *Study Guide for the Amateur Radio Operator License Examinations*. Alternatively, we request comments on whether or not the Commission should publish a list of suitable questions based on the Element 2 syllabus from which the examiner would prepare the written examination.

11. We are requiring that the Element 2 examination be based on those topics outlined in the Commission's *Study Guide* because all amateur radio operator license exams prepared by the Commission are based on the *Study Guide*.⁴ The syllabus for each exam element that appears in the *Study Guide* is carefully prepared by the staff, regularly updated and based upon extensive input from the amateur radio community. The Commission's reliance on the *Study Guide* and our belief that eligible amateur licensees are competent and committed to the goals of the Amateur Radio Service, assures us that

the Element 2 written exam prepared by the amateur radio operator will fairly test whether an applicant for a Novice Class operator license has the requisite qualifications. We will also require that the Element 2 exam be in written form and that a copy of the applicant's written test papers be retained by the amateur radio operator who has conducted the exam for one year after giving the written test. The Commission requests comments from the public on whether there is any enforcement benefit to requiring the retention of the written exam for one year by the volunteer examiner. The public is also invited to suggest in their comments any alternative means that the Commission could have to assure that the written exams are administered in good faith with our Rules.

12. After Elements 1(A) and 2 have been given, the licensing process remains essentially the same as described in Amateur Rule Section 97.28. The amateur radio operator who has administered Elements 1(A) and 2 will certify on FCC Form 610 that the applicant has passed both Elements, and that he or she (the amateur radio operator) is eligible to give the Novice examination (see Appendix B). The applicant will complete the license application and send it to the Commission. The Commission will verify the certifications and issue a Novice Class amateur radio license to the applicant if the application is otherwise in order. No license application will be sent to the Commission unless the applicant has passed both Elements. See Appendix A for the proposed rule changes.

13. This proposal fully comports with the statutory authority conveyed by the Communications Amendments Act of 1982.⁵ Section 4(f) of the Communications Act of 1934 (47 U.S.C. 154(f)) was amended to permit the Commission, for purposes of preparing or administering any examination for an amateur station operator license, to "accept and employ the voluntary and uncompensated services of any individual who holds an amateur station operator license of a higher class than the class license for which the examination" is being conducted or prepared. Since our proposal described here would have the Novice Element 2 written examination prepared, conducted and graded by holders of a General Class or higher license, the statute's demands are met. As the statute requires, our proposal (see Appendix A) prohibits any person

financially interested in the manufacture or distribution of amateur radio equipment, or in the preparation or distribution of any amateur operator license study publications, from conducting the examination for a Novice Class operator license.

Conclusion

14. Notice is hereby given that it is proposed to amend 47 CFR Part 97 in accordance with the proposal set forth in the attached Appendix A.

15. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts 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 submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing the 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 and the proceedings to which it relates. See generally, Section 1.1231 of the Commission's rules, 47 CFR 1.1231. A summary of the Commission's procedures governing *ex parte* contacts in informal rulemakings is available from the Commission's Consumer Assistance Office, Washington, DC 20554, (202) 632-7000.

16. Authority for issuance of this Notice is contained in Sections 4(f), 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(f), 154(i) and 303. Pursuant to applicable procedures set forth in § 1.415 of the Commission's Rules, interested persons may file comments on or before

⁴See *Study Guide for the Amateur Radio Operator License Examination*, PR Bulletin 1035, January 1980. The Commission routinely recommends that license applicants preparing for amateur radio examinations obtain the *Study Guide* and direct their studies toward the subject matter described in it.

⁵Communications Amendments Act of 1982, Public Law 97-259, enacted September 13, 1982.

February 15, 1983, and reply comments on or before March 15, 1983. All relevant and 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 or a writing indicating the nature and source of 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.

17. In accordance with Section 1.419 of the Commission's Rules, 47 CFR 1.419, formal participants must file an original and five copies of their comments and other materials. Participants who wish each Commissioner to have a personal copy of their comments should file an original and eleven copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, DC.

18. The Commission has determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) do not apply to this rule making proceeding since this proposal simply sets forth a procedural change in amateur radio examination procedures. The rules herein proposed would neither compel amateur operators to acquire any new or different equipment, nor interfere with commonly employed practices. Consequently, there would be no economic impact on small businesses, small organizations or small governmental jurisdictions.

19. It is ordered that the Secretary shall cause a copy of this Notice to be served upon the Chief Counsel for Advocacy of the Small Business Administration and that the Secretary shall also cause a copy of this Notice to be published in the *Federal Register*.

20. For further information on this proceeding, contact Harold Salters, Private Radio Bureau, Federal Communications Commission, Washington, DC 20554, (202) 632-7597.

(Secs. 4, 303, 48 stat. as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission,
William J. Tricarico,
Secretary.

Appendix A

PART 97—[AMENDED]

The Commission proposes to amend Part 97, Chapter I, Title 47 of the Code of Federal Regulations as follows:

1. Section 97.28 is amended by revising paragraphs (b), (b)(1), (b)(2) and (b)(3). As revised § 97.28 reads as follows:

§ 97.29 Manner of conducting examinations.

(b) The examination for a Novice Class operator license shall be conducted by an amateur radio operator selected by the applicant, unless otherwise prescribed by the Commission. The amateur radio operator selected shall be at least 18 years old, shall be unrelated to the applicant, and shall be the holder of an Amateur Extra, Advanced or General Class operator license. The Element 2 written test shall be prepared by the amateur radio operator to test the applicant in each general subject area listed in the syllabus for the Novice Class license examination contained in the Commission's *Study Guide for the Amateur Radio Operator License Examinations*.

(1) When the applicant successfully completes examination Elements 1 (A) and 2, he/she shall submit an application (FCC Form 610) to the Commission's office in Gettysburg, Pennsylvania 17325. The application shall include:

(i) The name and permanent address of the amateur radio operator conducting the examination;

(ii) A description of the amateur radio operator's qualifications to conduct the examination;

(iii) The amateur radio operator's certification that the applicant has passed telegraphy Element 1 (A) and written test Element 2;

(iv) The signature of the amateur radio operator conducting the examination.

(2) The amateur radio operator conducting the Novice examination shall be responsible for the proper preparation and necessary supervision of the examination. A copy of the applicant's test papers must be retained in the amateur radio operator's station records for one year after the administration of the examination.

(3) Any person who owns a significant interest in, or is an employee of, any company or other entity which is engaged in the manufacture or distribution of equipment used in connection with amateur radio

transmissions, or in the preparation or distribution of any publication used in preparation for obtaining amateur station operator licenses, shall not be eligible to conduct the examination for a Novice Class operator license.

2. Section 97.31 is amended by revising paragraph (b) to read as follows:

§ 97.31 Grading of examinations.

(b) Seventy-four percent (74%) is the passing grade for all written tests. Commission personnel will grade all written tests except the Novice Class Element 2 written test which will be graded by the amateur radio operator conducting the test for the Novice Class applicant.

Appendix B

Until FCC Form 610 is revised to include the certification required by § 97.28(b)(1), the statement on the current edition (December, 1981) must be modified. This should be done as shown below, as appropriate. Words to be added are italic.

Certification

I Certify That

1. I am unrelated to the applicant (i.e. not a spouse, parent, child, stepchild, sister, brother, aunt, uncle, niece, nephew, grandparent, grandchild, in-law, stepbrother, stepsister, stepmother, stepfather).

2. I am at least 18 years of age.

3. I have examined the applicant and he/she has passed Element 2.

(Check one)

☐ I have examined the applicant within the past 10 days and he/she has passed the five word per minute telegraphy examination.

☐ I have not examined the applicant in Element 1(A) since he/she claims telegraphy test credit. The original FCC Form 845, Code Credit Certificate, is attached.

☐ I have not examined the applicant in Element 1(A) since he/she claims telegraphy test credit. Applicant's statement is attached giving the license number, expiration date, and class of commercial radiotelegraphy operator license which qualifies him/her for credit.

[FR Doc. 82-31513 Filed 11-17-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 392

[BMCS Docket No. MC-105; Notice No. 82-10]

Railroad Grade Crossings; Stopping Required

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The FHWA is seeking comments to determine if the current regulation that requires drivers of certain motor vehicles transporting hazardous materials or passengers to stop at railroad grade crossings should be modified to exclude crossings protected by certain active devices. The National Transportation Safety Board (NTSB) has recommended that the Federal Motor Carrier Safety Regulations (FMCSR) be amended to be consistent with the Uniform Vehicle Code (UVC).

DATE: Comments must be received on or before February 16, 1983.

ADDRESS: All comments should refer to the docket number that appears at the top of this document and must be submitted (preferably in triplicate) to Room 3404, Bureau of Motor Carrier Safety, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph J. Fulnecky, Bureau of Motor Carrier Safety, (202) 426-0034; or Mrs. Kathleen S. Markman, Office of the Chief Counsel, (202) 426-0346, 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: At the present time, 49 CFR 392.10 and Section 11-703 of the UVC have different requirements for certain vehicles which must stop at railroad grade crossings. This conflict revolves around the requirement of the FMCSR that trucks regulated by the FHWA transporting certain quantities of hazardous materials and buses transporting passengers must stop at railroad-highway grade crossings unless the crossing is protected by a highway traffic signal showing green. The UVC does not require that these vehicles stop at crossings protected by active devices which automatically indicate the approach of a train.

The NTSB published a special report entitled, "Railroad/Highway Grade

Crossing Accidents Involving Trucks Transporting Bulk Hazardous Materials" on September 24, 1981. This report contained several recommendations including one to "amend 49 CFR 392.10 to require trucks carrying bulk hazardous materials to stop at crossings with active warning devices only when the devices are activated to warn drivers of an approaching train, so that it will be consistent with the UVC."

This report also states that according to a National Highway Traffic Safety Administration study (Drivers' Duties at Railroad Grade Crossings—January 1979) "10 States have the UVC version, 2 States do not require stops where there are open gates, and 36 States require stops at all crossings, even those with gates which are open."

The FHWA rule, which has been in effect since 1937, creates a safety standard that has received general acceptance among the carriers most affected by it. The carriers impose the obligation on drivers because of (a) the liability which could result from an accident caused by the driver's failure to comply with a well recognized standard of care, and (b) the recognition that an added measure of prudence is appropriate when a number of human beings, or a potentially dangerous commodity has been entrusted to their safekeeping. The rule provides for a uniform response by the driver regardless of the warning device at the crossing.

The UVC is a set of recommended regulations adopted by the National Committee on Uniform Traffic Laws and Ordinances, an independent, non-profit, voluntary association. The Committee is comprised of over 100 representatives of Federal, State, and local government units, insurance companies, motor clubs, safety councils, and others who are interested in developing uniform motor vehicle laws and regulations.

The accident statistics, for the years 1976-1980, indicate that commercial motor vehicles transporting hazardous material were only involved in 7% of accidents which occurred at railroad grade crossings. Commercial motor vehicles transporting hazardous materials represent approximately 15% of the total truck population.

According to a report published by the Federal Railroad Administration (FRA), "1975-1976 Non-Operation of Railroad—Highway Train Activate Automatic Grade Crossing Warning Devices," for the year 1975, there were 136 grade crossing accidents in which signal non-operation was reported. There were actually 25 signal failures; 12 were due to equipment failures, 9 were due to human errors, and 4 were caused by

vandalism. The accident statistics for 1976 were comparable with 124 accidents reported due to non-operating signals, in which there were actually 25 signal failures. Twelve were attributed to equipment failures, 10 are alleged to be human error, and 3 were caused by vandalism.

For the accident years 1976 through 1980 there were 473 accidents involving motor vehicles and trains in which the railroad warning signal was reported as not functioning.

For this same time period, there were 9 accidents at active railroad grade crossings with active warning devices where the driver of a truck or tractor/trailer combination laden with hazardous materials stopped and then proceeded through the crossing. For the accident years 1980 and 1981 (nine reporting months for 1981) there were 39 collisions involving a train and a truck type vehicle where the railroad grade warning signal was not functioning. Only one of these accidents involved a motor vehicle transporting hazardous materials.

Allegations have been made by two States, through the National Committee of Uniform Traffic Laws and Ordinances, that the regulation requiring trucks and buses to stop at grade crossings has created accident producing situations due to following vehicles striking the stopped truck or bus. Additional data or information is sought regarding the extent of incidences of such collisions.

In view of the above available data, it is believed that the potential for a train colliding with a motor vehicle due to a grade signal malfunction remains greater than the potential for a similar collision resulting from driver error.

The intent of § 392.10 is to minimize the possibility of a potentially catastrophic collision between a commercial motor vehicle transporting hazardous materials or passengers and a train. Section 392.10 emphasizes that drivers of motor vehicles transporting hazardous materials or passengers must exercise a considerable amount of caution at all railroad grade crossings. The FHWA is requesting comments on the following issues:

1. Should the FHWA retain the present rule which requires, with certain limited exceptions, vehicles transporting hazardous materials and buses transporting passengers to stop at all railroad grade crossings?

2. Should the present rule be amended to provide an exception to the stopping requirement when a railroad grade crossing has active warning devices installed?

3. What cost savings, if any, would be derived from amending 49 CFR 392.10 so that it would be consistent with the UVC?

4. What economic effects, if any, would a revision of the present rule have on small entities?

All comments submitted, will be available, both before and after the closing date, for examination by interested persons in the Docket Room of the BMCS, Room 3402, 400 Seventh Street SW., Washington, D.C. 20590.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a

significant regulation under the regulatory policies and procedures of the Department of Transportation.

A draft regulatory evaluation has been prepared and is available for review in the public docket. A copy may be obtained by contacting Mr. Joseph J. Fulnecky at the address provided above under the heading "For Further Information Contact." The FHWA specifically requests information upon which to determine whether such action would have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 392

Hazardous materials transportation, Motor carriers—drivers practices, Railroad grade crossing.

(49 U.S.C. 304, 1655; 49 CFR 1.48)

(Catalog of Federal Domestic Assistance Program Number 20,217, Motor Carrier Safety)

Issued on November 10, 1982.

Kenneth L. Pierson,

*Director, Bureau of Motor Carrier Safety,
Federal Highway Administration.*

[FR Doc. 82-31523 Filed 11-17-82; 8:45 am]

BILLING CODE 4910-22-M

Notices

Federal Register

Vol. 47, No. 223

Thursday, November 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.

CIVIL AERONAUTICS BOARD

[Order 82-11-56; Docket 35634, Agreement C.A.B. 28859 R-1 through R-10]

Agreement Adopted by the Traffic Conferences of the International Air Transport Association Relating to North Atlantic Cargo Rates; Order

An agreement among various members of the International Air Transport Association (IATA) has been filed with us under section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of our Economic Regulations. The agreement was adopted at the Reconvened 23rd Meeting of TC12 Cargo Tariff Coordinating Conference via the North Atlantic (USA to Europe) held in Montreal during September 14-16, 1982, and is proposed to become effective on various dates ranging from December 1, 1982 to February 1, 1983.

While the agreement extends the validity of the current U.S. to Europe North Atlantic rates structure, due to expire next month, to January 31, 1983, the more important aspects of the agreement involve a new "neutral rates" structure proposed for February 1, 1983, effectiveness. As such, the agreement seeks to relate pricing of cargo to the individual characteristics of the shipment rather than to the volume of traffic tendered by the individual customer. To this end, it eliminates all "special condition" (e.g. contract) rates, construed as those rates available only to high volume shippers and, indeed, contains no incentive rating program for high volume shippers at all. Instead, while leaving charges for minimum-size shipments unchanged, it generally reduces general commodity and container rates. Specific commodity rates remain at current levels, although many are eliminated where made redundant by the lowered general commodity rates. Finally, it increases the density requirement for

containerized shipments, currently established at 6500 cubic centimeters per kilogram (180 cubic inches per pound), to 6000 cubic centimeters per kilogram (166 cubic inches per pound) effective July 1, 1983, and continues to offer flexibility for individual members to file unilateral pricing changes.

The purpose of this order is to establish procedural dates for the submission of carrier justification in support of the agreement and comments by interested parties. All U.S. carrier members of IATA providing service within the area covered by the agreement,¹ shall submit justification showing detailed historical data on the economic status of their North Atlantic scheduled cargo services for the year ended September 30, 1982, and forecasts for the year ending September 30, 1983, in the tabular format suggested in Order 75-7-88, July 17, 1975. The carrier forecasts, based upon both present and proposed rates, should annualize expected cost and revenue increases and should specifically document cost changes and the revenue impact of the proposed rates. For cargo service on scheduled combination aircraft, present and projected costs should be allocated between the passenger and cargo compartments by the "space method" stipulated in the *Nonpriority Mail Rates* decision, 53 C.A.B. 391 (1970), with full explanatory notes and supporting statistical data to describe the methodology used in making the allocations. In addition, the justification should provide a comparison of the present and proposed rate levels and charges, including the percentage increases proposed by rate category, for major U.S.-Europe markets. This comparison should also contrast the contract/special condition rates, being eliminated by this agreement with the proposed rates under which this high-volume traffic is expected to move; carriers should also give some indication on whether they expect to offer rating incentives for high volume shippers outside the agreement. Finally, the carrier submissions should also include detailed traffic data by rate category, as well as capacity and load factor information for the historical period and for the forecast period under the present and proposed rates.

¹ These are The Flying Tiger Line, Inc.; Pan American World Airways, Inc.; and Trans World Airlines, Inc.

Accordingly, it is ordered that:

1. All United States air carrier members of the International Air Transport Association providing service within the area affected by Agreement C.A.B. 28859 shall file within fourteen calendar days after date of service of this order full documentation and economic justification for the rates, charges and related conditions embodied in the subject agreement;

2. Interested persons and parties shall submit comments and objections by November 30, 1982;

3. Interested persons and parties shall submit replies to submissions received in response to ordering paragraph 1 above and replies to comments received pursuant to ordering paragraph 2 above by December 14, 1982;

4. Insofar as foreign air transportation as defined by the Act is concerned, tariffs implementing the agreement shall not be filed in advance of Board action on the agreement; and

5. We shall serve copies of this order on the International Air Transport Association; The Flying Tiger Line, Inc.; Pan American World Airways, Inc.; and Trans World Airlines, Inc.

We shall publish this order in the **Federal Register**.

Herbert P. Aswall,

*Chief, International Fares and Rates Division,
Bureau of International Aviation.*

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-31675 Filed 11-17-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41007]

Air National Fitness Investigation; Notice of Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to him.

Dated at Washington, D.C., November 15, 1982.

Elias G. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-31673 Filed 11-17-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40847]

Mid Pacific Airlines, Inc., Fitness Investigation; Notice of Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge John M. Vittone. Future communications should be addressed to him.

Dated at Washington, D.C., November 15, 1982.

Elias C. Rodriguez,
Chief Administrative Law Judge.

[FR Doc. 82-31874 Filed 11-17-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE**International Trade Administration****Final Results of Administrative Review of Antidumping Finding; Kraft Condenser Paper From Finland**

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On October 8, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on kraft condenser paper from Finland. The review covers the only known exporter of this merchandise to the United States, Tervakoski Osakeyhtio, and the period September 1, 1980, through August 31, 1981.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. We received no comments.

EFFECTIVE DATE: November 18, 1982.

FOR FURTHER INFORMATION CONTACT: F. Patrick Pope or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On September 21, 1979, the Treasury Department published in the Federal Register an antidumping finding with respect to kraft condenser paper from Finland (T.D. 79-245, 44 FR 54696-7). On October 8, 1982, the Department of Commerce ("the Department") published in the Federal Register (47 FR 44596) the preliminary results of its last administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of kraft condenser paper, meaning capacitor tissue or condenser paper containing 80% or more by weight chemical sulphate or soda wood pulp, based on total fiber content. Kraft condenser paper is currently classifiable under items 252.4000, 252.4200, and 256.3080 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of one exporter of Finnish kraft condenser paper to the United States, Tervakoski Osakeyhtio. The review covers sales to unrelated parties during the period September 1, 1980, through August 31, 1981.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for disclosure or a hearing. Therefore, the final results of our review are the same as those presented in the preliminary results of review, and we determine that, for the period of September 1, 1980 through August 31, 1981, a *de minimis* margin of 0.001 percent exists.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue assessment instructions directly to the Customs Service.

Since the margin for Tervakoski Osakeyhtio is less than 0.5 percent and, therefore, *de minimis*, the Department waives the requirement of a cash deposit of estimated antidumping duties, as provided for in section 353.48(b) of the Commerce Regulations, on all shipments of Finnish kraft condenser paper entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit waiver shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of September 1983. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's Receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C.

1675(a)(1)) and section 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: November 12, 1982.

Gary N. Horlick,
Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-31896 Filed 11-17-82; 8:45 am]

BILLING CODE 3510-25-M

Committee for the Implementation of Textile Agreements**Adjusting the Import Restraint Level for Certain Man-Made Fiber Products from the Socialist Republic of Romania**

November 15, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing from 41,162 to 44,044 dozen the designated consultation level for women's, girls', and infants' man-made fiber coats in Category 635, produced or manufactured in the Socialist Republic of Romania and exported during the agreement year which began on April 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 23, 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 5928), and May 13, 1982 (47 FR 20654)).

SUMMARY: Pursuant to agreement between the Governments of the United States and the Socialist Republic of Romania, the Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended, between the two governments is being further amended to increase the designated consultation level established for man-made fiber apparel products in Category 635 to 44,044 dozen for the agreement year which began on April 1, 1982, and extends through March 31, 1983.

EFFECTIVE DATE: November 19, 1982.

FOR FURTHER INFORMATION CONTACT: Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On April 1, 1982, there was published in the Federal Register (47 FR 13856) a letter dated March 25, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels consultation for certain specified categories of wool and

man-made fiber textile products, including Category 635, produced or manufactured in the Socialist Republic of Romania, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on April 1, 1982, and extends through March 31, 1983. In the letter published below, in accordance with the terms of the bilateral agreement, as further amended, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the twelve-month level previously established for Category 635 to 44,044 dozen.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

November 15, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on March 25, 1982 by the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain wool and man-made fiber textile products, produced or manufactured in Romania.

Effective on November 19, 1982, paragraph 1 of the directive of March 25, 1982 is further amended to increase the level of restraint for man-made fiber textile products in Category 635 to 44,044 dozen¹ for the twelve-month period beginning on April 1, 1982 and extending through March 31, 1983.

The action taken with respect to the Government of the Socialist Republic of Romania and with respect to imports of man-made fiber textile products from Romania has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary 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,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-31577 Filed 11-17-82; 8:45 am]

BILLING CODE 3510-25-M

Controlling Imports of Certain Cotton Apparel From India

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling imports of men's and boys' other cotton coats in Category 334, produced or manufactured in India and exported during the agreement year which began on January 1, 1982, at a level of 16,949 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654).)

SUMMARY: Under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India, the Government of the United States has decided to control the consultation level established for cotton textile products in Category 334 during the agreement year which began on January 1, 1982, in the same manner as other categories are currently being controlled.

EFFECTIVE DATE: November 19, 1982

FOR FURTHER INFORMATION CONTACT:

Ross Arnold, 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 61685) 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 specified categories of cotton, wool, and man-made fiber textile products, produced or manufactured in India, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1982, and extends through December 31, 1982. In the letter published below, in accordance with the terms of the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs also to prohibit entry of cotton textile products in Category 334 in excess of 16,949 dozen during the same agreement period. The level of restraint has not been adjusted to account for any imports in the category after December

31, 1981. Charges will be made for all merchandise in Category 334 exported on and after January 1, 1982.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

November 15, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 15, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in India.

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 December 30, 1977, as amended, between the Governments of the United States and India; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on November 19, 1982 and for the twelve-month period beginning on January 1, 1982 and extending through December 31, 1982, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 334, produced or manufactured in India, in excess of 16,949 dozen.¹

Textile products in Category 334 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of India and with respect to imports of cotton textile products from India has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the

¹ The level of restraint has not been adjusted to reflect any imports after December 31, 1981.

¹ The level of restraint has not been adjusted to reflect any imports after March 31, 1982.

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,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-31576 Filed 11-17-82; 8:45 am]

BILLING CODE 3510-25-M

Increasing the Import Restraint Level for Certain Man-Made Fiber Textile Products From the Republic of Singapore

November 15, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the consultation level for man-made fiber woven shirts in Category 640, produced or manufactured in the Republic of Singapore and exported during the agreement year which began on January 1, 1982, from 29,167 dozen to 36,667 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654)).

SUMMARY: Pursuant to the terms 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, the consultation level established for man-made fiber textile products in Category 640 is being increased for the agreement year which began on January 1, 1982, and extends through December 31, 1982.

EFFECTIVE DATE: November 19, 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 specified categories of cotton, wool, and man-made fiber textile products, produced or manufactured in Singapore, which may be entered into the United States for consumption, or withdrawn

from warehouse for consumption, during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982. A further letter dated October 22, 1982 was published in the Federal Register on October 28, 1982, (47 FR 47904) which established a level of restraint of 29,167 dozen for man-made fiber textile products in Category 640.

In the letter published below, in accordance with the terms of the bilateral agreement, as amended, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the twelve-month level previously established for Category 640 to 36,667 dozen.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

November 15, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 15, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, during the twelve-month period which began on January 1, 1982 and extends 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.

Effective on November 19, 1982, you are directed to amend paragraph 1 of the directive of December 15, 1981 to increase the level of restraint established for man-made fiber textile products in Category 640 to 36,667 dozen.¹

The action taken with respect to the Government of Republic of Singapore and with respect to imports of man-made fiber textile products from Singapore has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary 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,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-31576 Filed 11-17-82; 8:45 am]

BILLING CODE 3510-25-M

¹ The level of restraint has not been adjusted to reflect any imports after December 31, 1981.

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

November 10, 1982.

The USAF Scientific Advisory Board Ad Hoc Committee to review Anti-Jam Communication (AJCOMM) will meet in Washington, DC on December 6, 1982. The purpose of the meeting will be to review the recently completed study on AJCOMM system architecture and to review Air Force AJCOMM programs and development efforts under way in light of the architecture study and in terms of adequacy in meeting projected threats and taking advantage of latest technology. The committee will further make recommendations for taking advantage of the latest technology and fully exploiting opportunities for modularity of design. The meeting will convene at 9:00 am and adjourn at 4:30 pm in Room 5D982, the Pentagon.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 697-8404.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-31672 Filed 11-17-82; 8:45 am]

BILLING CODE 3510-01-M

Engineers Corps

Sacramento River, Chico Landing to Red Bluff, California Bank Protection Project; Intent To prepare a Draft Supplement to The Final Environmental Impact Statement.

AGENCY: U.S. Army Corps of Engineers, Defense.

ACTION: Notice of Intent to prepare a draft supplement to the final environmental impact statement.

SUMMARY: 1. *Proposed Action.*—The Sacramento River, Chico Landing to Red Bluff, California bank protection project is a continuing construction project authorized for construction by the Flood Control Act of 1958. Construction consists of shaping the river bank at locations of erosion and applying bank protection to prevent further erosion where economically justified. The State of California Reclamation Board is the non-Federal sponsor of the work and is responsible for obtaining the rights of way for construction and to operate and

maintain the completed works after construction by the Corps of Engineers. About 75,000 lineal feet of bank protection has been provided between 1963 and 1979 in a 50-mile reach of the river, about 2,400 lineal feet at River Mile 215.0 R in 1982, and about 100,000 lineal feet could be added in the future as erosion continues. The supplement is being prepared to describe updated environmental resources data and description of impacts including cumulative impacts of past and potential future construction, and to outline procedures for evaluating individual segments of all future work to insure that all significant impacts are identified.

2. *Alternatives.*—The only alternative presently considered under this project is no action. The State Reclamation Board requested no action between 1979 and 1982. In 1982 the Reclamation Board requested additional work to protect the bank at River Mile 215.0 R and this was provided. Currently, no action is the alternative requested by the State Reclamation Board and no action is presently planned.

3. *Scoping of the DEIS.*—Close coordination will be maintained with local agencies, other Federal agencies, and interested parties. Due to the presence at some locations of prime agricultural lands, endangered species, valuable riparian habitat and associated fish and wildlife resources, detailed analyses of potential impacts and cumulative impacts on these resources will be made.

4. *Scoping Meetings.*—Environmental concerns related to potential future work have been identified during previous EIS coordination. A formal public scoping meeting will not be held, but one or more informal meetings will be held with interested and concerned agencies, organizations and individuals to obtain the views of the public. Significant resources identified to date include the declining riparian vegetation along the Sacramento River, fish and wildlife resources, and public recreation uses of the river and its resources. Participation in scoping and review of environmental concerns by all interested Federal, State and local agencies, and interested organizations and individuals is invited.

5. *Estimated Date of DEIS.*—The draft supplement is scheduled to be made available to the public in February 1983.

DATE: November 8, 1982.

ADDRESS: Questions about the proposed action and draft supplement can be answered by: Mr. Don Jones, Project Engineer, Sacramento District, Corps of Engineers, 650 Capitol Mall,

Sacramento, CA 95814, telephone (916) 440-3334 FTS (448-3334)

Arthur E. Williams,
Colonel, CE, District Engineer.

[FR Doc. 82-31591 Filed 11-17-82; 8:45 am]

BILLING CODE 3710-GH-M

Office of the Secretary

Defense Advisory Committee on Military Personnel Testing

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Defense Advisory Committee on Military Personnel testing is scheduled to be held from 9:00 AM to 5:00 PM on 17 and 18 December 1982 at the Sheraton-North Shore Inn, 933 Skokie Boulevard, Northbrook, Illinois. Meeting sessions will be open to the public.

The purpose of the meeting is to review the DoD High School Testing Program as well as the development and validation of a new high school Armed Services Vocational Aptitude Battery (ASVAB). The agenda for the next Committee meeting, scheduled for March 1983, in San Diego, California, will also be discussed.

Persons desiring to make oral presentations or submit written statements for consideration at the Committee meeting must contact Dr. W. S. Sellman, Executive Secretary, Defense Advisory Committee on Military Personnel Testing, Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), Room 2B271, the Pentagon, Washington, D.C. 20301, telephone (202) 695-5525 no later than 13 December 1982.

Dated: November 15, 1982.

M. S. Healy,
OSD Federal Register Liaison Office,
Department of Defense.

[FR Doc. 82-31867 Filed 11-17-82; 8:45 am]

BILLING CODE 3810-01-M

Schedule for Awarding Bonuses to SES Members

AGENCY: Office of the Secretary of Defense, Department of Defense.

ACTION: Notice of schedule for awarding bonuses to SES members.

SUMMARY: The Office of the Secretary of Defense (for itself, OSD Field Activities, Organization of the Joint Chiefs of Staff, NATO, U.S. Court of Military Appeals, and the Defense Investigative Service), plans to grant performance awards to SES members on or about December 1, 1982.

EFFECTIVE DATE: November 10, 1982.

FOR FURTHER INFORMATION CONTACT:

Mrs. Sharon B. Brown, Chief, Senior Executive Service Division Directorate for Personnel & Security, WHS Office of the Secretary of Defense, Department of Defense The Pentagon, (202) 695-4573.

Dated: November 12, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer,
Department of Defense.

[FR Doc. 82-31868 Filed 11-17-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Amendment to Presidential Permit PP-68:

San Diego Gas and Electric Company

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Issuance of an amendment to Presidential Permit PP-68: San Diego Gas and Electric Company (SDG&E).

SUMMARY: DOE hereby amends Presidential Permit PP-68 to permit SDG&E to add a second set of electrical conductors to the towers of the previously approved interconnection facility. On January 12, 1981 (46 FR 17580), DOE authorized SDG&E to construct, connect, operate, and maintain a 14 kilometer (9 mile) 230 kV electrical transmission line from the Miguel Substation located in southern California to Tijuana, Mexico.

FOR FURTHER INFORMATION CONTACT:

Garet Bornstein, Office of Energy Emergency Operations (EP-42), Department of Energy, Forrestal Building, Mail Stop GB-270, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-1714.

Lise Courtney M. Howe, Office of General Counsel (GC-11) Department of Energy, Forrestal Building, Mail Stop GF-094, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2900.

SUPPLEMENTARY INFORMATION:

Order Amending Presidential Permit PP-68: San Diego Gas and Electric Company

On December 2, 1981, SDG&E applied to the DOE to amend Presidential Permit PP-68, which authorized SDG&E to construct, connect, operate, and maintain a 14 kilometer (9 mile) 230 kV electrical transmission line from its Miguel Substation, located in San Diego

County, California, across the U.S./ Mexican border to Tijuana, Mexico. This Permit was issued on January 12, 1981, pursuant to Executive Order 10485, as amended by Executive Order 12038.

In the amendment application of December 2, 1981, SDG&E requested authorization to add a second set of three conductors on the same towers authorized by Presidential Permit PP-68. The three additional conductors are to be installed on the opposite side of the towers, and tied together with the previously authorized conductors at each end of the line. Thus, the final configuration still will be a three phase single circuit with the potential to change to a double circuit configuration, if necessary, at some time in 1986. According to SDG&E, the purpose of the amendment is to increase system reliability. DOE noticed this request by SDG&E to amend Permit PP-68 on April 26, 1982, (47 FR 14756). No comments were received.

DOE determined on June 15, 1982, that the proposed amendment does not require a supplement to the environmental impact statement DOE/EIS-0067, prepared for the original application (45 FR 75749). DOE also determined on September 3, 1982, that there is no apparent electric system reliability degradation due to installation of this second electric transmission circuit on the Miguel-Tijuana 230 kV transmission route.

The Departments of State and Defense, which were notified of the amendment request by letters on September 13, 1982, indicated no objections to the amendment.

DOE Finds That:

(1) The proposed amendment to Presidential Permit PP-68, filed by SDG&E on January 12, 1981, to add a second set of three conductors to the towers authorized in the Order issued January 12, 1981, is consistent with the public interest.

(2) The period of public notice given in this matter is reasonable.

DOE Orders That:

(A) Article 2 of Presidential Permit PP-68 is amended to read:

Article 2. The facilities covered by and subject to this Permit shall include, in addition to the following facilities, all lands and supporting structures within the rights-of-way occupied by such facilities.

One three-phase, 60 hertz, 230,000 volt overhead transmission line with two sets of three conductors on each tower, located at a point on the international border between the United States and Mexico approximately nine miles due south of the SDG&E Miguel Substation, interconnecting with a similar

transmission line owned by the Commission Federal de Electricidad de Mexico. The facilities authorized by this Permit are more specifically shown and described in the application and accompanying exhibits filed by SDG&E on November 8, 1979; the environmental impact statement (DOE/EIS-0067) issued jointly by the DOE and the California Public Utilities Commission; and the application for amendment filed by SDG&E on December 2, 1981.

Issued in Washington, D.C., November 8, 1982.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 82-31567 Filed 11-17-82; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 82-CERT-015]

Atlas Powder Co.; Recertification of Eligible Use of Natural Gas To Displace Fuel Oil

On August 25, 1982, Atlas Powder Company (Atlas), 12700 Park Central III, Suite 1700, Dallas, Texas 75251, filed an application with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 for recertification of an eligible use of up to 292,600 Mcf of natural gas per year to displace approximately 2,400,00 gallons (57,143 barrels) of No. 2 diesel fuel oil (0.34 to 1.0 percent sulfur) at its Joplin, Missouri plant. The eligible seller and transporter of the gas is Cities Service Gas Company, Oklahoma City, Oklahoma 73125. Notice of that application was published in the Federal Register (47 FR 46565, October 19, 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.

On November 20, 1981, Atlas received a recertification (ERA Docket No. 81-CERT-020) of an eligible use of natural gas purchased from Cities Service Gas Company for a period of one year expiring on November 19, 1982, for use at its Joplin, Missouri Plant.

The ERA has carefully reviewed Atlas' application for recertification 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 Atlas' application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the recertification and transmitted that recertification to the

Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual recertification is available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6144, RG-64, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, from 8:00 to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., November 10, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-31518 Filed 11-17-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ES83-9-000]

Canal Electric Co.; Application

November 12, 1982.

Take notice that on October 29, 1982, Canal Electric Company (Applicant) filed an application seeking authority pursuant to Section 204 of the Federal Power Act to issue up to \$66,000,000 principal amount of short-term debt.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 26, 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 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-31644 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-230-000]

City of Fairfield, California; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

November 12, 1982.

On September 21, 1982, the City of Fairfield, City Hall, 1000 Webster Street, Fairfield, California 94533, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping cycle cogeneration facility will be located at the Fairfield Civic Center Complex in Fairfield, California. The facility will consist of a reciprocating engine generator set. The primary energy source to the facility will be natural gas. The electric power production capacity of the facility will be 775 kilowatts. Heat recovered from the cooling water and engine exhaust will be used in heating and cooling applications. Installation of the facility is scheduled to begin in November 1982. No electric utility, electric utility holding company or any combination thereof has any ownership in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition 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. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31648 Filed 11-17-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6756-000]

**Claremont Hydro Associates;
Exemption From Licensing**

November 9, 1982.

A notice of exemption from licensing of a small hydroelectric project known as the Claremont Project No. 6756, was filed on October 5, 1982, by Claremont Hydro Associates. The proposed hydroelectric project would have an installed capacity of 860 kW and would be located on the Sugar River, and utilize the Claremont Hydro Associates Dam in Sullivan County, New Hampshire.

Pursuant to §§ 4.109(c) and 375.308(ss) of the Commission's regulations, and subject to the terms and conditions set forth in § 4.111 of the Commission's regulations, the Director, Office of Electric Power Regulation, issues this notification that the above project is

exempted from licensing as of November 4, 1982.

Lawrence R. Anderson,
Director, Office of Electric Power Regulation.
[FR Doc. 82-31546 Filed 11-17-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER83-87-000]

**Cleveland Electric Illuminating Co.;
Filing**

November 8, 1982.

The filing Company submits the following:

Take notice that on November 1, 1982, the Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 50 MW of power from the 345 kv interconnection point on CEI's Juniper-Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI has requested waiver of the Commission's notice requirement in order to permit commencement of transmission service on November 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, 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 November 23, 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. 82-31547 Filed 11-17-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA83-1-32 (PGA83-1) (IPR83-1)]

**Colorado Interstate Gas Co.;
Compliance Filing**

November 10, 1982.

Take notice that on October 25, 1982 Colorado Interstate Gas Company (CIG) submitted for filing workpapers demonstrating eliminations from its

Account No. 191 balances of those amounts related to exchange gas.

CIG states that these work papers are in compliance with Ordering Paragraph (C) of the Commission's September 29, 1982, Order in this docket.

In addition, CIG states that these workpapers indicate an increase in each of CIG's jurisdictional rate schedules above the tariff sheets as originally filed in this docket on August 13, 1982. (Fourteenth Revised Sheet Nos. 7 and 8).

Copies of the workpapers are available for public inspection at CIG's offices in Colorado Springs, Colorado.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 17, 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 petition 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 31645 Filed 11-17-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 400-006]

**Colorado-Ute Electric Association,
Inc., La Plata Electric Association, Inc.,
San Miguel Power Association, Inc.;
Application for Approval of Exhibit R
(Report on Recreation Resources)**

November 15, 1982.

Take notice that Colorado-Ute Electric Association, Inc., La Plata Electric Association, Inc., and San Miguel Power Association, Inc. (Applicant) filed on September 1, 1982, an application pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r), for approval of its Exhibit R (Report on Recreation Resources) for its Tacoma-Ames Project No. 400 located on the Animas and San Miguel Rivers and their tributaries in La Plata, San Juan, and San Miguel Counties, Colorado, and affecting lands of the United States within the Uncompahgre and San Juan National Forests. The Tacoma Development is located about 20 miles north of Durango whereas the Ames Development is located about nine miles southwest of

Telluride, Colorado. Applicant has filed the Exhibit R pursuant to license Article 34. Correspondence with the Applicant should be directed to: Mr. Howard S. Bjelland, Colorado-Ute Electric Association, Inc., P.O. Box 1149, Montrose, Colorado 81402.

The Exhibit R describes the existing and potential recreational development at the project. The primary recreational water bodies consist of the 831 acre Electra Lake, 142 acre Trout Lake, and the 44 acre Lake Hope.

Applicant proposes to provide the following facilities at the Tacoma Development: (1) A public boat ramp; (2) a boat pier; (3) three parking lots; (4) three comfort stations; (5) a fish cleaning station; (6) a picnic area; and (7) potable water. Applicant proposes to abolish the current permit system and to admit the public from June through October on a first come, first served day use only basis up to the capacity of the parking lots (38 vehicles and 12 boat trailers). Recreational use would be monitored to ensure resource preservation.

At the Ames Development, Applicant proposes to provide the following facilities: (1) A comfort station; (2) a parking lot; (3) a shelter; and (4) picnic tables.

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application. A copy of the application may be obtained by agencies only directly from the Applicant. If an agency does not file comments with the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions to Intervene.—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before January 3, 1983.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be

sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31630 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-41-000]

Columbia Gas Transmission Corp.; Application

November 10, 1982.

Take notice that on October 25, 1982, Columbia Gas Transmission corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP83-41-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities for new delivery points to existing wholesale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia proposes to construct 65 interconnecting tap facilities to provide additional points of delivery.

Columbia estimates that the average cost of an interconnecting tap facility necessary for a point of delivery would be \$300 for 64 of the 65 taps. Columbia estimates that the remaining tap would cost approximately \$7,875.

It is further asserted that the total cost would be approximately \$27,180 which would be financed through internally generated funds.

The proposed new delivery points are as follows:

1. Columbia Gas of Kentucky, Inc.: 9 taps for residential service; 1 tap for commercial service
Estimated annual usage of 1,547 Mcf
2. Columbia Gas of Maryland, Inc.: 1 tap for residential service
Estimated annual usage of 4,500 Mcf
3. Columbia Gas of Ohio, Inc.: 26 taps for residential service; 6 taps for commercial service
Estimated annual usage of 5,678 Mcf
4. Columbia Gas of Pennsylvania, Inc.: 6 taps for residential service
Estimated annual usage of 900 Mcf
5. Columbia Gas of West Virginia, Inc.: 13 taps for residential service; 1 tap for commercial service
Estimated annual usage of 2,280 Mcf

6. The Dayton Power and Light Company: 2 taps for residential service

Estimated annual usage of 345 Mcf

Columbia states that the additional deliveries through the proposed facilities are within its currently authorized level of sale.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 1, 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 is 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. 82-31524 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-11-002]

Columbia Gas Transmission Corp.; Amendment

November 10, 1982.

Take notice that on October 20, 1982, Columbia Gas Transmission

Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP83-11-002, an amendment to its pending application in the Docket No. CP83-11-002 filed pursuant to Section 7(c) of the Natural Gas Act so as to reflect a revision in the proposed transportation charge it would assess VISTRON Corporation (VISTRON), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Columbia states that upon further consideration the 19.26-cent per Mcf transportation charge contained in the application should be revised to reflect Columbia's average system-wide transmission and storage costs as reflected in its rate filings. Accordingly, Columbia proposes a rate of 30.50 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 1, 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. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-31531 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-21-001 (PGA83-1a)]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 10, 1982.

Take notice that on October 28, 1982, Columbia Gas Transmission Corporation (Columbia) tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1.

Original Volume No. 1

Substitute Eighty-fourth Revised Sheet No. 16

Substitute Twenty-sixth Revised Sheet No. 64

The subject tariff sheets bear an issue date of October 28, 1982, and an effective date of October 1, 1982.

Columbia states that the rates contained in Eighty-fourth Revised Sheet No. 16 reflect a Purchased Gas Cost Adjustment which provides for the recovery of approximately \$15.9 million in additional gas purchase costs for the five-month period ending February 28, 1983.

Columbia states further that on September 22, 1982, Columbia submitted revised tariff sheets in Docket No. TA83-1-21-000 (PGA83-1) which reflected the tracking of the October 1, 1982 rates of certain of its pipeline suppliers, namely, Kentucky-West Virginia Gas Company (Kentucky-West Virginia), Transcontinental Gas Pipe Line Corporation (Transco) and Panhandle Eastern Pipeline Company (Panhandle). That filing reflected a purchased gas adjustment of approximately \$24.8 million. By order issued October 22, 1982 in that docket, the Commission rejected the subject tariff sheets "without prejudice to Columbia's right to refile rates to be effective October 1, 1982 tracking the Panhandle rate increases resulting from commencement of Northern Border deliveries." (mimeo at p. 4). Further, Ordering Paragraph (A) of the order provided that:

"(A) Columbia's proposed eighty-fourth Revised Sheet No. 16 and Twenty-sixth Revised Sheet No. 64 to FERC Gas Tariff, Original Volume No. 1 is rejected, without prejudice to Columbia's refile rates to be effective October 1, 1982, which only track the increased pipeline supplier rates of Panhandle resulting from Northern Border costs." (mimeo at p. 5).

Consistent with the Commission's October 22, 1982 order, these revised tariff sheets reflect the tracking of Panhandle's increased rates which became effective October 1, 1982.

Columbia requests that the Commission grant waiver of §§ 154.22 and 154.38(d)(4) of the Commission's Rules and Regulations, and any other such waivers of its Regulations as it deems necessary to permit the revised tariff sheets to become effective as proposed.

Copies of the filing were served by Columbia upon its jurisdictional

customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 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. All such petitions or protests should be filed on or before November 17, 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 proceedings. Any person wishing to become a party must file a petition to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-31615 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-19-000]

Columbia Gulf Transmission Co.; Application

November 9, 1982.

Take notice that on October 13, 1982, Columbia Gulf Transmission Company (Applicant), P.O. Box 683, Houston, Texas, 77001, filed in Docket No. CP83-19-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Trunkline Gas Company (Trunkline), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes pursuant to a transportation agreement dated October 7, 1980, as amended, to take receipt of up to 40,000 Mcf of natural gas per day at a sidetap on Applicant's jointly-owned Blue Water Project in Vermilion Block 26, offshore Louisiana, and to transport on a best-efforts basis and redeliver equivalent volumes reduced by adjustments for removal of liquefiable hydrocarbons and fuel gas to (a) Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), for the account of Trunkline at the point of interconnection of Northern's and Applicant's facilities near Egan, Acadia Parish, Louisiana, (b) Trunkline at the existing interconnection of Applicant's and Trunkline's pipelines near Centerville, St. Mary Parish, Louisiana or (c) Sugar Bowl Gas Corporation and

Louisiana Intrastate Gas Corporation for the account of Trunkline at the tailgate of the Exxon Plant in Garden City, St. Mary Parish, Louisiana.

Applicant proposes to charge Trunkline a transportation rate currently in effect of 5.80 cents per Mcf of gas for gas delivered to the Egan point of delivery and 8.23 cents per Mcf of gas for gas delivered to the Centerville or Garden City points of delivery.

Applicant submits that the subject proposal is the most practical and economic way of making the Vermilion Block 26 gas available to Trunkline.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 30, 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 persons 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 is 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. 82-31549 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-10-000]

Commonwealth Electric Co.; Application

November 12, 1982.

Take notice that on October 29, 1982, Commonwealth Electric Company (Applicant) filed an application seeking authority pursuant to Section 204 of the Federal Power Act to issue up to \$18,000,000 principal amount of short-term debt.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 26, 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 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31646 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-55-000]

Connecticut Light and Power Co.; Filing

November 10, 1982.

The filing Company submits the following:

Take notice that the Connecticut Light and Power Company (CL&P) On October 22, 1982, tendered for filing proposed changes in its FERC Electric Tariff Resale Service Rate W-1.

CL&P proposes to rename the tariff the "W-2 Rate" and proposes a two-phase rate increase. The proposed Phase One rates would result in a revenue increase of approximately \$1,213,000 or 4.1% for the twelve-month period ending December 31, 1982. The Phase Two rates would result in an additional revenue increase of approximately \$1,588,000 or 5.4%.

CL&P indicates that the proposed increase in charges is intended to recover its increased costs to strengthen the Company's weakened financial condition, and to more fairly allocate its costs of service.

CL&P requests that, in the event that the Commission concludes that the Phase Two rates should be suspended for a period of more than one day, the alternate Phase one rates be made effective on December 31, 1982. The Company requests that the Phase Two rates be made effective on January 1, 1983. If the Phase Two rates are not suspended, or are suspended for only

one day, the Company requests that the Phase One rates are to be deemed withdrawn.

Copies of the filing were served upon the Company's jurisdictional customers and the Connecticut Department of Public Utility 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, 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 November 24, 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. 82-31525 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-188-002]

Consolidated Gas Supply Corp.; Petition To Amend

November 15, 1982.

Take notice that on October 25, 1982, Consolidated Gas Supply Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP81-188-002 a petition to amend further the order issued August 19, 1981, in Docket No. CP81-188-000 as amended, pursuant to Section 7(c) of the Natural Gas Act so as to extend the authorization for the transportation of natural gas to Niagara Mohawk Power Corporation (Niagara) until October 31, 1983, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that the order issued August 19, 1981, authorized Petitioner to transport and deliver up to 65,000 dekatherms (dt) equivalent of natural gas per day to Niagara for use in the generation of electric power at Niagara's Albany, New York, steam plant. It is asserted that the authorization was for a limited term expiring July 31, 1982. The authorization was extended for a 6-month period ending January 30, 1983, by order issued July 30, 1982. Petitioner proposes herein to continue the transportation of natural gas to Niagara until October 31, 1983.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 3, 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.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31631 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-12-000]

Consumers Power Co.; Application

November 12, 1982.

Take notice that on November 1, 1982, Consumers Power Company (Applicant) filed an application pursuant to Section 204 of the Federal Power Act seeking authorization to issue up to \$600,000,000 of short-term debt, to be issued from time to time between January 2, 1983 and December 31, 1983, with maturities of 365 days or less.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 30, 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 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31647 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-40-000]

**Eastern Shore Natural Gas Co.,
Application**

November 10, 1982.

Take notice that on October 22, 1982, Eastern Shore Natural Gas Company (Applicant), P.O. Box 615, Dover, Delaware 19901, filed in Docket No.

CP83-40-000 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 December 1, 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. 82-31526 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-13-000]

El Paso Electric Co.; Application

November 12, 1982

Take notice that on November 2, 1982, El Paso Electric Company (Applicant) filed an application with the Federal Energy Regulatory Commission seeking authority pursuant to Section 204 of the Federal Power Act to issue up to \$500,000 shares of Common Stock, no par value, pursuant to its Individual Retirement Plan and Custodial Account.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 30, 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 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31649 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-33-002]

**El Paso Natural Gas Co.; Revised
Purchased Gas Cost Adjustment Filing**

November 10, 1982.

Take notice that on October 29, 1982, El Paso Natural Gas Company ("El Paso") tendered for filing, pursuant to Part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act and in compliance with ordering paragraphs (C) and (E) of the Commission's "Order Accepting for Filing and Suspending Proposed Tariff Sheets Subject to Refund and Conditions and Establishing Hearing Procedures on Limited Issue," issued September 30, 1982 at Docket Nos. TA83-1-33-000 and TA82-2-33-000 (Affiliated Entities), the following revised tariff sheets to become effective October 1, 1982 as part of its FERC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A:

Original Volume No. 1
Thirty-third Revised Sheet No. 3-B
Third Revised Volume No. 2
Twenty-fourth Revised Sheet No. 1-D
Original Volume No. 2A
Twenty-fifth Revised Sheet No. 1-C

Such revised tariff sheets are submitted in substitution for their respective counterparts, made effective on October 1, 1982, subject to refund,

and referred to in ordering paragraph (A) of said Commission order as the "lower alternate revised tariff sheets," tendered as a part of El Paso's notice of change in rates filed August 31, 1982 at Docket No. TA83-1-33-000. The revised tariff sheets include the impact of the implementation of the decision of the United States Court of Appeals for the Fifth Circuit in *El Paso Natural Gas Co. v. FERC*, No. 81-4295, (5th Cir., May 24, 1982), hereinafter referred to as *El Paso*.¹

As set forth in the text of the Commission's September 30, 1982 order and ordering paragraph (B) thereof, El Paso was directed to file within twenty (20) days of the issuance of said order, certain work papers and supplemental information to demonstrate (i) the determination of the surcharge for the purchased gas costs in Account 191; (ii) the monthly balances in Account 803; and (iii) that purchases of deregulated gas from its affiliate, El Paso Exploration Company, satisfy the "affiliated entities limitation" under the Natural Gas Policy Act of 1978 ("NGPA").² In compliance with ordering paragraph (B), El Paso has included the above requested data in the instant tender.

Further, ordering paragraph (C) of the Commission's September 30, 1982 order directed El Paso to file revised tariff sheets within thirty (30) days of the issuance of said order, reflecting the directives set forth in the text of the order and ordering paragraph (E) required El Paso to file revised tariff sheets and make refunds, if necessary, within thirty (30) days of the date of issuance of an order in Docket No. TA82-2-33-000 resolving the decision of the United States Court of Appeals for the Fifth Circuit in *Mid-Louisiana Gas Co. v. FERC*, No. 80-3804 (5th Cir., December 23, 1981), hereinafter referred

to as *Mid-Louisiana*.³ Accordingly, El Paso states that the tendered revised tariff sheets incorporating the aforementioned adjustments result in an overall revised net adjustment of 35.21¢ per Mcf above the September 1, 1982 rates.⁴

El Paso requested that the Commission grant any and all waivers which may be necessary to permit the proposed revised tariff sheets reflecting the adjusted rates described in the filing herein be substituted for the "lower alternate revised tariff sheets" made effective on October 1, 1982 at Docket No. TA83-1-33-000 and that such substitute sheets also be made effective on October 1, 1982, as directed by the Commission.

El Paso has included an implementation of the Fifth Circuit's decision in the *El Paso* case. El Paso has not calculated carrying charges on the accrued but unpaid purchased gas costs in Account 191. El Paso presently has the right to include these costs in Account 191, inasmuch as on September 30, 1982 the Fifth Circuit Court denied the Commission's petition for rehearing of the Court's decision and subsequently on October 13, 1982 issued the mandate in *El Paso*. El Paso further states its rights to relief at this time is also confirmed by the action of the Fifth Circuit in granting stays of Commission orders directing United Gas Pipe Line Company to exclude those costs.

El Paso further states that copies of the instant tender have been served upon all parties of record in Docket No. TA83-1-33-000, *et al.*, and otherwise, upon all interstate pipeline system customers of El Paso and interested state regulatory commissions.

Any person desiring to be heard or to make protest with reference to said filing should, on or before Nov. 17, 1982, file with the FERC, 825 N. Capitol St., NE., Washington, D.C. 20740, a motion to intervene or a protest in accordance with the requirements of Rule 214 or Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding.

¹ On October 22, 1982 El Paso filed with the Commission a motion for stay of the Commission's order issued September 30, 1982 at Docket No. TA82-2-33-000.

² On October 8, 1982 El Paso filed substitute tariff sheets to the effective September 1, 1982, in compliance with the Commission's "Order Granting in Part and Denying in Part Rehearing Applications and Convening a Technical Conference on Certain Unresolved Issues," issued September 30, 1982 at Docket No. TA82-2-33-001 (PGA82-2, IPR82-2, AP82-2, TT82-2).

Any person wishing to become a party to a proceeding must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31617 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-13-000]

El Paso Natural Gas Co.; Tariff Filing

November 10, 1982.

Take notice that on October 27, 1982, El Paso Natural Gas Company ("El Paso") filed, pursuant to Part 154 of the Federal Energy Regulatory Commission ("Commission") Regulations Under the Natural Gas Act, the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Substitute Twenty-fourth Revised Sheet No. 1
Fourth Revised Sheet No. 72
Fourth Revised Sheet No. 73
Third Revised Sheet No. 74
Second Revised Sheet No. 75
Fourth Revised Sheet No. 76
First Revised Sheet No. 77
Third Revised Sheet No. 78
Third Revised Sheet No. 79
Third Revised Sheet No. 80
Second Revised Sheet No. 81
Second Revised Sheet No. 82
Second Revised Sheet No. 83

El Paso states that the tendered revised tariff sheets, when accepted for filing and permitted to become effective, will replace the currently effective Service Agreement—Form A (for Buyers receiving service under rate schedules contained in El Paso's Volume No. 1 Tariff other than those designated with the prefix "G") and Service Agreement—Form B (for Buyers receiving service under rate schedules contained in Volume No. 1 of El Paso's FERC Gas Tariff designated with the prefix "G") with a single, new Form of Service Agreement applicable to all Buyer's receiving service under rate schedules contained in El Paso's Volume No. 1 Tariff, and update the Table of Contents for Volume No. 1 to reflect the replacement of Forms A and B with the new Form. El Paso states that the primary differences between the new Form and Forms A and B are that the new Form reflects the (i) exclusion of articles or parts of articles in Forms A and B which address matters otherwise governed by the General Terms and Conditions of El Paso's FERC Gas Tariff, and (ii) restatement of certain provisions to provide more flexibility in applying the new Form to the particular service

¹ The Commission's order issued September 30, 1982 at Docket No. TA83-1-33-000, *et al.*, *inter alia*, conditionally accepted, effective October 1, 1982, subject to refund, the lower alternative tariff sheets and rejected El Paso's higher alternative tariff sheets and rejected El Paso's higher alternative tariff sheets, including the impact of the implementation of *El Paso*, on the premise that said implementation was premature inasmuch as the Fifth Circuit had not issued a mandate in *El Paso*. However, as of the same date (September 30, 1982) the Fifth Circuit denied the Commission's petition for rehearing of the Court's decision and subsequently on October 13, 1982 issued the mandate in *El Paso*. Therefore, El Paso believes it has the right to include the impact of the *El Paso* decision in the tendered revised tariff sheets.

² By order issued October 25, 1982 at Docket Nos. TA83-1-33-000 and TA82-2-33-000 (Affiliated Entities) the Presiding Administrative Law Judge granted El Paso's motion for an extension of time to comply with ordering paragraph (B) until October 29, 1982.

requirements of its customers. El Paso requests that tendered revised tariff sheets be permitted to become effective thirty (30) days following the date of filing.

El Paso further states that copies of the filing have been served upon all of its interstate pipeline system customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before Nov. 17, 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 Rule 214 or Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31618 Filed 11-17-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP83-39-000]

Equitable Gas Co.; Application

November 9, 1982.

Take notice that on October 22, 1982, Equitable Gas Company (Equitable), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP83-39-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 5,000 Mcf of natural gas per day for Eastern American Energy Corporation (Eastern American) from points along Equitable's pipeline system in central West Virginia for redelivery into the pipeline system of Columbia Gas Transmission Corporation (Columbia), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Equitable proposes to implement the terms of an agreement between Equitable and Eastern American dated October 1, 1982, whereby Equitable has agreed to transport up to 5,000 Mcf of natural gas per day for Eastern American for a period of two years.

Equitable proposes a rate as may be set forth in its FERC Gas Tariff which rate is currently 15.5 cents per Mcf.

Equitable states that up to 5,000 Mcf of natural gas per day would be received from Eastern American at existing interconnections with Equitable's pipeline and would be redelivered for Eastern American's account at an existing interconnection with the pipeline system of Columbia either in Green County, Pennsylvania, or Wetzel County, West Virginia, for sale by Eastern American to Columbia.

Equitable proposes to perform the transportation service by means of existing facilities and states that no construction or expansion of facilities would be required.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 24, 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 is 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. 82-31532 Filed 11-17-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5654-001]

Flathead Joint Board of the Flathead, Mission and Jocko Valley Irrigation Districts; Surrender of Preliminary Permit

November 9, 1982.

Take notice that the Flathead Joint Board of the Flathead, Mission and Jocko Valley Irrigation Districts, Permittee for the proposed Hubbard Dam Power Project, FERC No. 5654, has requested that its preliminary permit be terminated. The permit was issued on March 31, 1982, and would have expired on August 31, 1983. The project would have been located on the Little Bitterroot River in Flathead County, Montana.

The Permittee filed its request on October 19, 1982, and the surrender of the preliminary permit for Project No. 5654 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31533 Filed 11-17-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP81-84-006]

Florida Gas Transmission Co.; Proposed Change in FERC Gas Tariff

November 10, 1982.

Take notice that on October 27, 1982 Florida Gas Transmission Company (FGTC) tendered for filing the following tariff sheets for inclusion in Original Volume No. 3 of FGTC's FERC Gas Tariff:

Substitute 29th Revised Sheet No. 3-A of Original Volume No. 1
Substitute 19th Revised Sheet No. 128 of Original Volume No. 2
Fourth Revised Sheet No. 126
Third Revised Sheet No. 181
Third Revised Sheet No. 245
Third Revised Sheet No. 265
Third Revised Sheet No. 283
Third Revised Sheet No. 305
Third Revised Sheet No. 332
Third Revised Sheet No. 365
Third Revised Sheet No. 395
Third Revised Sheet No. 396

The proposed effective date is October 1, 1982.

FGTC states that the tariff sheets incorporate the revisions in FGTC's

rates that become effective on October 1, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 17, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31650 Filed 11-17-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-701-000]

Florida Power Corp.; Request for Filing Date

November 10, 1982.

The filing company submits the following:

Take notice that on October 29, 1982, Florida Power Corporation requested that the Commission assign a filing date to the rate schedules for the second-step increase which were submitted in this proceeding on July 30, 1982. The rate schedules as to which it is requested that an effective date be assigned are those contained in "Part B" of the tariff revisions submitted on that date. The second-step increase, reflecting the cost of service after Crystal River No. 4 is placed in commercial operation, involves an increase over the compliance first-step level of \$24 million. The Company requests that the second-step increase be permitted to become effective on December 29, 1982, which is the date preceding scheduled commercial operation of Crystal River No. 4, and that it be suspended for one day, to become effective on December 30, 1982, the date of scheduled commercial operation. The Company states that it will inform the Commission and the affected customers if there is any change in the scheduled date of commercial operation.

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 November 24, 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. 82-31527 Filed 11-17-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-513-001]

**Gasdel Pipeline System Inc.,
Transcontinental Gas Pipe Line Corp.;
Amendment**

November 9, 1982.

Take notice that on September 29, 1982, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP82-513-001 pursuant to Section 7 of the Natural Gas Act an amendment to Gasdel Pipeline System Incorporated's (Gasdel) application filed August 26, 1982, in Docket No. CP82-513-000 so as to permit and approve Transco to abandon the pipeline being acquired by Gasdel, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is stated that on August 26, 1982, Gasdel filed in Docket No. CP82-513-000 an application for authorization among other things, to acquire a 25 percent interest in approximately 18.90 miles of 20-inch pipeline including appurtenant facilities and a 7.91 percent interest in approximately 66.35 miles of 24-inch pipeline including appurtenant facilities and in other appurtenant metering, regulating, dehydration, separation and connection facilities which are owed by Transco and which connect natural gas production from gas supply in Block A-42, North Padre Island Area and East Addition, offshore Texas, to Transco's mainline in Jim Wells County, Texas.

Transco proposes herein to amend Gasdel's above-described application by requesting that the Commission, at the same time it authorizes Gasdel to acquire such interests in such pipelines, authorize Transco to abandon such interests.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before November 30, 1982, file with the Federal

Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) 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 petition 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 petition 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 is required by the public convenience and necessity. If a petition 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 Transco to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31550 Filed 11-17-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6790-000]

**Grand River Dam Authority;
Application for Preliminary Permit**

November 15, 1982.

Take notice that the Grand River Dam Authority (Applicant) filed on October 26, 1982, an application for preliminary permit [Pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6790 to be known as the Mayo Lock & Dam Project located on the Arkansas River in Sequoyah County, Oklahoma. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. James Pendergrass, P.O. Drawer G, Vinita, Oklahoma 74301.

Project Description—The proposed project would utilize the existing Mayo

Lock and Dam and the resulting reservoir under jurisdiction of the Corps of Engineers and would consist of: (1) A new powerhouse 200 feet square containing three new 12.5-MW turbine-generator units; (2) a new step-up substation; (3) a new 161-kV transmission line 20 miles long leading to the existing Sallisaw switching station; and (4) appurtenant facilities.

The average annual generation of 165 million kWh would be sold to a combination of municipalities, cooperatives, industry and government agencies.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform survey and geological investigations, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be \$50,000.

Competing Applications—This application was filed as a competing application to the Mayo Power Development Company's application for Project No. 8576 filed on August 6, 1982. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [See: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Commission Rules 211 or 214, 18 CFR

385.211 or 385.214, 47 FR 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before December 17, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above Address. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31632 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RA83-2-000]

Gulf Oil Corp.; Filing of Petition for Review Under 42 U.S.C. 7194

November 12, 1982.

Take notice that Gulf Oil Corporation on November 5, 1982, filed a Petition for Review under 42 U.S.C. 7194(b) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a motion to intervene. However, any such person wishing to be a participant must file a notice of participation on or before November 29, 1982, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested

order, and who wishes to be a participant in the Commission proceeding, must file a motion to intervene on or before November 29, 1982, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.1005(c)).

A notice of participation or motion to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through the Office of General Counsel, the Assistant General Counsel for Regulatory Litigation, Department of Energy, Room 6H-025, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE., Washington, D.C. 20426.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31653 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5102-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

November 12, 1982

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Brush Creek Water Power Project No. 5102, has requested that its preliminary permit be terminated. The permit was issued on February 1, 1982, and would have expired on July 31, 1983. The project would have been located on the Brush Creek in Lincoln County, Montana.

The Permittee filed its request on October 12, 1982, and the surrender of the preliminary permit for Project No. 5102 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31633 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-25-000]

Inter-City Minnesota Pipelines Ltd.; Application

November 10, 1982.

Take notice that on October 14, 1982,¹ Inter-City Minnesota Pipelines Ltd.

¹ The application was originally tendered for filing on October 14, 1982. However, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until

(Applicant), 1004 Cloquet Avenue, Cloquet, Minnesota 55720, filed in Docket No. CP83-25-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing an increase in the authorized quantities of natural gas transported for ICG Transmission Holdings Ltd. (ICG), a Canadian pipeline company, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it was authorized by order issued July 16, 1975, in Docket No. CP75-139, to transport up to 14,339 Mcf of gas per day and up to 3,686,000 Mcf of gas per year for ICG. It is further stated that in a related order issued August 2, 1977, in Docket No. CP77-115, the Commission stated that the "present level" of Applicant's authorization for transportation on behalf of ICG was 13,100 Mcf per day and that the appendix to that order set forth a transportation authorization of 15,139 Mcf per day and 3,749,000 Mcf per year. Applicant asserts, however, that it is unable to trace the 13,100 Mcf per day level indicated in the order issued in Docket No. CP77-115 to any previous Commission order, that the 15,139 Mcf daily transportation authorization in said order was the result of an arithmetic error and should have been 14,339 Mcf per day, and that nothing in that order altered previously certificated annual volumes.

Applicant proposes herein to transport up to 5,502,000 Mcf of gas annually for ICG. It is stated that this amount was calculated by subtracting Applicant's total deliveries for ICG as of October 31, 1981, from the total authorization in Docket No. CP75-139 and then dividing this amount by the remaining terms of the import-export licenses issued to ICG by the National Energy Board (NEB) of Canada. It is asserted that the requested increase in volumes from 3,686,000 Mcf per year to 5,502,000 Mcf per year is necessary to meet increased Canadian demand and that Applicant is fully capable of serving both these increased transportation volumes and its United States market.

Applicant also seeks authorization to remove the present limitation on daily transportation volumes and, in its place, to continue the condition already imposed in Docket No. CP75-139, that limits transportation volumes to a level that allows service of all contract demand for United States customers under the NEB export licenses. It is asserted that the removal of the daily

limitation is required to provide necessary operational flexibility.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 1, 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 Rule 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 is 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. 82-31534 Filed 11-17-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP82-136-001 (PGA83-1)]

**Inter-City Minnesota Pipelines Ltd.;
Filing of Tariff Sheets Effecting
Purchased Gas Adjustment and
Related Accounting Provision**

November 10, 1982.

Take notice that on October 28, 1982, Inter-City Minnesota Pipelines Ltd. (Inter-City) filed the following proposed revisions to Original Volume No. 1 of its FERC Tariff:

Substitute Second Revised Sheet No. 61-C.
Seventeenth Revised Sheet No. 4.

Inter-City requests that these sheets become effective as of November 1, 1982, and requests a waiver of applicable notice requirements to that end.

Inter-City further states that the proposed sheets (1) effect Inter-City's annual purchased gas adjustment pursuant to § 154.38(d)(iv) of the Commission's regulations and (2) provide for subaccounts in its Account 191 in conformance with the Uniform System of Accounts.

Inter-City states that a copy of the filing and supporting statements have been served on all customers and on the appropriate state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 17, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31634 Filed 11-17-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP83-18-000]

Interstate Power Co.; Application

November 9, 1982.

Take notice that on October 13, 1982, Interstate Power Company (Applicant), 1000 Main Street, Dubuque, Iowa 52001, filed in Docket No. CP83-18-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience authorizing the construction and operation of certain pipeline facilities and the lease and operation of pipeline facilities from a point north of Albany, Illinois, to a point within the city limits of Comanche, Iowa, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate approximately 6.72 miles of 14-inch pipeline and appurtenant facilities from a point near the Mississippi River in north Albany, Illinois, to a point near

south Albany, Illinois. The total estimated cost of facilities is \$2,500,000, which would be financed from Applicant's earnings.

Applicant also proposes to lease from Dome Pipeline Company and operate a submarine pipeline under the Mississippi River from a point of interconnection with the proposed new facilities to a point of connection with Applicant's Clinton area distribution system within the city limits of Comanche, Iowa. Applicant states it would use the leased facilities for a term of 15 years. Applicant proposes to abandon such leased facilities at the termination of said lease.

Applicant states it is receiving Additional Authorized Overrun Service deliveries from Natural Gas Pipeline Company of America. Applicant avers the instant proposal is necessary to alleviate the resulting capacity constraint on its system and to provide sufficient delivery capability to the Clinton distribution area in the event that one of the Applicant's other existing 8-inch pipeline crossings of the Mississippi River should fail.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 30, 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. 82-31551 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER77-578-000 and ER80-259-000, et al.]

Kansas Gas and Electric Co., Compliance Filing

November 12, 1982.

The filing company submits the following:

Take notice that on October 20, 1982, Kansas Gas and Electric Company filed a statement of undercollection payments and verification of billings for procured energy in accordance with the Commission's letter dated September 20, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission 825 North Capitol Street, NE., Washington, D.C. 20426, on or before November 29, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-31654 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. E183-3-000]

Mayor and Council of the Town of Middletown, Delaware, and the City of New Castle, Delaware, v. Delmarva Power & Light Company; Filing

November 10, 1982.

The complainants submit the following:

Take notice that on October 29, 1982, The Mayor and Council of the Town of Middletown, Delaware ("Middletown") and the City of New Castle, Delaware ("New Castle") filed a complaint and petition for declaratory order against Delmarva Power & Light Company ("Delmarva").

Middletown and New Castle request that the Commission:

(a) Conduct and investigation and hold a public hearing regarding Delmarva's charges and practices

relating to customer-initiated changes in delivery voltage;

(b) Declare that such charges and practices are unjust, unreasonable and unduly discriminatory;

(c) Order and direct that Delmarva provide service to Middletown and New Castle as the delivery voltages requested by each and that Delmarva interconnect with Middletown and New Castle for such purpose;

(d) Grant such other relief as the Commission deems appropriate.

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 of protests should be filed on or before December 13, 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. 82-31616 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6579-001]

Merilyn Coe; Exemption From Licensing

November 9, 1982.

A notice of exemption from licensing of a small hydroelectric project known as Little Butte Ranch, project No. 6579-001, was filed on September 21, 1982, by Merilyn Coe. The proposed hydroelectric project would have an installed capacity of 28 kW and would be located on North Fork of Little Butte Creek, in Jackson County, Oregon.

Pursuant to §§ 4.109(c) and 375.308(ss) of the Commission's regulations, and subject to the terms and conditions set forth in § 4.111 of the Commission's regulations, the Director, Office of Electric Power Regulation, issues this notification that the above project is exempted from licensing as of October 21, 1982.

Lawrence R. Anderson,

Director, Office of Electric Power Regulation.

[FR Doc. 82-31548 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-1-001]**Michigan Wisconsin Pipe Line Co.;
Proposed Change in FERC Gas Tariff**

November 10, 1982.

Take notice that on October 29, 1982 Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) submitted for filing Substitute Fifth Revised Sheet No. 667 of Rate Schedule X-64 under First Revised Volume No. 2 of Michigan Wisconsin's FERC Gas Tariff.

Michigan Wisconsin states that this tariff sheet is filed pursuant to its Stipulation and Agreement in Docket No. RP82-1-000 with the Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 17, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31651 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-16-000]**Midwestern Gas Transmission Co.;
Tariff Filing**

November 9, 1982.

Take notice that on October 29, 1982, Midwestern Gas Transmission Company (Midwestern) tendered for filing the following tariff sheets to its FERC Gas Tariff to be effective November 1, 1982:

Original Volume No. 1

Second Revised Sheet Nos. 64 & 85.
Original Sheet No. 85A.

Original Volume No. 2

Substitute Sixth Revised Sheet No. 37.
First Revised Sheet No. 37A.
Third Revised Sheet No. 39.

Midwestern states that the revisions make changes in the minimum bill provisions of Midwestern's Northern System Rate Schedules CD-2 and T-2 under which Michigan Wisconsin Pipeline Company purchases natural gas service from Midwestern.

Midwestern states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition 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 petitions or protests should be filed on or before November 17, 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 petition to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31552 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-25-002]**Mississippi River Transmission Corp.;
Rate Change Filing**

November 10, 1982.

Take Notice that on October 27, 1982 Mississippi River Transmission Corporation ("Mississippi") tendered for filing Substitute Eighty-Fourth Revised Sheet No. 3A to its FERC Gas Tariff, First Revised Volume No. 1, containing an effective date of October 1, 1982.

Mississippi states that such filing is being submitted pursuant to Commission order dated September 30, 1982 at Docket No. TA83-1-25. Such order accepted for filing Mississippi's Eighty-Fourth Revised Sheet No. 3A to be effective October 1, 1982, subject to downward modification to reflect United Gas Pipe Line Company's reduced motion rates at Docket No. RP82-57. Mississippi states that such reduction is reflected in the instant filing.

Mississippi states that copies of its filing have been served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or

protests should be filed on or before November 17, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary

[FR Doc. 82-31635 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT83-3-000]**Mississippi River Transmission Corp.;
Filing of Service Agreement and
Proposed Changes in FERC Gas Tariff**

November 10, 1982.

Take notice that on October 27, 1982, Mississippi River Transmission Corporation ("Mississippi") tendered for filing a copy of an executed Service Agreement dated October 14, 1982 between Mississippi and Arkansas Louisiana Gas Company (Arkansas "Louisiana"), Seventeenth Revised Sheet No. 33 to Mississippi's FERC Gas Tariff, First Revised Volume No. 1 and First Revised Sheet No. 42 to Mississippi's FERC Gas Tariff, Original Volume No. 2. Mississippi proposes that the Service Agreement and tariff sheets become effective on November 1, 1982.

Mississippi states that the purpose of the filing is to reflect the extension of agreements with Arkansas Louisiana which are due to expire on October 31, 1982. Arkansas Louisiana is and has been a resale customer of Mississippi for many years. The above-mentioned Service Agreement covers service to Arkansas Louisiana under Mississippi's Rate Schedule CD-1 and replaces and extends the current Service Agreement dated September 27, 1967. Mississippi states that the new Service Agreement is identical in all essential respects with the Service Agreement it replaces, there being no change in Contract Demand, delivery points or delivery pressures. Seventeenth Revised Sheet No. 33, First Revised Volume No. 1, identifies the new Service Agreement in the Index of Purchasers to Mississippi's tariff. First Revised Sheet No. 42, Original Volume No. 2, reflects the extension of the term of an existing Exchange Agreement between Mississippi and Arkansas Louisiana (Mississippi's Rate Schedule X-8) which permits Arkansas Louisiana to augment the supply of gas available for one of its distribution systems.

Copies of the filing were served upon Mississippi's jurisdictional customers, the Missouri Public Service Commission, the Arkansas Public Service Commission and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before November 17, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31652 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-11-000]

Missouri Utilities Co.; Application

November 12, 1982.

Take notice that on November 1, 1982, Missouri Utilities Company (Applicant) filed an application seeking authority pursuant to Section 204 of the Federal Power Act to issue up to \$20,000,000 of unsecured promissory notes to be issued from time to time, with a final maturity date of not later than December 31, 1984.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 29, 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 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31655 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-91-000]

Missouri Utilities Co.; Filing

November 12, 1982.

The filing Company submits the following:

Take notice that Missouri Utilities Company, on November 3, 1982, tendered for filing its original Tariff No. 2, with accompanying Rate Schedules SFR-2 for firm assurance power. The Company has also filed contemporaneously therewith its wholesale service agreement for supplemental power under the SFR-2 Tariff, FERC Electric Tariff, Original Volume No. 2, with the City of Poplar Bluff, a Municipal Corporation.

This contract and accompanying tariff provide firm power in block increments for the City of Poplar Bluff, Missouri, during the period commencing on approval thereof, and terminating May 31, 1985.

The reason for the purpose of said filing is to provide the Company with an electric tariff for firm assurance power, and to seek approval of the application of the same to the City of Poplar Bluff under the contract filed.

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 November 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. 82-31619 Filed 11-17-82; 6:45 am]

BILLING CODE 6717-01-M

[Project No. 3605-001]

Mohawk Paper Mills, Inc.; Application for Exemption for Small Hydroelectric Power Project of 5 MW or Less Capacity

November 15, 1982.

Take notice that on July 20, 1982, Mohawk Paper Mills, Inc. (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 3605 would be located on the Mohawk River in Saratoga County, New York. Correspondence with the Applicant

should be directed to: Dr. P. A. Forni, Executive Vice President, Mohawk Paper Mills, Inc., Box 497, 465 Saratoga Street, Cohoes, New York 12047.

Project Description.—The proposed run-of-the-river project would consist of two existing dam structures bridged by a small island: (1) The existing east span is an ogee shaped reinforced concrete structure, with an average height of 7 feet, and approximately 570 feet long; (2) the existing west span is an ogee shaped reinforced concrete structure, 9 feet high and approximately 142 feet long; (3) the existing uncontrolled spillway which consists of the entire crest length, approximately 712 feet; (4) an existing reservoir with a surface area of 14-acres and a usable storage capacity of 100 acre-feet; (5) a new reinforced concrete powerhouse approximately 50 feet long and 35 feet wide, containing a single generating unit with an installed capacity of 3,350 kW; (6) a proposed 4,160-volt transmission line, 1,325 feet long; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 10,400,000 kWh. The existing project facilities are owned by the Applicant, Mohawk Paper Mills, Inc.

Purpose of Exemption.—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments.—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State of New York Department of Environmental Conservation are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency

does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications.—Any qualified license applicant desiring to file a competing application must file with the Commission, on or before December 29, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Filing of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Motions To Intervene.—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before December 29, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative

of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31636 Filed 11-17-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA83-1-49-001 (PGA83-1, IPR83-1)]

**Montana-Dakota Utilities Co.;
Proposed Change in FERC Gas Tariff**

November 10, 1982.

Take notice that on November 2, 1982 Montana-Dakota Utilities Company (MDU), pursuant to Section 4 of the Natural Gas Act, Part 154 of the Commission's Regulations, the Commission's suspension order in these proceedings, issued October 29, 1982, and the Commission's Letter Order approving a settlement in Docket No. RP81-71-000, issued on September 21, 1982, respectfully submits for filing as part of its FERC Gas Tariff, the following tariff sheets:

Original Volume No. 4

Twenty-Second Revised Sheet No. 3A

First Revised Volume No. 2

Sixteenth Revised Sheet No. 3A

The proposed effective date is November 2, 1982.

MDU states that this filing is related to its October 1, 1982 PGA filing in Docket No. TA83-1-49-000. As such it is in the nature of a compliance filing, and reflects the following three types of changes from the original filing made on October 1, 1982:

(1) The tariff sheets and the rates set forth thereon have been modified to reflect the new Base Tariff Rates in Docket No. RP82-84-000, which were made effective on November 1, 1982;

(2) Modification is required in order to reflect a provision in the settlement of Docket No. RP81-71-000;

(3) Modification is also required to correct a mistake made in the October 1, 1982 filing, relating to the surcharge applicable to Frontier, and increases the Current Gas Cost Adjustment, applicable to Rate Schedules G-1, PR-1, I-1, and X-1 from 20.103¢ per Mcf to 20.165¢ per Mcf, and increases the current surcharge to Frontier, under Rate Schedule X-4, from 17.075¢ per Mcf to 35.550¢ per Mcf.

Copies of this filing are being mailed to the persons on MDU's mailing list.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules

of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 17, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31620 Filed 11-17-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP81-71-002]

**Montana-Dakota Utilities, Co.;
Proposed Change in FERC Gas Tariff**

November 10, 1982.

Take notice that on November 2, 1982, Montana-Dakota Utilities, Co. (MDU) submitted for filing, in compliance with the Commission's letter order approving a settlement of Docket No. RP81-71-000, issued on September 21, 1982, as part of its FERC Gas Tariff, the following Tariff Sheets:

Original Volume No. 4 and Proposed Effective Date

Second Substitute Eighteenth Revised Sheet No. 3A—July 2, 1981

Second Substitute Nineteenth Revised Sheet No. 3A—November 1, 1981

Third Substitute Nineteenth Revised Sheet No. 3A—March 1, 1982

Second Substitute Twentieth Revised Sheet No. 3A—May 1, 1982

First Revised Volume No. 2 and Proposed Effective Date

Second Substitute Eleventh Revised Sheet No. 10—July 2, 1981

Second Substitute Twelfth Revised Sheet No. 10—November 1, 1981

Substitute Thirteenth Revised Sheet No. 10—March 1, 1982

Substitute Fourteenth Revised Sheet No. 10—May 1, 1982

MDU states that the above-mentioned tariff sheets reflect settlement rates in the settlement approved by the Commission in a letter order issued on September 21, 1982.

Copies of this filing are being mailed to the persons identified on MDU's mailing list.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules

of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 17, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31621 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-84-002]

**Montana-Dakota Utilities Co.;
Proposed Change in FERC Gas Tariff**

November 10, 1982.

Take notice that on November 1, 1982 Montana-Dakota Utilities Company (MDU) submitted for filing as part of its FERC Gas Tariff the following revised tariff sheets:

Original Volume No. 4

Twenty-First Revised Sheet No. 3A

First Revised Volume No. 2

Fifteenth Revised Sheet No. 10

The proposed effective date is November 1, 1982.

MDU states that the above-listed tariff sheets, filed as part of MDU's rate filing herein on April 30, 1982, were suspended until November 1, 1982, by the Commission's "Order Accepting for Filing and Suspending Proposed Tariff Sheets, Subject to Conditions and Refund", issued May 28, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 17, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31622 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4698-001]

**Montana Department of Natural
Resources and Conservation;
Surrender of Preliminary Permit**

November 12, 1982.

Take notice that Montana Department of Natural Resources and Conservation, Permittee for the proposed Nevada Creek Project No. 4698, has requested that its preliminary permit be terminated. The permit was issued on September 14, 1981, and would have expired on February 28, 1983. The project would have been located on the Nevada Creek and Nevada Lake in Powell County, Montana.

The Permittee filed its request on October 18, 1982, and the surrender of the preliminary permit for Project No. 4698 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31637 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-55-000 (PGA 83-1)]

**Mountain Fuel Resources, Inc.; Change
in Rates Pursuant to Purchased Gas
Cost Adjustment Provision**

November 9, 1982.

Take notice that on November 1, 1982, Mountain Fuel Resources, Inc. (Resources) tendered for filing a proposed change in rates applicable to service rendered under its Rate Schedule No. 1 affected by and subject to Resources' *Purchased Gas Cost Adjustment Provision* contained in its FERC Gas Tariff, Original Volume No. 1. Resources filed Seventeenth Revised Sheet No. 7 and Sixth Revised Sheet No. 7-A of its FERC Gas Tariff, Original Volume No. 1.

The current adjustment to Resources' rates results in a decrease of \$0.2130 per Mcf over the rate currently being collected subject to refund. Resources proposes that the decrease in rate be effective December 1, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 17, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31553 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT83-2-000]

**National Fuel Gas Supply Corp.;
Proposed Changes in FERC Gas Tariff**

November 10, 1982.

Take notice that on October 21, 1982, National Fuel Gas Supply Corporation (National Fuel) tendered for filing the following proposed change in its FERC Gas Tariff, to be effective July 15, 1982:

First Revised Volume No. 2
Original Sheet No. 445

National Fuel is filing Original Sheet No. 445 as an appendix to Rate Schedule X-41, which was filed with the Commission on September 1, 1982, in order to reflect the proper rate schedule for transportation being performed by National fuel for National Fuel Gas Distribution Corporation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules and Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 17, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31638 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-15-000]

**Natural Gas Pipeline Company of
America; Proposed Changes in FERC
Gas Tariff**

November 9, 1982.

Take notice that on October 29, 1982, Natural Gas Pipeline Company of America, (Natural) tendered for filing proposed changes in its FERC Gas

Tariff. Natural states that the proposed changes will make effective:

	Effective date
3d Revised Volume No. 1:	
18th Revised Sheet No. 5A	Jan. 1, 1983.
2d Revised Volume No. 2:	
6th Revised Sheet No. 653 (X-62)	Jan. 1, 1983.
8th Revised Sheet No. 688 (X-63)	Do.
6th Revised Sheet No. 695 (X-67)	Do.
5th Revised Sheet No. 1097 (X-93)	Dec. 1, 1982.
1st Revised Sheet No. 1698 (X-127)	Do.
1st Revised Sheet No. 1699 (X-127)	Do.
1st Revised Sheet No. 1736 (X-128)	Do.
1st Revised Sheet No. 1737 (X-128)	Do.
1st Revised Sheet No. 1775 (X-129)	Do.
1st Revised Sheet No. 1776 (X-129)	Do.
1st Revised Sheet No. 1812 (X-130)	Do.
1st Revised Sheet No. 1813 (X-130)	Do.

Natural states that the purpose of this filing is to make effective (1) the billing percentages to be effective January 1, 1983 for its Rate Schedule F-1 Facility Charge and (2) the revised rates to be effective December 1, 1982 and January 1, 1983 for certain transportation services.

Copies of this filing were served upon the company's jurisdictional customers and interested 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, NE., Washington, D.C. 20426, in accordance with the requirements of Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before November 17, 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. 82-31554 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP80-86-005]

Natural Gas Pipeline Co. of America; Petition to Amend

November 10, 1982.

Take notice that on October 18, 1982, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP80-86-005 a petition to amend the order issued February 6, 1980, in Docket No. CP80-86, as amended, pursuant to Section 7(c) of the Natural Gas Act and § 157.7(b) of the

Regulations thereunder (18 CFR 157.7(b)) so as to authorize the construction and operation of two gas supply facilities constructed in excess of the single offshore project limitation of \$3,500,000, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Natural states that by order issued February 6, 1980, it was authorized to construct and operate gas purchase facilities each year with no single offshore project to exceed \$3,500,000. Natural states that it undertook the construction of approximately 8.39 miles of 6-inch lateral and appurtenant facilities in Galveston Block 245-L, offshore Texas, the cost of which was estimated to be \$2,400,000, and approximately 2.6 miles of 12-inch pipeline and appurtenant facilities in Vermilion Block 380, offshore Louisiana, estimated to cost \$3,400,000.

It is stated that several unanticipated circumstances delayed the completion of the projects and caused the cost of the Galveston Block 245-L facilities to exceed the original estimate by approximately \$2,600,000, and the Vermilion Block 380 facilities to exceed the original estimate by approximately \$6,700,000. Natural, therefore, requests a waiver of the single offshore project limit so as to authorize the Galveston Block 245-L facilities not to exceed \$4,000,000 and Vermilion Block 380 facilities not to exceed \$10,000,000.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 1, 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.

Kenneth F. Plumb,
Secretary

[FR Doc. 82-31535 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-94-000]

New England Power Pool; Filing

November 10, 1982.

The filing Company submits the following:

Take notice that on November 3, 1982, the New England Power Pool (NEPOOL) tendered for filing a NEPOOL Agreement dated September 1, 1971, as amended signed by the Franklin Electric Light Company. The Franklin Electric Light Company has its principal office in Franklin, Vermont. NEPOOL indicates that the New England Power Pool Agreement has previously been filed with the Commission as a rate schedule (designated NEPOOL FPC No. 1).

NEPOOL requests an effective date of November 1, 1982, and therefore requests waiver of the Commission's notice requirements.

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 November 23, 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. 82-31536 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-59-000]

Northern Natural Gas Co.; Purchased Gas Cost Adjustment Rate Change

November 9, 1982.

Take notice that on October 26, 1982, Northern Natural Gas Company (Northern) tendered for filing, as part of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets:

Third Revised Volume No. 1:
Twenty-Ninth Revised Sheet No. 4a
Nineteenth Revised Sheet No. 4b
Third Revised Sheet No. 4c
Second Revised Sheet No. 70c
Original Volume No. 2:
Twenty-Ninth Revised Sheet No. 1c

Such revised tariff sheets are required in order that Northern may place into effect the proposed rates on December 27, 1982 to reflect:

(1) The estimated increase in the cost of purchased gas pursuant to Paragraph 18 of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1. Additionally, this PGA reflects an increase in the surcharge to amortize the unrecovered cost of purchased gas account and also reflects certain costs and revenue tracking adjustments pursuant to Commission Order in Docket No. RP80-88;

(2) The decrease in the surcharge to amortize the unrecovered cost of purchased gas account and also certain cost and revenue tracking adjustments pursuant to Commission Orders in Docket Nos. RP80-88 and RP81-52;

(3) The increase in costs of transportation of gas through the Alaska Natural Gas Transportation System (ANGTS) pursuant to Paragraph 21 of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1;

(4) No change in Northern's costs associated with Research and Development Expenditures or in the Gas Research Institute unit charge pursuant to Paragraph 19 of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1.

Second Revised Sheet No. 70c of Third Revised Volume No. 1 provides for the conversion of the Base Average Cost of Purchased Gas per Mcf as delivered to a cost per Mcf at 1000 Btu per cubic foot.

The Company states that copies of the filing have been mailed to each of the Gas Utility customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 17, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31539 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-33-002]

**Northern Natural Gas Company
Division of InterNorth, Inc.; Petition To Amend**

November 9, 1982.

Take notice that on October 21, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP82-33-002 a petition to amend the order issued April 9, 1982, in Docket No. CP82-33-000, as amended, pursuant to Section 7(c) of the Natural Gas Act so as to authorize a reduction in the rate charged Allied Chemical Corporation (Allied) for an off-system sale of natural gas used at Allied's Geismar Plant in Iberville Parish, Louisiana, by 50.0 cents per million Btu, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it presently is authorized by order issued April 9, 1982, in Docket No. CP82-33-000, as amended, to transport and deliver a maximum of 50,000 Mcf of natural gas per day to Allied's Geismar Plant for use as feedstock in the production of ammonia fertilizer for a term expiring October 31, 1984. It is further stated that Petitioner is authorized to charge Allied a rate that is no less than Petitioner's Zone 1 100 percent load factor rate under its Rate Schedule CD-1.

Allied pays Petitioner for each million Btu of natural gas delivered hereunder a price equal to the sum of the gas purchase price set out above plus all transportation costs plus 12 cents per million Btu in consideration for operating, handling, and coordinating the delivery of said volumes.

Petitioner requests authority to reduce the above authorized sales rate to Allied by 50.0 cents per million Btu for the period through October 26, 1983. It is asserted that without the approval of such rate reduction the potential exists that the Geismar plant would terminate production resulting in the termination of a substantial number of employees.

Petitioner indicates that certain factors currently exist which directly affect the viability of the Geismar plant including: (1) The high production cost of ammonia fertilizer; (2) the reduced demand for ammonia fertilizer; and (3) the low cost of imported ammonia. It is further indicated that at current rates the cost of the natural gas used as feedstock approximates 80-85 percent of the total production cost of the fertilizer manufactured.

Any person desiring to be heard or to make any protest with reference to said

petition should on or before November 30, 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.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31555 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-528-001]

**Northern Natural Gas Co. Division of
InterNorth, Inc.; Amendment to
Application**

November 10, 1982.

Take notice that on October 20, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP82-528-001 an amendment to its application filed in Docket No. CP 82-528-000 pursuant to Section 7(b) of the Natural Gas Act for permission to abandon an additional sale of natural gas by Northern to Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Northern has requested in its application in Docket No. CP82-528-000, *inter alia*, authorization to abandon eight twenty-percent sales to Panhandle which were partial consideration for related transportation services performed by Panhandle and Trunkline Gas Company (Trunkline) associated with certain Northern offshore Louisiana reserves. Northern is seeking approval for abandonment of these sales as a result of Panhandle's and Trunkline's abandonment of the related transportation services, which abandonments were approved by the order issued September 10, 1982, in Docket No. CP77-17-007, *et al.*

Northern states that it failed to include in its application a request for authorization for the abandonment of a ninth 20 percent sale to Panhandle involving Northern's East Cameron Area

Block 104, offshore Louisiana, reserves. Northern asserts that Panhandle and Trunkline have terminated the related transportation service associated with Northern's East Cameron Block 104 gas. Therefore, Northern amends its application to request approval for the abandonment of such 20 percent sale in addition to the original eight abandonment requests.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 1, 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. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31537 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-28-000]

**Northern Natural Gas Company,
Division of InterNorth, Inc.; Application**

November 10, 1982.

Take notice that on October 18, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP82-28-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service for Libby Owens Ford Company (LOF), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is presently authorized to transport up to 300 Mcf of natural gas per day for LOF. Applicant further states that such volumes are received from Panhandle Eastern Pipe Line Company (Panhandle) for the account of LOF at an existing point of interconnection between Applicant and Panhandle near Mullinville, Kansas, for further transportation to Interstate Power Company for redelivery to LOF at

the Mason City, Iowa, town border station located in Cerro Gordo, Iowa. Such volumes are used at the LOF Mason City, Iowa, plant, it is asserted.

It is stated that LOF has sold its reserves from which production was being transported and, therefore, terminate its transportation agreement with Applicant in a letter dated September 3, 1982. Applicant states that LOF has advised that there is not possibility that it would desire further transportation service under the existing agreement. Applicant, therefore, request approval to abandon the transportation of natural gas for LOF.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 1, 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 proceedings. 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 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. 82-31538 Filed 11-17-82; 8:34 am]

BILLING CODE 6717-01-M

[Docket No. CP83-29-000]

**Northern Natural Gas Company,
Division of InterNorth, Inc.; Application**

November 10, 1982.

Take notice that on October 18, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP83-29-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of gas for resale and the construction and operation of related facilities necessary therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell up to 200 Mcf of gas per day to DJB, Inc., for resale in Imperial, Texas, and up to 150 Mcf of gas per day to Morse Utility for resale in Gray County, Texas. It is alleged that Delhi Gas Pipeline Corporation (Delhi) has terminated its gas sales agreement with DJB, Inc.'s predecessor, F & M Gas Company, and that DJB, Inc., has been unable to negotiate successfully a gas sales agreement with Delhi. It is further stated that Morse Utility would sell gas to customers in Gray County, Texas, approximately 50 miles from Morse Utility's current supplier, Panhandle Eastern Pipe Line Company.

For each Mcf of gas sold Applicant proposes to charge DJB, Inc., the currently effective Permian Area rate as set forth in Applicant's FERC Gas Tariff, Volume No. 2. Applicant further proposes to sell these customers, at Applicant's sole discretion, overrun volumes of gas in excess of firm entitlements. It is averred that no overrun service would be offered on any day when curtailment below firm entitlement is required anywhere on Applicant's system.

Applicant also proposes to construct and operate facilities to permit the delivery of gas to the utility customers. It is indicated that the \$49,360 estimated cost of these facilities would be financed from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 1, 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 is 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. 82-31529 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-71-003]

Northern Natural Gas Company, Division of InterNorth, Inc.; Motion To Have Suspended Tariff Sheets Go Into Effect

November 10, 1982.

Take notice that on October 26, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern) filed a Motion To Have Suspended Tariff Sheets Go Into Effect together with attached Tariff Sheets. Northern had filed on April 26, 1982, revised tariff sheets proposing changes in its FERC Gas Tariff which would provide for an increase in annual jurisdictional revenues of \$169,992,742 based upon sales and transportation volumes for the 12-month period ended January 31, 1982, as adjusted. Northern states that these tariff sheets were suspended by Commission Order, issued May 26, 1982, in this docket to become effective October 27, 1982, subject to refund.

By the October 26, 1982 Motion, Northern moves to effectuate increased

rates and charges and certain other tariff revisions on October 27, 1982, when the 5-month suspension period ends. The tariff sheets which Northern has moved to effectuate will increase jurisdictional revenues and charges by \$158,407,745, reflecting reductions to the originally filed rates in accordance with the Commission Order of May 26, 1982, and in accordance with the Stipulation and Agreement in Northern's Docket No. RP81-52-000 providing for reduction in rates pursuant to the adoption by Northern of the "South Georgia" tax normalization method. In addition, other tariff revisions which Northern proposes to effectuate reflect certain changes in the penalty and heat content provisions of Northern's Tariff. Northern also filed an Agreement and Undertaking to comply with the terms and conditions of Section 154.67 of the Commission's Rules and Regulations under the Natural Gas Act. Northern requests waiver of the notice requirements of 18 CFR 154.22 and such other regulations as are required to permit the requested effective date of October 27, 1982.

Northern states that copies of its filing were served by mail on all of the customers under the rate schedules to be made effective by the Motion, all parties to this proceeding and interested state commissions.

Any person desiring to be heard or to protest said application should file a petition 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 petitions or protests should be filed on or before November 17, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31623 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-90-000]

Northern States Power Co.; Filing

November 8, 1982.

The filing Company submits the following:

Take notice that Northern States Power Company (Minnesota) (NSP) on November 1, 1982 tendered for filing proposed changes in FERC transmission service rate schedules to be attached to NSP's contracts with the following 15 wheeling customers:

Customer	FERC rate schedule No.
City of Ada.....	390
City of East Grand Forks.....	387
City of Fairfax.....	400
City of Granite Falls.....	355
City of Hillsboro.....	414
City of Marshall.....	403
City of Melrose.....	401
City of Olivia.....	388
Renville-Sibley Cooperative Power Association.....	331
City of Saint James.....	412
City of Sauk Centre.....	389
City of Sioux Falls.....	413
City of Sleepy Eye.....	393
City of South Dakota (Penitentiary).....	385
University of North Dakota.....	404

The increase is in two steps. The first step, based upon an equity return of 15%, is in the amount of \$330,354 in calendar year 1983. The second step, based on an equity return of 16%, is in the additional amount of \$39,628 in calendar year 1983. Both increases stated above are measured against the rate in effect at the time of the filing herein. NSP requests that the first-step increase be permitted to become effective on December 31, 1982 and that the second-step increase be permitted to become effective on January 1, 1983. NSP requests that any suspension of either step be limited to one day.

NSP states that the proposed rate increases are needed because operating, maintenance and capital costs have increased substantially since the present rates became effective in 1977. A late payment charge provision has also been added to the proposed rate schedules.

Copies of the rate schedule change and comparative billing data were served upon NSP's wheeling customers affected by this filing. In addition, copies of the filing have been mailed to the Minnesota Public Utilities Commission, the North Dakota Public Service Commission and the South Dakota 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, 385.214). All such motions or protests

should be filed on or before November 23, 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. 82-31556 Filed 11-17-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP77-253-014]

**Panhandle Eastern Pipe Line Co.;
Change in Tariff**

November 10, 1982.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on October 25, 1982 tendered for filing the following sheets to its FERC Gas Tariff, Original Volume No. 2:

Sixth Revised Sheet No. 1005
Sixth Revised Sheet No. 1029
Sixth Revised Sheet No. 1037
Seventh Revised Sheet No. 1053
Seventh Revised Sheet No. 1061
Seventh Revised Sheet No. 1077
Fifth Revised Sheet No. 1081.5

Panhandle proposes that these tariff sheets become effective November 1, 1982.

Panhandle states that such changes are made to amend Rate Schedule TS-2 for the transportation and storage of natural gas on behalf of various Panhandle customers, with Michigan Consolidated Gas Company.

A copy of this filing has been served on the Panhandle customers involved in the service.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 17, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31624 Filed 11-17-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. QF83-12-000]

**Pyrenco, Inc.; Application for
Commission Certification of Qualifying
Status of a Small Power Production
Facility**

November 12, 1982.

On October 18, 1982, Pyrenco, Inc., P.O. Box 903, Prosser, Washington 99350, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The biomass small power production facility will be located in Mio, Michigan. The primary energy source to the facility will be biomass in the form of wood wastes such as bark, sawdust and burned timber. The wood will be processed into densified pellets and converted into low Btu synthetic gas using a gasification process. No natural gas, oil or coal will be used in the facility. Electric power production capacity of the facility will be 3 megawatts. There are no other biomass small power production facilities owned by Pyrenco, Inc. located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition 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. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31625 Filed 11-17-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6348-001]

**Rainsong Co.; Application for
Exemption for Small Hydroelectric
Power Project of 5 MW or Less
Capacity**

November 15, 1982.

Take notice that on September 9, 1982, Rainsong Company (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6348 would be located on Harlan Creek, near Skykomish, within the Snoqualmie National Forest, in King County, Washington. Correspondence with the Applicant should be directed to: Mr. Jerry L. Johnson, P.O. Box 485, 208 Third Street, Lynden, Washington 98264.

Project Description—The proposed project would consist of: (1) A 6-foot-high, 50-foot-long concrete diversion structure impounding a reservoir with no active storage capacity; (2) a 4,400-foot-long, 24-inch-diameter pipeline; (3) a 1,300-foot-long, 24-inch-diameter steel penstock; (4) a powerhouse containing one generating unit with an installed capacity of 2.0 MW; (5) a 4.5-mile-long, 12-kV transmission line from the powerhouse to an existing Puget Sound Power and Light Company transmission line. The Applicant estimates that the average annual energy production would be 12 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Washington Department of Fisheries and Department of Game are requested, for the purposes set forth in Section 408 of the Act, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local

agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must file with the Commission, on or before December 29, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Filing of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Commission Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before December 29, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission,

Room 208 RB, at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31639 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-17-000]

Sabine Pipe Line Co.; Proposed Changes in FERC Gas Tariff

November 10, 1982.

Take notice that Sabine Pipe Line Company (Sabine) on October 29, 1982 tendered for filing proposed changes in its FERC Gas Tariff, Volume No. 1. The proposed changes provide for adoption of an initial Rate Schedule for interruptible transportation services to be performed under the authority of Section 311(a)(1) of the Natural Gas Policy Act of 1978 (NGPA). The proposed changes also provide for a credit to Sabine's cost of service, for determination of the rate for certificated transportation service provided to its parent company, Texaco, Inc., of revenue from interruptible transportation services provided under Section 311(a)(1) of the NGPA. Sabine further requests waiver of the Commission's notice requirements to permit the proposed changes to become effective on November 15, 1982.

Copies of the filing are being served upon the Company's jurisdictional customers and the Commissioner of Conservation for the State of Louisiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 17, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31640 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-7-001 (PGA83-1)]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

November 9, 1982.

Take notice that Southern Natural Gas Company (Southern), on November 2, 1982, tendered for filing proposed changes in its FERC Gas Tariff, Sixth Revised Volume, No. 1, to become effective October 1, 1982. Such filing is in compliance with the Commission's Order of September 30, 1982 in Docket No. TA83-1-7 (PGA83-1). The proposed changes would reduce the rates previously filed to be effective October 1, 1982 by \$2.2 million as a result of reflecting a reduction in the rates of a pipeline supplier and eliminating the effects of unpaid accruals entered in Account No. 191 pursuant to Ordering Paragraph (C) of the September 30, 1982 order.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such petitions or protests should be filed on or before November 17, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31557 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. GP81-16-000 and GP82-16-000]

Southern Union Gathering Co.; Offer of Settlement

November 12, 1982.

Take notice that on November 8, 1982, Southern Union Gathering Company, 1800 First International Building, Dallas, Texas 75270 filed with the Secretary of the Federal Energy Regulatory Commission (Commission) a proposed Offer of Settlement to resolve all rate issues in the captioned dockets. A copy of Southern's proposal is in the public

files of the Commission and is available for public inspection and copying.

Comments on the proposed Offer of Settlement must be filed, on or before November 29, 1982, with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Reply comments must be filed with the Secretary of the Commission on or before December 8, 1982. The filing of initial or reply comments will not make the person filing such comments a party to these proceedings. Persons wishing to become a party to these proceedings must file a motion to intervene in accordance with Rule 214 (18 CFR 385.214).

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31641 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP83-1-000]

State of New Mexico, Section 108 NGPA Determination, Mobil Producing Texas and New Mexico, Inc., State M #6, FERC J.D. No. 82-38296; Petition To Reopen Final Well Category Determination and Request for Withdrawal

November 10, 1982.

On October 12, 1982, Mobil Producing Texas and New Mexico Inc. (Mobil) filed with the Federal Energy Regulatory Commission (Commission) a petition to reopen and a request to withdraw its application for a final well category determination, that gas from the State M #6 Well, located in Lea County, New Mexico, qualifies as stripper well natural gas pursuant to section 108 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. IV 1980). This determination made by the New Mexico Oil Conservation Division (NMOCD) became a final determination on July 29, 1982, pursuant to NGPA section 503(d) and 18 CFR 275.202(a) of the Commission's regulations.

Mobil requests reopening of this final determination so that it can withdraw its application for said determination, on the basis of production records that indicated that the State M #6 Well produced gas in excess of the 60 Mcf/day limit subsequent to the 90-day production period. Mobil states that its policy is to withdraw any well application for a section 108 determination when production exceeds the section 108 limits during the first month after the qualifying period. Mobil asserts that it inadvertently failed to recognize the overproduction associated with this well in a timely manner due to

a clerical oversight. Upon discovery Mobil immediately filed for withdrawal with NMOCD. Therefore, Mobil requests that the Commission reopen the State M #6 Well category determination under section 108 of the NGPA, and allow Mobil to withdraw its application.

Mobil avers that its accounting records indicate no section 108 payments have been received for this well. A request for confirmation of refunds due has been made to the purchaser, Phillips Petroleum Company. A formal refund report will be submitted to the Commission when the purchaser concurs with Mobil's refund schedule. Notwithstanding these allegations, the Commission hereby gives notice that the question of whether refunds, plus interest as computed under § 154.102(d), will be required is a matter which is subject to the review and final determination of the Commission.

Any person desiring to be heard or to make any protest to the requested reopening and withdrawal should file, within 30 days after this notice is published in the Federal Register, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rules 214 or 211 of the Rules of Practice and Procedure. All protests filed will be considered in determining the appropriate action to be taken, but will not make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31528 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP78-87-016]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 9, 1982.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on Oct. 29, 1982 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheets:

Sixty-third Revised Sheet No. 14
Sixty-third Revised Sheet No. 14A
Sixty-third Revised Sheet No. 14B
Sixty-third Revised Sheet No. 14C
Sixty-third Revised Sheet No. 14D

Texas Eastern is reducing its rates pursuant to Article VI, Rate Reductions for Repayments of Advance Payments, of the Stipulation and Agreement in

Docket No. RP78-87 as approved by Commission Order issued April 4, 1980. According to the terms and conditions of Article VI of the Stipulation and Agreement, Texas Eastern is required to file any rate reduction pursuant to this article by the end of the month following the month during which repayments requiring a rate reduction are received. The attached schedule reflects that Texas Eastern is obligated to reduce its rates based on the balance of advance payments outstanding as of September 30, 1982.

The proposed effective date of the above tariff sheets is December 1, 1982.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any persons 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, NW., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rule of Practice and Procedure. All such motions or protests should be filed on or before November 17, 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. 82-31558 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-58-001 (PGA82-1, IPR82-1)]

Texas Gas Pipe Line Corp.; Tariff Sheet Filing

November 9, 1982.

Take notice that on October 28, 1982, Texas Gas Pipe Line Corporation, pursuant to § 154.38 of the Commission Regulations under the Natural Gas Act, filed an Eighth Revised Sheet No. 4a to its FERC Gas Tariff, Second Revised Volume No. 1. Texas Gas states that the filed Tariff Sheets relate to the Unrecovered Purchased Gas Cost Account of the Purchase Gas Adjustment Provision contained in Section 12 of the General Terms and Conditions of the Tariff. More specifically, Eighth Revised Sheet No. 4a reflects a net increase under that currently being collected to 22.16¢ per Mcf (at 14.65 psia) to be effective December 1, 1982.

Any person desiring to be heard and to make any protest with reference to said filing should on or before November 17, 1982 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with 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 but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's rules. Texas Gas' Tariff filing is on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31559 Filed 11-17-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6634-000]

T.K.O. Power; Application for Exemption for Small Hydroelectric Power Project of 5 MW or Less Capacity

November 10, 1982.

Take notice that on August 23, 1982, T.K.O. Power (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. §§ 2705 and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6634 would be located on Prather Creek in Siskiyou County, California. Correspondence with the Applicant should be directed to: Mr. Ronald F. Ott, Ott Water Engineers, Inc., 2334 Washington Avenue, Redding, California, 96001.

Project Description—The proposed project would consist of: (1) A 20-foot-long, 5-foot-high concrete diversion structure at elevation 4,870 feet; (2) a 1,500-foot-long, 15-inch-diameter low pressure pipeline; (3) a 350-foot-long, 12-inch-diameter section of penstock and a 950-foot-long, 10-inch-diameter section of penstock; (4) a powerhouse at elevation 4,320 feet containing a 100 kW turbine generator with an average annual generation of 680,000 kWh; and (5) a 700-foot-long, 12-kV transmission line tying into existing Pacific Power and Light Company distribution lines.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and

protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must file with the Commission, on or before January 3, 1983 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Filing of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Commission Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the

Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before January 3, 1983.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31530 Filed 11-17-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP73-255-000]

Transcontinental Gas Pipe Line Corp.; Petition To Amend

November 10, 1982.

Take notice that on September 9, 1982, Transcontinental Gas Pipe Line Corporation (Petitioner), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP73-255-000 a petition to amend the certificate of public convenience and necessity issued on September 13, 1973,² in Docket No. CP73-255 so as to authorize Petitioner to transport natural gas for Texas Eastern Transmission Corporation (Texas Eastern) on a dekatherm or heating value basis instead of an Mcf basis, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it was granted authority to transport natural gas produced in Brazos Area Block A-1

¹ The Application was initially tendered for filing on September 9, 1982; however, the fee required by § 159.1 of the regulations under the Natural Gas Act (18 CFR 159.1) was not paid until October 28, 1982; thus filing was not completed until the latter date.

² This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Field, offshore Texas, to United Gas Pipe Line Company in Wharton County, Texas, for the account of Texas Eastern Transmission Corporation (Texas Eastern). Petitioner asserts that it is not obligated to transport more than 8,000 Mcf of gas per day pursuant to their agreement. Petitioner states that it has entered into an amendatory agreement dated March 31, 1982, changing the transportation obligation from an Mcf basis to a dekatherm basis. Petitioner asserts that this is a minimal difference and is consistent with similar changes made in Petitioner's other jurisdictional services. Petitioner maintains that such a change would not obligate it to transport more than the dekatherm equivalent of 8,000 Mcf per day.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 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.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31626 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-42-001 and RP82-134-001]

Transwestern Pipeline Co.; Compliance Filing

November 9, 1982

Take notice that Transwestern Pipeline Company (Transwestern) on Oct. 29, 1982 tendered in compliance with the Commission's order issued September 30, 1982 in Docket No. TA83-1-42-000 (PGA83-1 & IPR83-1) and Docket No. RP82-134-000 (not consolidated) information and revised tariff sheets required by such order. In ordering paragraph (E) the Commission conditioned acceptance of Transwestern's October 1, 1982 PGA tracking filing upon Transwestern filing the following information:

(1) An explanation of the discrepancy between purchase volumes and sale volumes;

(2) Monthly costs and volumes stated separately for Accounts 800 through 803 and 806; and

(3) Information which demonstrates that the Company has sufficient time to ascertain and utilize actual gas costs in Account No. 191 for computing the surcharge adjustment.

Ordering paragraph (F) of the September 30, 1982 order requires Transwestern to refile rates reflecting the removal from Account 191 of (1) any unpaid accruals other than those attributable to normal billing and payment lag and (2) costs and volumes associated with exchange gas imbalances except those actual costs associated with nonconcurrent exchange transactions.

Schedule B attached reflected total accruals of gas costs in the July 31, 1982 balance of Account 191 that were not paid within the normal schedule for payment of gas costs. Such unpaid accruals amounted to only \$217,508. Schedule C attached shows the net exchange activity and associated carrying charges included in the Account 191 balance used to compute the October 1, 1982, surcharge. Removal of such net exchange activity and associated carrying charges increases the 191 balance by \$1,059,307. Therefore revised rates reflecting removal of such unpaid accruals and net exchange activity would be increased above rates accepted by the Commission in its September 30, 1982 order.

Transwestern submitted for filing as a part of its FERC Gas Tariff, Second Revised Volume No. 1, the following sheets:

Substitute Alternate Twenty-first Revised Sheet No. 5

Substitute Alternate Twenty-first Revised Sheet No. 6

These sheets are issued in strict compliance with Ordering Paragraph (F) of the Commission's September 30, 1982 order. These substitute sheets reflect a net increase of 0.52¢/dth in the rates accepted for filing by the Commission's September 30, 1982 order, based upon removing the net exchange activity and unpaid accruals included in the July 31, 1982 Account 191 balance.

The proposed effective date of the above substitute tariff sheets is October 1, 1982.

However, Transwestern proposes that the Commission reject the above substitute tariff sheets. Rather than increase the rates originally filed, Transwestern requests waiver of the requirement of Ordering Paragraph (F)

and in lieu thereof Transwestern proposes to make appropriate adjustments to its Account 191 to remove unpaid accruals of \$217,508 at July 31, 1982 and remove the net exchange activity and associated carrying charges of (\$1,059,307). The net effect of these two adjustments would then be reflected in Transwestern's next semiannual PGA filing.

Copies of the filing were served on Transwestern's jurisdictional customers and interested 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, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 17, 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. 82-31540 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP76-310-003]

Trunkline Gas Co.; Change in Tariff

November 10, 1982.

Take notice that Trunkline Gas Company (Trunkline) on October 28, 1982 tendered for filing Eleventh Revised Sheet No. 555 to its FERC Gas Tariff, Original Volume No. 2.

Trunkline states that such a change is made to amend Rate Schedule T-7 for the transportation of natural gas on behalf of Texas Eastern Transmission Corporation (Texas Eastern). Specifically Trunkline states that it utilizes a portion of its capacity in the pipeline systems of Natural Gas Pipeline Company (Natural) and Stingray Pipeline Company (Stingray) to perform this transportation service for Texas Eastern. The Commission has authorized Natural to change its transportation charge to Trunkline. Trunkline further states that this change is made to reflect Natural's current transportation charge as established in Docket No. RP82-62-000 to be effective October 1, 1982, subject to refund, pursuant to Commission Orders issued

April 28, 1982 and June 24, 1982, and September 30, 1982.

Trunkline proposes that this tariff sheet become effective October 1, 1982.

A copy of this filing has been served on Texas Eastern.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 17, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31627 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP75-3-004]

Trunkline Gas Co.; Change in Tariff

November 10, 1982.

Take notice that Trunkline Gas Company (Trunkline) on October 28, 1982 tendered for filing Fifth Revised Sheet No. 1341 to its FERC Gas Tariff, Original Volume No. 2.

Trunkline states that such a change is made to amend Rate Schedule T-33 for the transportation of natural gas on behalf of Northern Michigan Exploration Company (NOMECO). Specifically Trunkline states that it utilizes a portion of its capacity in the pipeline systems of Natural Gas Pipeline Company (Natural) and Stingray Pipeline Company (Stingray) to perform this transportation service for NOMECO. The Commission has authorized Natural to change its transportation charge to Trunkline. Trunkline further states that this change is made to reflect Natural's current transportation charge as established in Docket No. RP82-62-000 to be effective October 1, 1982, subject to refund, pursuant to Commission Orders issued April 28, 1982 and June 24, 1982, and September 30, 1982.

Trunkline proposes that this tariff sheet become effective October 1, 1982.

A copy of this filing has been served on NOMECO.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 17, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31628 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-46-000]

United Gas Pipe Line Co.; Request Under Blanket Authorization

November 10, 1982.

Take notice that on October 22, 1982, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP83-46-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that United proposes to relocate a 2-inch sales tap for the delivery of natural gas under the authorization issued in Docket No. CP82-430-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United intends to relocate a 2-inch farm tap on United's existing 4-inch Iberia Sugar Mill Line, Iberia Parish, Louisiana, to serve residential and small industrial customers through Entex, Inc., a distributor. Service, it is stated, would be approximately 78 Mcf per day. There would be no increase in the customer's contractual maximum daily quantity nor its entitlement under United's effective curtailment plan, it is explained. The sale would be made pursuant to United's Rate Schedule DG-S, it is stated.

Any person or the Commission's staff may file, within 45 days after issuance of the instant notice by the Commission, pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214), a motion to intervene or notice of intervention and, pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the

time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31541 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-47-000]

United Gas Pipe Line Co.; Request Under Blanket Authorization

November 10, 1982.

Take notice that on October 22, 1982, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP83-47-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that United proposes to construct and operate a 1-inch sales tap for the delivery of natural gas under the authorization issued in Docket No. CP82-430-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United intends to install a 1-inch sales tap on its existing 14-inch Jackson Lateral Line in Mobile, Alabama. Service, it is stated, would be provided to a residential subdivision through Mobile Gas Service Corporation, a distributor. The proposed sales tap would supply approximately 126 Mcf per day. There would be no increase in the customer's contractual maximum daily quantity nor its entitlement under United's effective curtailment plan, it is asserted. The sale would be made pursuant to United's Rate Schedule DG-N, it is stated.

Any person or the Commission's staff may file, within 45 days after issuance of the instant notice by the Commission, pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214), a motion to intervene or notice of intervention and, pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31542 Filed 11-17-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP83-45-000]

United Gas Pipe Line Co.; Request Under Blanket Authorization

November 10, 1982.

Take notice that on October 22, 1982, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP83-45-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that United proposes to relocate a 1-inch sales tap for the delivery of natural gas under the authorization issued in Docket No. CP82-430-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United intends to relocate a 1-inch tap on its existing 22-inch Waskom-Goodrich line in Panola County, Texas. Service, it is stated, would be provided to the residence of Claybern Smith through Entex, Inc., a distributor, at approximately 1 Mcf per day, it is asserted. There would be no increase in the customer's contractual maximum daily quantity nor its entitlement under United's effective curtailment plan, it is explained. The sale would be made pursuant to United's Rate Schedule DG-N, it is stated.

Any person or the Commission's staff may file, within 45 days after issuance of the instant notice by the Commission, pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214), a motion to intervene or notice of intervention and, pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31543 Filed 11-17-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP83-44-000]

United Gas Pipe Line Co.; Request Under Blanket Authorization

November 10, 1982.

Take notice that on October 22, 1982, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP83-44-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that United proposes to construct and operate a 1-inch sales tap for the delivery of natural gas under the authorization issued in Docket No. CP82-430-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United intends to install a 1-inch sales tap on its existing 10-inch Courtauld's Line in Mobile County, Alabama. Service, it is stated, would be provided to a residential subdivision through Mobile Gas Service Corporation, a distributor. United indicates that the proposed sales tap would supply approximately 735 Mcf per day and that there would be no increase in the customer's contractual maximum daily quantity nor its entitlement under United's effective curtailment plan. The sale would be made pursuant to United's Rate Schedule DG-N, it is stated.

Any person or the Commission's staff may file, within 45 days after issuance of the instant notice by the Commission, pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214), a motion to intervene or notice of intervention and, pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31544 Filed 11-17-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP71-29-024 (Phase II)]

United Gas Pipe Line Co.; Change in FERC Gas Tariff

November 10, 1982.

Take notice that on November 1, 1982 United Gas Pipe Line Company (United) tendered for filing, as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets:

Fourteenth Revised Sheet No. 6
Fifth Revised Sheet No. 7
Third Revised Sheet No. 11
Original Sheet No. 11-A
Seventh Revised Sheet No. 71
Twelfth Revised Sheet No. 72
Ninth Revised Sheet No. 72-A
Second Revised Sheet No. 72-B

United states that these tariff sheets are filed pursuant to Ordering Paragraph A of the Commission's Opinion No. 150, "Opinion and Order Approving Initial Decision on Contested Settlement, Providing for a Permanent Curtailment Plan, Denying Rehearing of Opinion Nos. 32, 32-4, and 33 and Granting an Adjustment," issued October 8, 1982. In its order, the Commission directed that certain modifications be made in the settlement plan as originally submitted on August 31, 1979.

United states that these sheets provide for the implementation of the permanent settlement curtailment program approved in the Commission's order and, under the terms of that order, are to be effective immediately upon filing.

Copies of this filing were sent to all customers of United, all parties to FERC Docket No. RP71-29, *et al.* (Phase II) and the Regulatory Commissions of the states of Alabama, Florida, Louisiana, Mississippi and Texas.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 17, 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 petition to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31629 Filed 11-17-82; 8:46 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-56-000]

**Valero Interstate Transmission Co.;
Purchased Gas Cost Adjustment Filing**

November 9, 1982.

Take notice that on October 29, 1982 Valero Interstate Transmission Company ("Vitco") tendered the following filings containing purchased gas cost adjustments:

- Original Supplement No. 39 to FERC Rate Schedule No. 1 for the Sale of Gas by Vitco to Natural Gas Pipeline Company of America,
- Original Supplement No. 115 to FERC Rate Schedule No. 2 for the Sale of Gas by Vitco to Transcontinental Gas Pipe Line Corporation,
- Original Supplement No. 13 to FERC Rate Schedule No. 14 for the Sale of Gas by Vitco to El Paso Natural Gas Company, and
- 4th Revised Sheet No. 8, Superseding 3rd Revised Sheet No. 8 and Original Sheets 9 through 14 to FERC Rate Schedule T-1.

Vitco states that the rates stated on Exhibit A to each of the rate schedule supplements and Original Sheet No. 14 to Rate Schedule T-1 reflects the change in purchased gas costs based on the six months ended August 31, 1982.

Vitco also states that the above filings include the purchased gas clauses which are contained in Appendices B and C to the Stipulation and Agreement approved by the Federal Energy Regulatory Commission ("Commission") in its letter order of October 7, 1982 issued in *Valero Interstate Transmission Company*, Docket Nos. RP81-60-000, RP82-25-000 and RP82-26-000. These provisions implement a new method of calculating purchased gas adjustments based on the volume of gas sold under Rate Schedule Nos. 1, 2 and 14 and transported under Rate Schedule T-1.

The change in rate provided in Exhibit A to Original Supplement No. 39 to Rate Schedule No. 1 includes decrease in purchased gas costs of 3.14 cents per Mcf and a negative surcharge of 22.56 cents per Mcf. The change in rate provided in Exhibit A to Original Supplement No. 115 to Rate Schedule No. 2 includes a decrease in purchase gas costs of 23.95 cents per Mcf and a surcharge of 26.02 cents per Mcf. The change in rate provided in Exhibit A to Original Supplement No. 14 to Rate Schedule No. 14 includes an increase in purchased gas costs of 42.67 cents per

Mcf and a surcharge of 34.05 cents per Mcf. The surcharge in each instance is designed to eliminate the balance in the deferred purchased gas account. The change in rate provided on Original Sheet No. 14 to Rate Schedule T-1 includes a decrease in purchased gas cost of 1.65 cents per Mcf. There is no surcharge because there is no balance in the deferred purchased gas account.

Vitco states that these rates include no incremental pricing factor because Vitco was granted an exemption from certain filing and accounting requirements in Docket No. SA80-42.

The proposed effective date for the above filings is December 1, 1982. December 1, 1982 is the deadline imposed by the Stipulation and Agreement in Docket Nos. RP81-60-000 *et al.*, by which Vitco must change its PGA methodology. December 1, 1982 is also the date for Vitco's semi-annual PGA filing pursuant to § 154.38(d) of the Commission's Regulations, 18 CFR 154.38(d). Vitco requests a waiver of any Commission regulations or order which would prohibit implementation by December 1, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 17, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31545 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP81-60-004, RP82-25-001
and RP82-26-002]

**Valero Interstate Transmission Co.;
Proposed Change in FERC Gas Tariff**

November 10, 1982.

Take notice that on October 29, 1982, Valero Interstate Transmission Company (Valero) tendered for filing the following tariff sheets contained in Appendix E to the Stipulation and Agreement:

- 2nd Substitute Supplement No. 36 to FERC Gas Rate Schedule No. 1 (Exhibit A);
- 2nd Substitute Supplement No. 113 to FERC Gas Rate Schedule No. 2 (2nd Revised Exhibit A);
- 2nd Substitute Supplement No. 7 to FERC Gas Rate Schedule No. 7 (Revised Exhibit A);
- 3rd Revised Sheet No. 8 to FERC Rate Schedule T-1 Superseding 2nd Revised Sheet No. 8.

Valero states that these tariff sheets implement the gathering and transportation rate of 31.7¢ per Mcf which is a part of the settlement of the Valero rate increase in Docket No. RP82-26-000.

In addition, pursuant to the Stipulation and Agreement in the above-captioned proceeding, Valero tendered for filing the following rate schedule supplements and sheets of Rate Schedule T-1 which implement the settlement of the change in the method of calculation of the PGA in Docket No. RP82-25-000:

- Original Supplement No. 39 to FERC Rate Schedule No. 1 for the Sale of Gas by Vitco to Natural Gas Pipeline Company of America ("NGPL");
- Original Supplement No. 114 to FERC Rate Schedule No. 2 for the Sale of Gas by Vitco to Transcontinental Gas Pipe Line Corporation ("Transco");
- Original Supplement No. 14 to FERC Rate Schedule No. 14 for the Sale of Gas by Vitco to El Paso Natural Gas Company ("El Paso");
- 4th Revised Sheet No. 8, Superseding 3rd Revised Sheet No. 8 and Original Sheets 9 through 14 to FERC Rate Schedule T-1.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 17, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31642 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP72-41-011 (TA83-1-57)]

**Western Transmission Corp.;
Proposed Changes**

November 9, 1982.

Take notice that Western Transmission Corporation (Western), on November 1, 1982, tendered for filing as part of its FPC Gas Tariff, Original Volume No. 1, the following sheet:

Nineteenth Revised Sheet No. 3-A.

Superseding Eighteenth Revised Sheet No. 3-A

The proposed changes would increase the monthly charges for purchased gas to Colorado Interstate Gas Company, Western's sole jurisdictional customer, pursuant to the provisions of Section 18 of Western's FPC Gas Tariff, Original Volume No. 1.

The Proposed effective date of the above tariff sheet is December 1, 1982.

Copies of this filing have been served upon Colorado Interstate Gas Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D. C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 17, 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 petition to intervene. Copies of this filing are available for public inspection at the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-31560 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79-80-022, et al.]

**Wyoming Interstate Company, Ltd;
Proposed FERC Gas Tariff and Service
Agreements**

November 9, 1982.

Take notice that Wyoming Interstate Company, Ltd. (WIC) on November 1, 1982, tendered for filing certain changes to the Form of Service Agreement contained in its FERC Gas Tariff, Original Volume No. 1 (Tariff) and conforming executed Service Agreements with each of its four existing jurisdictional customers (Shippers).

Pursuant to the directive stated in the Office of Pipeline and Producer Regulation Order issued on September 30, 1982, in Docket No. CP79-80-005, et

al., WIC has submitted a revision to its Tariff's Form of Service Agreement and conforming executed Service Agreements with each of its Shippers to eliminate provisions in the original documents which improperly caused the Tariff's General Terms and Conditions and Rate Schedules to be subordinate to the Service Agreements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 214 and 211 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before November 17, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-31561 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6786-000]

**Yankee Hydro Corp.; Application for
Preliminary Permit**

November 15, 1982.

Take notice that Yankee Hydro Corporation (Applicant) filed on October 20, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for Project No. 6786 to be known as the Aurelius Avenue Dam Project located on the Owasco Lake Outlet in the City of Auburn, Cayuga County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Raymond S. Kusche, P.O. Box 1016, Weedsport, New York 13166.

Project Description—The proposed project would consist of the following existing facilities owned by Andrews Lumber Company and the City of Auburn, New York: (1) an 11-foot-high 100-foot-long reinforced concrete dam having an intake structure at the right (north) bank; (2) an ungated breached canal along the left bank; (3) a 14-foot-wide 10-foot-deep 40-foot-long enclosed canal along the right bank; (4) a 15-foot-wide 60-foot-long powerhouse; (5) a tailrace; (6) miscellaneous appurtenances.

Applicant proposes to redevelop the existing facilities and would: (1) reconstruct the dam; (2) reconstruct the intake structure; (3) construct a gated spillway structure at the left bank; (4) recreate a reservoir having a surface area of 1.1 acres and a storage capacity of 8.2 acre-feet at normal surface elevation 570 feet m.s.l.; (5) repair the powerhouse and install a generating unit having a rate capacity of 400-kW operated under a 12-foot head and at a flow of 385 cfs; and (6) construct a transmission line.

Project energy would be sold to New York State Electric & Gas Corporation. Applicant estimates that the average annual generation would be 2,050,000 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would perform hydrological and environmental, engineering, design and cost, economic feasibility, marketing and financing, and legal studies, and would prepare an application for an FERC license. Applicant estimates the cost of the work under the permit would be \$25,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must file with the Commission, on or before February 18, 1983, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be filed with the Commission on or before January 19, 1983, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in

accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before January 19, 1983.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-31643 Filed 11-17-82; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of September 20 Through September 24, 1982

During the week of September 20 through September 24, 1982 the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

W., N. Gates Co., September 21, 1982, HFA-0079.

The W., N. Gates Company, Inc. filed an Appeal from a denial by the Bonneville Power Administration of a Request for Information which the firm had submitted under the Freedom of Information Act. In

considering the Appeal, the DOE found that certain portions of a document which was initially withheld under exemption 4 should be released to the public. Issues that were considered in the Decision and Order were (i) the confidentiality of a contract proposal subsequent to the award of the contract and (ii) which portions of a contract proposal would be deemed non-exempt.

Remedial Order

Earl E. Wall, September 20, 1982, DRO-0188.

Earl E. Wall (Wall) objected to a Proposed Remedial Order which the DOE Economic Regulatory Administration (ERA) issued to the firm on March 19, 1979. In the Proposed Remedial Order, the ERA found that during the period January 1975 through October 1976, Wall sold crude oil from two properties at prices exceeding the applicable ceiling prices under the Mandatory Petroleum Price Regulations, 10 CFR Part 212, Subpart D. After considering Wall's objections, the DOE concluded that the Proposed Remedial Order, with modifications to the remedial provisions, should be issued as a final Order. The important issues discussed in the Decision and Order include (i) the length of time a unitized property must produce crude oil before it qualified for stripper well property status; (ii) whether a unitized property qualified as a new property with a base production control level of zero; and (iii) whether an operator who owns less than 15 percent of the working interest is a proper recipient of a Proposed Remedial Order.

Motions for Modification and/or Rescission

The Crude Co., September 20, 1982, HER-0019, HES-0016.

The Crude Company filed a Motion for Modification of a decision issued to it on December 16, 1981. The prior decision had denied the firm's request that certain reporting requirements be stayed until the conclusion of criminal proceedings that are pending against the firm and its president, but it approved exception relief permitting the firm to file the reports in an amended format. Upon reconsideration, the DOE again rejected the firm's argument that the due process clause of the United States Constitution requires that the reporting requirement be stayed pending completion of the criminal proceedings. However, the DOE found that the amended certification requirement would still pose difficulties for the person completing the reports and it further modified the certification requirement to remove any possible impediment to the submission of these reports.

*Economic Regulatory Administration,
September 20, 1982, HRR-0029.*

The Economic Regulatory Administration filed a Motion for Modification in connection with an Appeal of a Remedial Order issued to "J. S. Beebe, Jr., d/b/a J. S. Beebe, Trustee" by the ERA on December 22, 1977. In its Motion the ERA sought to have the OHA substitute "J. S. Beebe, Trustee" as the recipient of the Remedial Order for the purposes of the Appeal proceeding, which is before OHA on remand. In its Motion the ERA stated that it was recently advised that during the period covered by the Remedial

Order, the subject crude oil leases were operated by "J. S. Beebe, Trustee" and not by J. S. Beebe, Jr. The OHA found therefore that good cause existed for the requested modification. The OHA further found that no undue prejudice would result from the modification. Accordingly, the DOE granted the ERA's Motion for Modification.

Requests for Exception

Meeker and Co., September 20, 1982, DEE-1669, HER-0027.

Meeker and Company filed an Application for Exception in which the firm sought retroactive relief from the provisions of 10 C.F.R. § 212.72 which requires that a property's Base Production Control Level be calculated on the basis of the entire 1975 production year. The firm stated that it drilled a new well which substantially increased its crude oil production in the last two months of 1975. The firm further asserted that as a result of a change in DOE regulations, the DOE had eliminated the category of "released" crude oil (which could be sold at market prices) from the crude oil producer price rule. The firm therefore claimed that it would be unfairly required to sell at regulated prices crude oil which it could formerly sell at market prices. The firm stated that as a result of this change in the regulations it was unable to realize the return it had anticipated on its investment. In considering Meeker's exception request, the DOE found that the firm failed to demonstrate that it was experiencing a gross inequity warranting relief. The DOE found that the firm was not at a competitive disadvantage in relation to other firms in the petroleum industry or forced into a position in which it could not make a reasonable profit on its investment. Since the firm was not significantly impeded by the change in the regulation, its Application for Exception was denied.

The Decision and Order also denied Meeker's Motion for Reconsideration in which the firm sought to reverse the denial of its earlier Motion for Discovery (Case No. BED-0124). The DOE found that Meeker largely reiterated the arguments found in its original motion and failed to present compelling evidence warranting the reversal of the previous Decision and Order.

State of Maine, September 24, 1982, HEE-0033.

The State of Maine filed an Application for Exception in which it sought relief that would allow it to receive additional federal funds for expenses incurred in administering Cycle IV of the DOE Institutional Building Grant Program. Maine argued that it would be unable to administer the Program adequately at its current funding level. In considering the request, DOE found that Maine would be able to continue in the Program without substantial difficulty if it increased state spending, decreased expenditures, or assigned to the Program other energy office personnel during those periods of heaviest workload. The DOE concluded that Maine was therefore not experiencing an unfair distribution of burdens under the Program. Accordingly, exception relief was denied.

Motions For Discovery and Evidentiary Hearing

Atlantic Richfield Co., September 20, 1982, BRD-0293, BRH-0293.

Atlantic Richfield Company (Arco) filed a Motion for Discovery and Evidentiary Hearing, Motions to Strike certain findings and a Motion to vacate a Proposed Remedial Order issued to the firm on October 24, 1979 by the Office of Special Counsel (OSC). OHA reviewed Arco's discovery request under the standard enunciated in *Atlantic Richfield Co.*, 5 DOE ¶ 82,521 (1980). OHA considered Arco's request for contemporaneous construction discovery concerning 10 CFR 212.83(d)(2) (regarding the allocation of increased costs for No. 2 oil), concerning 10 CFR 212.126(d) (regarding the refilling of Refiners' Monthly Cost Allocation Reports), and regarding Ruling 1975 (involving the manner in which a refiner allocates increased crude oil costs in export sale transactions). OHA determined that discovery was unwarranted because the regulatory language at issue was clear and unambiguous and consequently not susceptible to more than one interpretation. OHA further determined that Arco's administrative record discovery requests regarding 10 CFR 212.83(d)(2)(ii) and 212.126(d)(5), should be denied because Arco had neither challenged the validity of these regulations nor argued that the rulemaking proceedings leading to their promulgation were invalid. In rejecting Arco's request for an evidentiary hearing, OHA stated that Arco had neither identified any specific witnesses that it wished to question nor any findings of fact whose resolution would be assisted by an evidentiary hearing. In its request for a Motion to Strike Certain Findings of Fact contained in the PRO, Arco sought to expunge findings that it claimed were irrelevant, inaccurate and incomplete. The OHA determined that Arco's Motion to Strike should be denied because retention of the findings in the record would not prejudice the firm in asserting its rights and defending itself in the enforcement proceeding. In its Motion to Vacate the PRO, Arco alleged that the PRO failed to establish a *prima facie* case of a regulatory violation as required under 10 CFR 205.192A. The OHA determined that Arco's Motion to Vacate the PRO should be rejected on the grounds that OSC's findings and legal conclusions were clearly adequate to establish a legal basis for the allegation that a regulatory violation occurred.

Ayers Oil Co., September 24, 1982, BRD-1176.

Ayers Oil Company (Ayers) filed a Motion for Discovery in connection with its Statement of Objections to a Proposed Remedial Order (PRO) that the Economic Regulatory Administration issued to the firm on April 8, 1980. In its Motion for Discovery, Ayers requested responses to interrogatories and the production of related documents in support of its objections with respect to the netting of overcharges, interest on overcharges, a claimed prior settlement, and the computation of permissible product and non-product cost increases. In considering the Motion for Discovery, the DOE determined that the discovery sought by the firm, if approved, would not elicit relevant and material evidence necessary to its

defense of the allegations set forth in the PRO. Accordingly, the Motion for Discovery was denied.

Interlocutory Order

Crown Central Petroleum Corp., September 21, 1982, HRZ-0092.

Crown Central Petroleum Corporation filed a Motion to Strike the Statement of Objections filed by Romaco, Inc., to a Proposed Remedial Order issued to Crown. Romaco is an interested party in the enforcement proceeding pending before the Office of Hearings and Appeals. Romaco objected to only the remedial provisions of the PRO. Crown argued that a Statement of Objections must contest findings of fact and conclusions of law in the PRO but could not, prior to a determination of liability, contest the remedial provisions. The DOE determined that Crown's contention might be a valid reason for deferring consideration of the Statement but that Crown had not met the standard for striking documents from the administrative record. Accordingly, Crown's motion was denied.

Supplemental Orders

Lunday-Thagard Oil Co., September 24, 1982, DEX-0113.

In accordance with Decisions and Orders issued to the Lunday-Thagard Oil Company which granted the firm exception relief from the provisions of the Entitlements Program, the firm submitted actual financial data for its 1978 fiscal year. After reviewing the level of exception relief granted to Lunday-Thagard, and the firm's fiscal 1978 financial data, the DOE determined that no adjustment should be made to the level of exception relief previously granted.

Texaco Inc., September 24, 1982, HRX-0047.

On July 30, 1982, the Office of Hearings and Appeals issued a Decision and Order directing the Office of Special Counsel for compliance (OSC) to respond to certain interrogatories propounded by Texaco Inc. concerning the agency's applications of two regulatory standards to crude oil producers other than Texaco. *Texaco Inc.*, 9 DOE ¶ 82,604 (1982). In that decision, OHA directed the parties to negotiate a stipulation concerning the precise scope of the search to be conducted by OSC in responding to the Texaco interrogatories that were granted. Texaco and OSC were unable to reach such a stipulation. Consequently, OHA issued a Supplemental Order determining the precise scope of the search OSC would be required to conduct.

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firms. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of Energy:

Name and Case No.

Crown Central Petroleum Corp.; Romaco, Inc., HRJ-0024

Dismissal

The following submission was dismissed:

Name and Case No.

Spencer Companies, HRO-0060

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

November 9, 1982.

[FR Doc. 82-31562 Filed 11-17-82; 8:45 am]

BILLING CODE 6450-01-M

Notice of Issuance of Decisions and Orders; Week of October 11 through October 15, 1982

During the Week of October 11 through October 15, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy.

Appeal

Kirkpatrick, Lockhart Johnson & Hutchison, October 13, 1982, HFA-0078

Kirkpatrick, Lockhart, Johnson & Hutchison filed an appeal from a partial denial by the Director of the Office of Fuels Programs of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the Director's explanation that one of the documents was a "draft" did not provide a sufficient justification for withholding it in its entirety pursuant to Exemption 5, and that portions of that document and one other document appeared to contain segregable non-exempt information. Accordingly, the Appeal was granted in part, and the matter was remanded to the Director for a new determination with respect to portions of the two documents.

Implementation of Special Refund Procedures

Office of Enforcement: In the matters of Northeast Petroleum Industries and Nordstrom Oil Co., October 15, 1982, BEF-0065, BEF-0081

The Office of Hearings and Appeals issued a final Decision and Order setting forth procedures to be used in filing applications for refund for a portion of the settlement funds obtained as the result of the consent orders which the DOE entered into with Northeast Petroleum Industries, Inc. and

Nordstrom Oil Company. The funds will be available to customers which purchased gasoline from Northeast or gasoline, diesel fuel, or Nos. 1 or 2 fuel oil from Nordstrom during the period November 1, 1973 through April 30, 1974. Applications for refund must be filed within 90 days of the publication of the decision in the *Federal Register*. Specific information to be included in refund applications is discussed in the decision.

Refund Applications

Alfred B. Alkek/Adams, Resources and Energy, Inc./Westland Oil Development Corp., October 12, 1982, RF6-35

On April 8, 1982, the DOE issued a Decision and Order instituting special refund procedures for the distribution of funds obtained in connection with consent orders entered into by Adams Resources and Energy, Inc. and the other firms listed in Appendix A of the April 8 Order. See *Adams Resources and Energy, Inc., et al.*, 9 DOE 82,553. Among the firms listed in the April 8 Order is Summit Transportation Company which placed \$17,000,000 into an escrow account. On July 16, 1982, Westland Oil Development Corp. filed an Application for Refund pursuant to the Summit refund procedures established in the April 8 Order. The DOE determined that Westland's refund application failed to satisfy one of the principal requirements set forth in the April 8 Order in that Westland's application failed to show that the alleged violations resolved by the Summit Consent Order had a direct and measurable impact on the firm. Specifically, the DOE found the allegations raised by Westland to be unrelated to the alleged violations referred to in the Summit Consent Order. Accordingly, Westland's Application for Refund was denied.

Tenneco Oil Co./Kern Oil & Refining Co., October 15, 1982, RR7-1

Kern Oil & Refining Company filed a Motion for Reconsideration in which it sought rescission of a Decision and Order denying Kern's Application for Refund for a portion of the Tenneco Oil Company settlement fund. *Tenneco Oil Co./Kern Oil & Refining Co.*, 10 DOE ¶ 85,003 (1982). The OHA determined that since Kern had made serious allegations that the agency had overlooked or misinterpreted certain key facts in its prior consideration of the firm's refund application, it would exercise its discretion to consider Kern's Motion for Reconsideration. However, after careful consideration the OHA concluded that the initial determination to deny Kern's refund application should be reaffirmed. The OHA found that the firm had not offered any new evidence and that Kern had "unclean hands" due to its failure to deliver crude oil to Tenneco during the period for which Kern was claiming a refund.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are

also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay, Director, Office of Hearings and Appeals, November 10, 1982.

[FR Doc. 82-31563 Filed 11-17-82; 8:45am]
BILLING CODE 6450-01-M

Office of the Secretary

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland Concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD/EU(SD)-43, from Switzerland to the Federal Republic of Germany, 5 pressurized water reactor fuel rods containing 9,509 grams of uranium enriched to 0.91% in U-235, and 84 grams of plutonium for destructive post-irradiation examination.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: November 12, 1982.

George Bradley, Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82-31564 Filed 11-17-82; 8:45 am]
BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement"

under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale: Contract Number S-EU-751, to France, 5 milligrams of thorium-230 for use as an isotopic tracer for mass spectrometry measurements of thorium concentrations in minerals.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: November 12, 1982.

George Bradley, Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82-31568 Filed 11-17-82; 8:45 am]
BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Spain Concerning Civil Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale: Contract Number S-SP-18, to Empresas Nacional Del Uranio, S.A., Madrid, Spain, 27.928 grams of uranium enriched to an average of 7.79 percent in U-235, and one gram of uranium containing 0.017 percent U-235, for use as standard reference materials.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: November 12, 1982.

George Bradley,
Principal Deputy Assistant Secretary for
International Affairs.

[FR Doc. 82-31565 Filed 11-17-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OLEC-FRC 2210-6]

Findings of Administrator With Regard To Steel Industry Compliance Extension Act of 1981; Ford Motor Co./Rouge Steel Co.

AGENCY: Environmental Protection
Agency.

ACTION: Notice of Amended Findings.

SUMMARY: The Administrator consents to the entry of an amended consent decree under the Steel Industry Compliance Extension Act of 1981 applicable to the Rouge Steel Company which substitutes, in part, new modernization projects for those specified in the existing decree. The Administrator also modifies her final findings of March 19, 1982, 47 FR 13039 (March 26, 1982).

FOR FURTHER INFORMATION CONTACT:

Michael S. Alushin, Associate
Enforcement Counsel for Air, U.S.
Environmental Protection Agency, 401 M
Street, SW., Washington, D.C. 20460,
(202) 382-2820.

SUPPLEMENTARY INFORMATION: On March 19, 1982 (47 FR 13039), the Administrator signed final findings preliminary to the lodging of a consent decree under the Steel Industry Compliance Extension Act of 1981 to extend compliance deadlines for the Ford Motor Company's Rouge Steel facility at Dearborn, Michigan. Rouge Steel Co. is a wholly owned subsidiary of Ford Motor Company. The consent decree was entered May 10, 1982. By letter of August 27, 1982, Rouge Steel Company requested an amendment to its consent decree for the purpose of substituting a tandem mill computerized set up system, as a modernization project, for the individual circuit breaker modernization project previously scheduled to be installed at the pickle line welders. This substitution represents a deletion of only a portion of the pickle line welder modernization project (reducing the total cost from \$4.4 million to \$4.0 million) and an addition to the existing modernization project at the No. 2 tandem mill (increasing the total cost from \$6.1 million to \$6.5 million).

Under section 113(e)(2) of the Clean Air Act, a consent decree may be

"modified to substitute equivalent projects for those specified" in the consent decree. This notice represents the Agency's formal determination that the modernization projects, as amended by the requested substitution, meet the requirement of the Steel Industry Compliance Extension Act, and are equivalent to projects originally specified in the consent decree.

FINDING: This notice amends my earlier finding published in the Federal Register on December 24, 1981 (46 FR 62536), by striking paragraph (2) and substituting therefore the following:

(2) I find (a) that the extensions of compliance are necessary to allow the company to make these investments in its iron-and steel-producing operations which are described below, (b) that each of the following investments will improve the efficiency and productivity of the company's iron-and steel-producing operations and (c) that each modernization investment is proposed to be made at its River Rouge facility in Dearborn, Michigan, a community which already contains iron-and steel-producing facilities.

Qualifying modernization projects	Cost (million dollars)
1. Modernize Pickle Line Welders	4.0
2. Modernize No. 2 Tandem mill	6.5
Total	10.5

CONSENT: I hereby give notice that I have consented to the entry of an amendment to the consent decree reflecting a substitution of modernization projects discussed above.

Dated: November 9, 1982.

Anne M. Gorsuch,
Administrator.

[FR Doc. 82-31570 Filed 11-17-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 82-760, File No. BPH-801211AE; BC Docket No. 82-761, File No. BPH-810424AA; BC Docket No. 82-762, File No. BPH-810424AD]

First Heritage Broadcasting Corp., et al.; Designating Applications for Consolidated Hearing or Stated Issues

Adopted: November 1, 1982.

Released: November 10, 1982.

By the Chief, Broadcast Bureau:
In re application of First Heritage
Broadcasting Corp., Granbury, Texas,
Req: 106.7 MHz, Channel 294C, 75 kW
(H&V) 553 feet; Majan Broadcasting
Corp., Granbury, Texas, Req: 106.7 MHz,

Channel 294C, 100 kW (H&V) 597 feet;
Lugo Broadcasting, Inc., Granbury,
Texas, Req: 106.7 MHz, Channel 294C,
100 kW (H&V) 408 feet.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by First Heritage Broadcasting Corp. (hereafter Heritage), Majan Broadcasting Corporation, and Lugo Broadcasting Inc. (hereafter Lugo) for a new FM broadcast station at Granbury, Texas.

2. *Heritage*. Section V-B, Paragraph 17 of Form 301 requires that an applicant provide the Commission with an environmental narrative statement whenever the grant of the applicant's application would constitute a major environmental action as defined by Section 1.1305 of the Commission's Rules. This the applicant has failed to do. To remedy this deficiency, Heritage will be required to file this statement with the presiding Administrative Law Judge.

3. *Lugo*. Applicants for new broadcast stations are required by Section 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. We have no evidence that Lugo publish the required notice. To remedy this deficiency, Lugo must published local notice, if it has not already done so, and so inform the presiding Administrative Law Judge.

4. Section V-B, Paragraph 17 of Form 301 requires that an applicant provide the Commission with an environmental narrative statement whenever the grant of the applicant's application would constitute a major action as defined by Section 1.1305 of the Commission's Rules. This, Lugo has failed to do. To remedy this deficiency, Lugo will be required to file this statement with the presiding Administrative Law Judge.

5. Section V-C, Paragraph 5 of Form 301 requires an applicant to submit information concerning overall height above ground. The information provided does not agree with data filed with the Federal Aviation Administration. Since no determination has been reached that the antenna proposed by Lugo Broadcasting, Inc. would not constitute a menace to air navigation, an issue regarding this matter is required.

6. Data submitted by the applicants indicated that there would be a significant difference in the size of the areas and population which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and population which would receive FM service of 1

mV/m or greater intensity together with the availability of other primary aural services in such areas will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to one of the applicants.

7. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the tower height and location proposed by Lugo Broadcasting, Inc.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, That First Heritage Broadcasting Corp., shall file an environmental narrative statement, pursuant to § 1.1311 of the Rules, with the presiding Administrative Law Judge.

10. It is further ordered, That Lugo Broadcasting, Inc. shall inform the presiding Administrative Law Judge as to whether it has complied with the public notice requirements of § 73.3580(f) of the Commission's Rules.

11. It is further ordered, That, Lugo Broadcasting, Inc. shall file an environmental narrative statement, pursuant to § 1.1311 of the Rules, with the presiding Administrative Law Judge.

12. It is further ordered, That the Federal Aviation Administration is made a party to the proceeding.

13. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

14. It is further ordered, That, the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and

§ 73.3594(g) of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division,
Broadcast Bureau.

[FR Doc. 82-31518 Filed 11-17-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82-750, File No. BPH-810708AA; BC Docket No. 82-751 File No. BPH-820129BU]

Carl Haynes, TR/AS Haynes Communications Co. and Stromquist Broadcast Services Inc.; Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Carl Haynes, TR/AS Haynes Communications Co., Le Claire, Iowa, Reg: 93.5 MHz, Channel 228, 2.10 kW (H&V), 356 feet; and Stromquist Broadcast Services, Inc., Bettendorf, Iowa, Reg: 93.5 MHz, Channel 228, 3 kW (H&V), 300 feet; hearing designation Order.

Adopted: November 2, 1982.

Released: November 8, 1982.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Carl Haynes, tr/as Haynes Communications, Inc. and Stromquist Broadcast Services, Inc.

2. The respective proposals, although for different communities would serve substantial areas in common. Consequently, in addition to determining, pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will be specified.

3. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive they must be designated for hearing in a consolidated proceeding.

4. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be

specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which would receive primary aural service (1 mV/m or greater) from the proposals and the availability of other primary service to such areas and populations.

2. To determine, in the light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

3. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

5. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

6. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, § 73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division,
Broadcast Bureau.

[FR Doc. 82-31519 Filed 11-17-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82-745, File No. BPCT-81121 OKE; BC Docket No. 82-746, File No. BPTC-820216KF; BC Docket No. 82-747, File No. BPTC-820216KH]

Benjamin B. Moore et al.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: November 2, 1982.

Released: November 5, 1982.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Benjamin B. Moore (Moore), Canyon Communications (Canyon), and Cascade Broadcasting Group, Ltd. (Cascade) for a new commercial television station to operate on Channel 9, Caldwell, Idaho; and two petitions for leave to amend filed by Canyon.¹

2. Applicants for new broadcast stations are required to give local notice of the filing of their applications; in accordance with Section 73.3580 of the Commission's Rules. They must then file proof of such notice or certify that they have or will comply with the public notice requirement. We have no evidence, however, that Moore has done either. If he has not already done so, Moore will be required to file a statement that he has or will comply with the public notice requirement with the Administrative Law Judge within 30 days of the release of this Order.

3. Moore has certified as to his financial qualifications. The certification, however, does not substantially meet the certification set out in revised Section III, Form 301. Accordingly, the applicant will be given the opportunity to submit to the Administrative Law Judge the certification required by the Form or to advise that it cannot make the required certification. In the latter event, the Administrative Law Judge shall specify an issue as may be appropriate.

4. No determination has been reached that the tower height and location proposed by Canyon would not constitute a hazard to air navigation. Accordingly, an issue will be specified.

5. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive television service of 56 dBu or greater intensity (Grade B), together with the availability of other primary television services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

¹The petitions for leave to amend consist of minor amendments which do not improve the comparative standing of Canyon. Good cause has been shown for granting these petitions.

Conclusion and Order

6. The applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, however, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, That the petitions for leave to amend filed by Canyon Communications ARE GRANTED.

8. It is further ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Benjamin B. Moore, whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

10. It is further ordered, That Benjamin B. Moore shall, within 30 days of the release of this Order, certify to the Administrative Law Judge that local notice of the filing of his application has or will be published.

11. It is further ordered, That Benjamin B. Moore shall submit a financial certification required by Section III, F.C.C. Form 301, or advise the Administrative Law Judge that the required certification cannot be made.

12. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

13. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and

shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission,
Larry D. Eads,
Chief, Broadcast Facilities Division,
Broadcast Bureau.

[FR Doc. 82-31517 Filed 11-17-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Bank Hapoalim B.M.; Formation of Bank Holding Company

Bank Hapoalim, B.M., Tel Aviv, Israel, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Hapoalim California Bank, Los Angeles, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Bank Hapoalim B.M., Tel Aviv, Israel, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to act through its subsidiary, Ampal-American Israel Corporation, New York, New York, as investment adviser with respect to investments in debt and equity securities and real property, and as agent or adviser with respect to the leasing of personal or real property. These activities would be performed from offices of Applicant's subsidiary in New York, New York, and the geographic areas to be served are New York, New Jersey and Connecticut. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the

evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views of requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 9, 1982.

Board of Governors of the Federal Reserve System, November 12, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-31613 Filed 11-17-82; 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 New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York:

1. *Herkimer Trust Corporation, Inc.*, Little Falls, New York; to become a bank holding company by acquiring 100 percent of the voting shares of The Herkimer County Trust Company, Little Falls, New York. Comments on this application must be received not later than December 10, 1982.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Humboldt Investment Corp.*, Humboldt, Iowa; to become a bank holding company by acquiring 80

percent of the voting shares of Humboldt Trust & Savings Bank.

Humboldt, Iowa. Comments on this application must be received not later than December 10, 1982.

C. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Robinson Bancorp.*, Robinson, Illinois; to become a bank holding company by acquiring at least 80 percent of the voting shares of The First National Bank in Robinson, Robinson, Illinois. Comments on this application must be received not later than December 10, 1982.

2. *Walnut Ridge Bankstock Corporation*, Walnut Ridge, Arkansas; to become a bank holding company by acquiring 80 percent of the voting shares of Citizens National Bank, Walnut Ridge, Arkansas. Comments on this application must be received not later than December 10, 1982.

D. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Scotland Holding Company*, Scotland, South Dakota; to become a bank holding company by acquiring 89.6 percent of the voting shares of Farmers and Merchants State Bank, Scotland, South Dakota. Comments on this application must be received not later than December 10, 1982.

E. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *La Pryor Ban Shares, Inc.*, La Pryor, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of The La Pryor State Bank, La Pryor, Texas. Comments on this application must be received not later than December 10, 1982.

F. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Auburn Bancorp.*, Auburn, California; to become a bank holding company by acquiring 100 percent of the voting shares of Auburn Bank of Commerce, N.A., Auburn, California. Comments on this application must be received not later than December 10, 1982.

2. *Pajaro Valley Bancorporation*, Watsonville, California; to become a bank holding company by acquiring 100 percent of the voting shares of Pajaro Valley Bank, N.A. (In Organization), Watsonville, California. Comments on this application must be received not

later than December 10, 1982.

G. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Mountain Home Bancshares, Inc.*, Mountain Home, Arkansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of First Bank & Trust Co. of Mountain Home, Mountain Home, Arkansas. Comments on this application must be received not later than December 10, 1982.

Board of Governors of the Federal Reserve System, November 12, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-31614 Filed 11-17-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92-463, the Annual Report for the following Health Resources and Services Administration Federal Advisory Committee has been filed with the Library of Congress:

National Advisory Council on Nurse Training

Copies are available to the public for inspection at the Library of Congress, Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, S.E., Washington, D.C., or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, North Building, Room 1436, 330 Independence Avenue, S.W., Washington, D.C. 20201. Telephone (202) 245-6791. Copies may be obtained from Dr. Mary S. Hill, Executive Secretary, National Advisory Council on Nurse Training, Room 3-50, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782. Telephone (301) 436-6681.

Dated: November 10, 1982.

Jackie E. Baum,

Advisory Committee Management Officer,
Health Resources and Services
Administration.

[FR Doc. 82-31590 Filed 11-17-82; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Cedar City District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Cedar City District Grazing Advisory Board will be held on Thursday, December 16, 1982. This amends a previous notice that the meeting would be held on December 1, 1982. Time, place, agenda, and other information pertaining to the meeting are the same as announced in the Federal Register dated October 28, 1982.

Dated: November 12, 1982.

Morgan S. Jensen,
District Manager.

[FR Doc. 82-31583 Filed 11-17-82; 8:45 am]

BILLING CODE 4310-84-M

Colorado-Ute Electric Association, Inc.; Proposed Southwest Generating Station

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice to not prepare an Environmental Impact Statement (EIS).

SUMMARY: The U.S. Department of the Interior, Bureau of Land Management, Montrose District Office, announced on March 30, 1982 that BLM would prepare an Environmental Impact Statement on the proposal by Colorado-Ute Electric Association, Inc., to construct the Southwest Generating station.

Colorado-Ute has no placed the project in an indefinite status and a mutual decision between BLM and Colorado-Ute has been reached to not complete the EIS at this time.

FOR FURTHER INFORMATION CONTACT: Lance Nimmo, Chief, Planning and Environmental Coordination Staff, Bureau of Land Management, P.O. Box 1269, Montrose, CO 81402. Telephone: Commercial—(303) 249-7791 FTS—322-6380.

Martyn V. Jones,
District Manager.

[FR Doc. 82-31582 Filed 11-17-82; 8:45 am]

BILLING CODE 4310-84-M

Dickinson District Advisory Council Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Meeting.

SUMMARY: The Bureau of Land Management Dickinson District Advisory Council will meet December

21, 1982. The primary objectives of the meeting will be orientation for the new members, briefing on recent and upcoming District projects, and election of officers. The current members were appointed to the Council in October by the Secretary of Interior. The meeting will be held December 21, 1982, in the Community Room of the Gate City Savings Building, 204 Sims Street, Dickinson, North Dakota, beginning at 9:00 a.m. (Mountain Standard Time). There will be a one-hour lunch break around noon, and the meeting will be concluded by 2:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mel Ingeroi, Public Information Specialist, Bureau of Land Management, Dickinson District, P.O. Box 1229, Dickinson, ND 58601; telephone 701-225-9148.

SUPPLEMENTARY INFORMATION: The Council is chartered by the Secretary of Interior to provide citizen advice to the Dickinson District Manager in matters concerning BLM-administered lands and resources.

The meeting is open to the public. Any person may attend and/or file a written statement. During the meeting the public will be given the opportunity to ask questions or make statements. Written statements for the Council can be mailed to the Dickinson District at the above address.

Minutes of the meeting will be prepared and made available for the public.

The agenda for the meeting will include the following:

Welcome from Dickinson District Manager;

Video-tape briefing (27 minutes);

Remarks by Mike Penfold, BLM

Montana State Director;

Question-and-answer period;

Introduction of District Staff;

Short presentations by some members

of the District Resource Staff;

Election of officers;

Discussion of McKenzie-Williams and Southwest management framework plans (MFPs);

Agenda for next meeting.

Kenneth H. Burke,
District Manager.

[FR Doc. 82-31580 Filed 11-17-82; 8:45 am]

BILLING CODE 4310-84-M

[Serial Nos. I-1369, I-2634]

Idaho; Partial Termination of Classification for Multiple-Use Management

November 12, 1982.

1. Pursuant to authority delegated to me by Bureau Order No. 701, dated July

23, 1964 (29 FR 10526), I hereby terminate the Bureau of Land Management Multiple-Use Classification Orders dated December 4, 1970 (Serial Nos. I-1639 and I-2634) published in the Federal Register December 11, 1970 (Vol. 35, No. 240), insofar as they affect the lands described below:

Boise Meridian

All unappropriated public land within the following-described subdivisions:

(I-1639)

T. 15N., R. 21 E.,
Sec. 13, SW $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 14, S $\frac{1}{2}$ S $\frac{1}{2}$;

T. 16 N., R. 21 E.,

Sec. 19, lot 3.

T. 13 N., R. 23 E.,

Sec. 2, SW $\frac{1}{4}$;

T. 14 N., R. 23 E.,

Sec. 7, SW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 27, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$;

Sec. 34, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$.

(I-2634)

T. 14 N., R. 21 E.,

Sec. 25, NE $\frac{1}{4}$ NE $\frac{1}{4}$;

T. 14 N., R. 22 E.,

Sec. 28, N $\frac{1}{2}$ NW $\frac{1}{4}$;

Sec. 29, N $\frac{1}{2}$ N $\frac{1}{2}$;

Sec. 30, N $\frac{1}{2}$ N $\frac{1}{2}$;

T. 13 N., R. 23 E.,

Sec. 35, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$.

The areas described aggregate 1,435.51 acres in Custer and Lemhi Counties.

2. The segregative effect on the lands described in this order will terminate upon publication of this notice in the Federal Register as provided by the regulations in 43 CFR 2641.5(c)(2).

3. At 9:00 a.m., on December 9, 1982, the lands will open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable laws. All valid applications received at or prior to 9:00 a.m., on December 9, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The land has been and continues to be open to the mining and mineral leasing laws.

Inquiries concerning the lands shall be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Federal Building, Box 042, Boise, Idaho 83724.

Clair M. Whitlock,

State Director.

[FR Doc. 82-31584 Filed 11-17-82; 8:45 am]

BILLING CODE 4310-84-M

Issuance of Disclaimer of Interest to Land in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Issuance of Disclaimer of Interest in Land in California.

SUMMARY: Notice is hereby given that the United States of America, pursuant to the provisions of Section 315 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745), does hereby give notice of its intention to disclaim and release all interest to the owners of record for the following described land to wit:

Parcel 1

Accretion lands adjoining the Easterly line of Section 13, Township 6 South, Range 23 East, San Bernardino Base and Meridian, as shown by United States Government Survey approved by the Surveyor General on December 28, 1874, described as follows:

Beginning at a point on the Easterly extension of the Northerly line of said Section 2640 feet East of the Northwest corner of said Section:

Thence South 400 feet;
Thence East 1075 feet;
Thence South, to the Westerly bank of the Colorado River as located on September 26, 1949;

Thence in a Northeasterly direction, following the Westerly bank of the Colorado River, to a point on the Easterly extension of the North line of said Section;

Thence West, on the Easterly extension of the North line of said Section, 3215 feet, more or less, to the Point of Beginning;

Excepting therefrom that portion described as follows:

Commencing at the Northwest corner of said Section 13;

Thence North 89° 35' 43" East, on the Northerly line of said Section and the Easterly extension thereof, 2640 feet;

Thence South 330 feet, for the TRUE POINT OF BEGINNING;

Thence East 1075 feet;

Thence South 70 feet;

Thence West 1075 feet;

Thence North 70 feet, to the TRUE POINT OF BEGINNING;

Also excepting therefrom any portion of the above described property within the bed of the Colorado River.

Parcel 2

Accretion lands adjoining the Easterly line of Government Lot 2 in Section 12, Township 6 South, Range 23 East, San Bernardino Base and Meridian, as shown by United States Government Survey approved by the Surveyor General on December 28, 1874, described as follows:

Commencing at the Southwest corner of said Section 12;

Thence North 89° 35' 43" East, along the Southerly line of said Section and

the Easterly prolongation thereof, 2215.19 feet, for the True Point of Beginning;

Thence North 0° 24' 17" West 40 feet, to the beginning of a 210 foot radius curve, concave to the Northwest, the radial line at said point of beginning bears North 0° 24' 17" West;

Thence Northeasterly, along said curve, through an angle of 30° 0' 10" an arc distance of 113.63 feet;

Thence North 89° 35' 43" East, parallel with and 70 feet Northerly from the Easterly prolongation of the Southerly line of said Section, 800 feet, more or less, to a point on the West bank of the Colorado River as located on September 26, 1949;

Thence Southeasterly, along said West bank, 75 feet, more or less, to a point on the Easterly prolongation of said Southerly line of Section 12;

Thence South 80° 35' 43" West, along said Southerly line, 935 feet, more or less, to the True Point of Beginning;

Excepting, for a period of 10 years from the date of this disclaimer, the United States reserves the right of access for operation and maintenance of six groundwater observation wells and electrical lines and recorders identified as Piezometer Cluster Nos. 18A and 18B of Piezometer line 18 located just north of the 6th Avenue road extension on the right descending bank of the Colorado River in Section 12, Township 6 South, Range 23 East, San Bernardino Meridian, California.

After review of the official records and the original public land survey, it is the position of the Bureau of Land Management that:

1. The land applied for is accretion to the California uplands which were patented to the State of California as swamp and overflowed lands.

2. It has been determined that the United States has no interest in said land and a disclaimer should be issued. Excepting, that for a period of 10 years from the date of the disclaimer, the United States reserves the right of access for operation and maintenance of six groundwater observation wells and electric lines and recorders identified as Piezometer Cluster Nos. 18A and 18B of Piezometer line 18 located just north of the 6th Avenue road extension on the right descending bank of the Colorado River in Section 12, Township 6 South, Range 23 East, San Bernardino Meridian, California.

Any person wishing to submit a protest or comments on the above disclaimer of interest should do so by writing before the expiration date of 90 days from the date of publication of this notice. If no protest(s) is received, the

disclaimer will be effective on the date set out below.

EFFECTIVE DATE: Disclaimer of title and release of all interest of the United States shall issue on February 16, 1983.

ADDRESS: Information concerning this land and the proposed disclaimer may be obtained from and protests filed with: Director (320), Bureau of Land Management, 1800 "C" Street, NW, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Walter Holmes (916) 484-4431 or Henry Beauchamp (202) 343-8693.

J. G. Bingham,

Director.

[FR Doc. 82-31587 Filed 11-17-82; 8:45 am]

BILLING CODE 4310-84-M

Montana; Wilderness Appeal Decisions

AGENCY: Bureau of Land Management, Interior.

ACTION: Wilderness Appeal Decisions Remanded to Montana State Director.

SUMMARY: As a result of Interior Department Board of Land Appeals (IBLA) direction, the BLM's Montana State Office has reassessed five appeals remanded to them for further clarification (see *Federal Register*/Vol. 47, No. 204/Thursday, October 21, 1982). The State Director's decisions are as follows:

Reference—Appeal by The Wilderness Society, et al (IBLA 81-606)

Stafford (MT-066-250)

The State Director makes no change in his original decision. A substantially noticeable vehicle way forms the eastern boundary. The lands forming the eastern segment do not contain outstanding opportunities for solitude and/or primitive recreation and will not be studied for wilderness suitability.

Ervin Ridge (MT-066-253)

The State Director makes no change in his original decision. The western segment does not contain outstanding opportunities for solitude and/or primitive and unconfined recreation as a number of parallel ridge lines containing six substantially noticeable vehicle ways penetrate the unit.

Bullwacker (MT-066-255)

The State Director makes no change from his protest response of March 1981. The appealed area lacks outstanding opportunities for solitude and/or primitive and unconfined recreation and will not be studied for wilderness suitability.

Cow Creek (MT-066-256)

The State Director makes no change in his decision not to study the 9,500-acre southwestern segment of the Cow Creek Unit. The area does not contain outstanding opportunities for solitude as two of three vehicle ways which penetrate the unit create substantially noticeable impacts.

Reference—Appeal by the Square Butte Grazing Association (IBLA 81-607)

Cow Creek (MT-066-256)

Two vehicle routes were identified in the appeal to be roads along their entire length. The State Director decided that the first does not meet the BLM road definition while a part of the second was found to meet this definition and is extended as a cherrystem for 1.5 miles. Neither of these decisions changes the overall WSA status of the unit.

Reference—Appeal by Charles Schwenke (IBLA 81-664)

Cow Creek (MT-066-256)

One vehicle route was identified in the appeal to be a road. The State Director determined that the route did not meet the BLM road definition and decided on no change in his original decision designating the area as a WSA.

Reference—Appeal by Charles M. Hauptman (IBLA 81-611, 81-663)

Cow Creek (MT-066-256)

The State Director decided that the route in question was not maintained for regular and continuous use and did not meet the BLM road definition. There is no change in his decision that the inventory unit in question be designated a WSA.

Reference—Appeal by Ken Brower (IBLA 81-609)

Dog Creek South (MT-068-244)

The State Director decided that a constructed route in question was not maintained for regular and continuous use and did not meet the BLM road definition. There is no change in his protest decision that the inventory unit be designated a WSA.

FOR FURTHER INFORMATION CONTACT:

Michael J. Penfold, State Director, Bureau of Land Management, Montana State Office, P.O. Box 30157, Billings, Montana 59107 (406/657-6461).

Dated: November 12, 1982.

Michael J. Penfold,
State Director.

[FR Doc. 82-31585 Filed 11-17-82; 8:45 am]

BILLING CODE 4310-84-M

Utah; Grazing Advisory Board Meeting

November 10, 1982.

AGENCY: Bureau of Land Management, Interior.

ACTION: Grazing advisory board meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Moab District Grazing Advisory Board will be held December 14, 1982. The meeting will begin at 10:00 a.m. in the conference room of the Bureau of Land Management District Office at 125 West 2nd South in Moab, Utah. The meeting is open to the public.

Items for discussion are:

- The lands action concerning Carbon County's request to purchase land for recreation site.
- Review status of Price River Grazing EIS.
- Review status of Grand RMP/EIS.
- Review change in Grazing Regulations.
- Review Final Rangeland Improvement Policy.
- Discuss Monitoring—Results and Requirements.
- Discuss the status of Range Improvement Maintenance Program: Range Improvement projects reassigned; Projects yet to be assigned; and Problems encountered.
- Discuss any changes in Range Improvements to be constructed.
- Set up tentative dates and agenda for summer tour in San Juan Resource Area.
- Review Lands program as it affects the Range program.

Interested persons may make oral statements to the board between 2:00 and 3:00 p.m. or file written statements for the board's consideration. Anyone wishing to make oral statements to the board, must notify the District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532 by December 10, 1982.

Summary minutes of the board meeting will be maintained in the District Office and will be available within thirty days following the meeting.

Gene Nodine,
District Manager.

[FR Doc. 82-31588 Filed 11-17-82; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service**Proposed Land Acquisition**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Service is proposing to acquire land and buildings or land suitable for the construction of buildings for housing three Service employees in Galena, Alaska. A draft report on this proposal is being prepared and will be available for review by November 26, 1982. Comments will be considered.

ADDRESS: Requests for the draft report, further information and/or comments should be addressed to: William H. Mattice, Chief, Division of Realty, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503, (907) 263-3490.

DATES: Comments are requested by December 10, 1982.

SUPPLEMENTARY INFORMATION: The Alaska National Interest Lands Conservation Act (ANILCA) created several new National Wildlife Refuges. Two of these, Koyukuk and Nowitna, have headquarters in Galena, Alaska. The Fish and Wildlife Service is in the process of staffing these refuges and housing is needed for three additional employees who will be stationed there. The Service plans to either purchase two lots and construct suitable housing or it will purchase existing houses, or a combination of the two methods.

Dated: November 10, 1982.

William H. Mattice,
Chief, Division of Realty.

[FR Doc. 82-31592 Filed 11-17-82; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service**Oil and Gas and Sulphur Operations in the Outer Continental Shelf**

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Shell Offshore Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 3938, Block A-23, Brazos Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT:

Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: November 12, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-31662 Filed 11-17-82; 8:45 am]

BILLING CODE 4310-31-M

Office of the Secretary**Federal-State Task Force on the Hawaiian Homes Commission Act; Meeting**

AGENCY: Federal-State Task Force on the Hawaiian Homes Commission Act.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Federal-State Task Force on the Hawaiian Homes Commission Act. This meeting will be open to the public. Attendance by the public will be limited to space available. Only written comments will be accepted from the public at this meeting, to insure the maximum amount of time for Task Force discussion. Written comments received will be made part of the Task Force record. Written comments may be submitted at any time until the termination of the Task Force, scheduled for March 21, 1983.

DATE: December 2, 1982, at 9:00 a.m.

ADDRESS: Conference Room 1, Third Floor, Old Federal Building, 335 Merchant Street, Honolulu, Hawaii, 96813.

FOR FURTHER INFORMATION CONTACT:

Executive Assistant to the Secretary Stephen P. Shipley, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240; (202) 343-7351.

Dated: November 15, 1982.

Stephen P. Shipley,

Executive Assistant to the Secretary of the Interior.

[FR Doc. 82-31780 Filed 11-17-82; 8:45 am]

BILLING CODE 4310-10-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 387]

Exemption for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the Federal Register.

Sub-No.	Name of railroad, contract number, and specifics	Review Board ¹	Decided date
379.....	Missouri-Kansas-Texas Railroad Co., ICC-MKT-C-0185, Supplement 1 (Wheat flour).	3	Nov. 12, 1982.
380.....	Atchafalaya, Topeka and Santa Fe Railway Co., ICC-ATSF-C-0106, (Ethyl alcohol).	2	Do.
381.....	Chicago and North Western Transportation Co., ICC-CNW-C-0364, 0365, and 0366, (Grain or oil seeds).	1	Do.
382.....	Chicago and North Western Transportation Co., ICC-CNW-C-0367 (Grain or oil seeds).	2	Do.
383.....	Soo Line Railroad, ICC-SOO-C-0114 (Sunflower seed oil).....	3	Do.

¹ Review Board No. 1, Members Parker, Chandler, and Fortier. Review Board No. 2, Members Carleton, Williams, and Ewing. Review Board No. 3, Members Krock, Joyce, and Dowell. Member Krock not participating.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-31607 Filed 11-17-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions, Decision-Notice**Correction**

In FR Doc. 82-28609 beginning on page 46587 in the issue of Tuesday, October 19, 1982, make the following correction:

On page 46588, middle column, under MC 161942, Universal Trucking of Spartanburg, Inc., in the tenth line "KS" should appear between "MO" and "OK."

BILLING CODE 1505-01-M

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Douglas Galloway, (202) 275-7278 or Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope, therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions.

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by 49 CFR 1160.1-1160.23 of the Commission's Rules of Practice. These rules were published in the Federal Register of December 31, 1980, at 45 FR 86771 and redesignated at 47 FR 49583, November 1, 1983. 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 1160.40-1160.49. A copy of any application, including all supporting evidence, can be obtained from

applicant's representative upon request and payment to applicant's representative of \$10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries about the following to Team 2, (202) 275-7030.

Volume No. OP2-287

Decided: November 10, 1982.

By the Commission Review Board No. 1, Members Parker, Chandler and Fortier.

MC 164532, filed November 2, 1982. Applicant: H & J TRANSPORTATION, INC., 801 East St., Memphis, TN 38104. Representative: Michael E. Doyle (same as applicant) (901) 396-1301. 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 164533 (Correction), filed October 12, 1982, previously published in the Federal Register issue of October 29, 1982, and republished, as corrected, this issue. Applicant: ABC-TRANS NATIONAL TRANSPORT, INC., 201 11th Ave., New York, NY 10001. Representative: H. Neil Garson, 3251 Old Lee Hwy., Fairfax, VA 22030, 703-691-0900. 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). Conditions: (1) Coincidental cancellation of FF-68 Sub 4, issued July 23, 1966, upon issuance of the authority in this proceeding, as applicant requested in writing; and (2) within 30 days of this publication, applicant must submit, in writing, a plan of action to avoid unlawful control under 49 U.S.C. 11323(a). Should applicant fail to submit such a plan, this grant of authority will be null and the application will stand denied.

Note.—This corrects FF-68 Sub 5, published in error as a freight forwarder application in the Federal Register issue of October 29, 1982.

MC 164582, filed November 4, 1982. Applicant: MILTON COUNCIL, d.b.a. LAND MARK BUS SERVICE, RT. 1, Box 90R, Bethel, NC 27812. Representative: Jon F. Hollengreen, 1020 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., NW., Washington, DC 20004, 202-628-4600. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter operations, beginning and ending at points in Bertie, Edgecombe, Halifax, Hertford, Martin, Nash, Pitt, and Washington Counties, NC, and extending to points in FL, GA, MD, NJ, NY, NC, PA, SC, VA, and DC.

Please direct status inquiries about the following to Team Four at (202) 275-7669.

Volume No. OP4-032

Decided: November 12, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

MC 42487 (Sub-1065), filed November 1, 1982. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenberg, P.O. Box 3062, Portland, OR 97208, (503) 226-4892. 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 Domtar Industries, Inc., of Schiller Park, IL.

MC 138627 (Sub-124), filed November 1, 1982. Applicant: SMITHWAY MOTOR XPRESS, INC., R.R. #5, Coalville Blacktop Rd., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114 (402) 397-7033. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with National Steel Service Center, Inc., of Parsippany, NJ.

MC 140826 (Sub-3), filed November 1, 1982. Applicant: YUKON STAGE LINES LIMITED, 3211 3rd Ave., Whitehorse, Yukon, Canada Y1A 1G6. Representative: Steve L. Homer, P.O. Box 422, Haines, AK 99827 (907) 766-2695. Over regular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, between the port of entry on the International Boundary line between the U.S. and Canada, near Beaver Creek, Yukon Territory, Canada, and Anchorage, AK, from the described port of entry over AK Hwy 2 to Tok, AK, then over AK Hwy 1 to Anchorage, and return over the same route, serving all intermediate points.

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 146927 (Sub-28), filed November 3, 1982. Applicant: DIXIE TRANSPORT, INC., P.O. Box 1126, Hattiesburg, MS 39401. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. (703) 525-4050. 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 148377 (Sub-6), filed November 1, 1982. Applicant: R & W SERVICES, INC., P.O. Box 975, Newark, CA 94560. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108 (415) 986-8696. Transporting *chemicals and related products*,

between points in the U.S., under continuing contract(s) with Monsanto Company of St. Louis, MO, and Georgia-Pacific Corporation of Atlanta, GA.

MC 156107 (Sub-2), filed October 27, 1982. Applicant: VARDAROS MOTOR LINES, INC., Suite 1530H, 510 Plaza Dr., College Park, GA 30349. Representative: Virgil H. Smith, 74 Hwy N. Box 245, Tyrone, GA 30290 (404) 969-1980. Transporting *paper and related products*, between points in Ga, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159537 (Sub-1), filed October 29, 1982. Applicant: TRANSPORT PACKAGING, INC., 3301 Conflans, Irving, TX 75061. Representative: William Sheridan, P.O. Box 5049, Irving, TX 75062 (214) 255-6279. Transporting *such commodities* as are dealt in or distributed by manufacturers or distributors of chemicals and related products, between 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, on the one hand, and, on the other, points in AZ, LA, OK, and TX.

MC 163306, filed October 29, 1982. Applicant: JOHN A. BUHR AND TIMOTHY A. BUHR d.b.a. BUHR BROS. TRANSPORT, P.O. Box 161, Clear Lake, WI 54005. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703 (608) 256-7444. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Barron, Burnett, Chippewa, Dunn, Eau Claire, Pepin, Pierce, Polk, St. Croix, and Washburn Counties, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Please direct status inquiries about the following to Team 5, (202) 275-7289.

Volume No. OP5-252

Decided: November 9, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

FF-628, filed November 1, 1982. Applicant: BRIDGE FORWARDERS, INC., 500 Sansome St., San Francisco, CA 94111. Representative: H. N. Grimm (Same address as applicant), 415-391-3000. As a *freight forwarder* in connection with the transportation of *household goods*, between points in the U.S.

MC 134949, (Sub-1), filed October 27, 1982. Applicant: M & M DISTRIBUTING CORPORATION, 1890 South 500 West, P.O. Box 1649, Salt Lake City, UT 84110. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111 (801) 328-8987. Transporting *beverages*, between Salt Lake City, UT, on the one hand, and, on the other, points in CO, under continuing contract(s) with Pepsi Cola Bottling Company of Salt Lake City, Inc., of Salt Lake City, UT.

MC 155928, (Sub-2), filed October 25, 1982. Applicant: WAYNE GLEGHORN TRUCKING, INC., 3226 Slaton Hwy., Lubbock, TX 79404. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408 (806) 763-9555. Transporting *such commodities*, as are dealt in or used by grocery or food business houses, between points in OR and TX.

MC 158288, (Sub-7), filed November 1, 1982. Applicant: TOMAHAWK SERVICES, INC. d.b.a. TOMAHAWK TRANSPORTATION, 5400 Laurel Rd., Billings, MT 59101. Representative: Joel E. Guthals, P.O. Box 1977, Billings, MT 59103, 406-245-3071. Transporting *general commodities*, (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. under continuing contract(s) with Edward Hines Lumbes Company of Chicago, IL.

MC 164298, filed October 20, 1982. Applicant: CMH CORPORATION, 4630 Border Village Road, Suite 205, San Ysidro, CA 92073. Representative: Herb D. Stoetzel, 4036 Third Avenue, San Diego, CA 92103 (714) 297-9042. Transporting *general commodities*, (except classes A and B explosives, household goods and commodities in bulk), between ports of entry on the international boundary line between the U.S. and Mexico at points in CA, on the one hand, and, on the other, points in San Diego, Orange, Imperial, Los Angeles, San Bernadino and Santa Barbara Counties, CA.

Agatha L. Mergenovich,
Secretary.

[FR Doc.82-31608 Filed 11-17-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 310]

Motor Carriers; Authority decisions; Restriction Removals; Decision-Notice

Decided: November 10, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1165. Part 1165 was published in the Federal

Register of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. 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, compliance 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 16903 (Sub-95)X, filed November 4, 1982. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Subs 27, 35, 48, 50, 54, 55F, 60F, 63F, 64F, 74F, 76F and 81F, (1) broaden to "building and construction materials" from: laminated panels faced with stone, marble, granite or slate, in Sub 27; building materials and gypsum and gypsum products (except liquid commodities in bulk), in Sub 35; synthetic stone products, in Sub 48; urethane foam products, in Sub 50; construction materials (except in bulk), in Sub 54; roof insulation, in Subs 55F and 60F; pipe, pipe fittings, valves, hydrants, accessories, and fire brick, in Sub 63F; sewage treatment systems and plants, lift stations, aerators, and clarifiers, in Sub 64F; building materials, in Sub 74F; composition boards and wood fiber products, in Sub 76F; and plastic articles and polystyrene products, in Sub 81F. (2) change one-way to radial authority in all subs except Sub 74F and 81F. (3) expand to counties (a) Sub 27, Clifton, NJ (Passaic

County), Boston, MA (Suffolk, Norfolk, Plymouth, Middlesex, Essex, Bristol, and Worcester Counties), Gantt's Quarry, AL (Talladega County); (b) Sub 35, facilities at Shoals, IN (Martin County); (c) Sub 48, Evansville, IN (Vanderburgh County); (c) Sub 50, Charleston, IL (Coles County); (d) Sub 54, facilities at Texarkana, AR (Texarkana, AR); (e) Subs 55F and 60F, facilities at Elizabethtown, KY (Hardin County); (f) Sub 63F, facilities at Buckhannon, WV, Columbia, MO, and Parral, OH (Upshur County, WV, Boone County, MO, Tuscarawas County, OH); (g) Sub 64F, facilities at Richwood, KY (Boone and Kenton Counties); (h) Sub 74F, facilities at Wysox Township, PA (Bradford County); (j) Sub 76F, facilities at Greenville, MS, and Auburn and Lisbon Falls, ME (Washington County, MS, and Androscoggin County, ME); and (k) Sub 81F, facilities at Tallmadge, OH, and Rockford, IL (Summit County, OH and Winnebago County, IL). (4) remove the originating at and/or destined to restrictions in Subs 35 and 50.

MC 118543 (Sub-2)X, filed October 19, 1982. Applicant: PETER & SON, INC., 1422 Water Street, Fitchburg, MA 01420. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103. Lead certificate and MC 146246 Sub-2F permit: (1) Broaden (a) household goods to "household goods and furniture and fixtures"; and (b) Gardner, MA, and points in MA within 15 miles thereof to Worcester, Middlesex, and Franklin Counties, MA, in the certificate; (2) change one-way to radial authority in the certificate; and (3) broaden the territorial description to between points in the U.S. under continuing contract(s) with a named shipper in the permit.

MC 133082 (Sub-6)X, filed November 1, 1982. Applicant: MOORE'S HAULING, INC., Broad & Sumner Pike, Lansdale, PA 19446. Representative: Peter A. Green, 1920 N St., NW., Suite 700, Washington, DC 20036. Lead certificate, (1) remove (a) the exceptions of household goods, commodities in bulk, and those requiring special equipment, and authorize transportation of "general commodities (except classes A and B explosives)"; and (b) the ex-air restriction; (2) expand Philadelphia International Airport, Philadelphia, PA to Montgomery, Philadelphia, Bucks, Chester, and Delaware Counties, PA, Salem, Gloucester, Burlington, Camden, Mercer, Hunterdon, and Monmouth Counties, NJ, and New Castle County, DE; and points in that part of Bucks County, PA, north and west of PA highway 232, to Bucks County, PA.

MC 162950 (Sub-1)X, filed October 28, 1982. Applicant: QUALITY MOVING & STORAGE, INC., P.O. Box 830, Kenner, LA 70063. Representative: Marshall Kragen, 1919 Pennsylvania Ave., NW., Suite 300, Washington, DC 20006. Lead certificate (1) broaden household goods, used household goods, and new and used furniture to "household goods and furniture and fixtures", and office effects and equipment to "machinery"; (2) remove restrictions against through movements, between separate portions of authority, to transportation of traffic having a prior subsequent movement in containers, and to performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of traffic; and the restrictions that prevent through movements of traffic moving solely between points in the designated States of NM and OK, and between IN and MI.

[FR Doc. 82-31609 Filed 11-17-82; 8:45 am]
BILLING CODE 7035-01-M

[OP5MCF-251]

Motor Carriers; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 9 CFR 1182.2 A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to

applicant of \$10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application or to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of non-complying applicant shall stand denied.

Dated: November 10, 1982.

By the Commission, Review Board 3,
Members Krock, Joyce and Dowell.
Agatha L. Mergenovich,
Secretary.

For status information please call (202) 275-7289.

No. MC-F-15001 filed November 4, 1982. 116886 CANADA LIMITED d.b.a. DIRECT TRANSPORTATION SYSTEM LIMITED (116886) (2 Tippet Road, Downsview, Ontario, Canada M3H 5X3)-CONTROL-DIRECT WINTERS TRANSPORT LIMITED (DIRECT) (2

Tippett Road, Downsview, Ontario, Canada M3H 5X3; MILLAR & BROWN LTD., (MILLAR) (420 Laurier Street, Cranbrook, British Columbia, Canada V1C 4H8); and DIRECT WINTERS TRANSPORT (WESTERN) LIMITED (WESTERN) (1991 Brookside Boulevard, Winnipeg, Manitoba, Canada R3C 2E6).

No. MC-F15000 filed November 4, 1982. 116886 CANADA LIMITED d.b.a. DIRECT TRANSPORTATION SYSTEM LIMITED-MERGER-DIRECT, MILLAR, and WESTERN. Applicant's attorney: Richard H. Streeter, Esquire, Wheeler & Wheller, 1729 H Street, NW, Washington, DC 20006. Authority sought by 116886 to acquire control of Direct, Millar, and Western. As a related matter, authority is sought to merge the operating rights and properties of Direct, Millar and Western into an amalgamated company known as 116886 Canada Limited d.b.a. Direct Transportation System Limited. David H. Austin, Carl R. Laurier and James H. Todd, who control 116886 through ownership of its capital stock, seek to acquire control of Direct, Millar and Western through the transaction in No. MC-F-15000; and they seek to control the merged rights through the transaction in No. MC-F-15000. The operating rights to be acquired by 116886 are as follows: (1) Direct's Certificates issued in MC-37918 (Sub-Nos. 14 and 15) which authorize the transportation of general commodities primarily in regular-route operations concentrated at the Buffalo, NY, and Detroit, MI, ports of entry and irregular route authority to transport paper products over irregular routes between ports of entry on the International Boundary and points in the United States. (2) Millar's Certificate issued in MC-133008 and sub numbers thereunder to transport general commodities between ports of entry located on the International Boundary in the States of WA, ID, MT, ND and MN. In MC-133008 (Sub-No. 1), Millar has authority to transport general commodities between points in the United States. (3) Western's Certificate issued in MC-117212 and sub numbers thereunder to transport meat and dairy products between points in the central portion of the United States and the Canada-United States International Boundary. Impediment: Applicants have not submitted an exhibit relating to shipping abstracts as is required. Therefore, we cannot find the operating authority involved to be active and susceptible to transfer. The parties must provide the absent exhibits or some other suitable

evidence to establish the activity of the operating authority.

[FR Doc. 82-31611 Filed 11-17-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP1FC-200]

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

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.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 118.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Ewing.

Please direct status inquiries to Team 1, (202) 275-7992.

Agatha L. Mergenovich,
Secretary.

MC-FC-81010. By decision of November 8, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49

CFR Part 1132, Review Board Number 3 approved the transfer to WILLIAM J. TIGHE TRUCKING COMPANY, INC., Union City, NJ, of Certificate MC 13900 (Sub-31X), issued April 1, 1981, and Permit MC 13900 (Sub-32), issued August 12, 1981, to MIDWEST HAULERS, INC., (THOMAS R. MICHALSKI, TRUSTEE IN BANKRUPTCY), Toledo, OH, authorizing the transportation of general commodities, over regular and irregular routes, between specified points in the United States; and general commodities (except classes A and B explosives), between points in the United States, under continuing contract(s) with National Carrier Service, Inc., of Los Angeles, CA. Transferee is a carrier holding authority under MC 152033. An application for temporary authority has been filed. Representative: Brain L. Troiano, Esq., 918 16th St., NW, Washington, D.C. 20006 for transferor, and Harold L. Reckson, 33-28 Halsey Rd., Fair Lawn, NJ 07410 for transferee.

[FR Doc. 82-31612 Filed 11-17-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

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.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 C.F.R. 118.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or

that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,
Secretary.

MC-FC-80093. By decision of November 3, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to NIAGARA FRONTIER SCENIC TOURS, INC., of Niagara Falls, NY of Certificate MC-116585 issued to ELDON E. MAYFIELD, d.b.a. RAINBOW TOURS of Niagara Falls, NY authorizing passengers and their baggage, in special operations in round-trip sightseeing or pleasure tours, limited to the transportation of not more than seven passengers in any one vehicle, but not including the driver thereof and not including children under 10 years of age who do not occupy a seat or seats, beginning and ending at Niagara Falls, NY, and points in Niagara County, NY, within 6 miles thereof, and extending to ports of entry on the United States-Canada Boundary line at Niagara Falls and Lewiston, NY. Applicant's representative: Robert D. Gunderman, 101 Niagara St., Buffalo, NY 14202. TA lease is not sought. Transferee is not a carrier.

MC-FC-80139. By decision of October 29, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 3 approved the transfer to ACE TRANSPORTATION, INC., of Lafayette, LA, of Certificate MC-99746 Sub-2F, 3F, 4 and 5, issued May 29, March 6, and December 4, 1981 and April 22, 1982, respectively to JEFFERSON TRUCK LINES, INC., of Houston, TX (Debtor in Possession) authorizing the transportation of (1) *named Mercer commodities* (a) between points in LA, on the one hand, and, on the other points in the U.S., (3) *lumber and wood products*, (4) *metal products*, (5)

machinery, and (6) *mercer commodities*, (a) between points in TX, on the one hand, and, on the other, points in MS and OK, and (b) between points in LA and TX, on the one hand, and, on the other, points in AL and FL. Applicant's representative is: Janet Boles Chambers, 8211 Goodwood Boulevard, Suite C-1, Baton Rouge, LA 70806.

MC-FC-80157. By decision of November 9, 1982 issued, under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to American Highway Carriers of Indiana, Inc., of Hammond, IN of Certificate MC 153335 Sub-1 issued September 29, 1981, and May 24, 1982, respectively to American Highway Carriers, Inc., of Richton Park, IL, authorizing the transportation of (1) *metal products*, radially between Chicago, IL, and points in AR, CA, GA, IL, IN, IA, KY, MI, MN, MO, NE, ND, OH, OK, TN, TX, and WI, and (2) *pulp, paper, and related products*, radially between Chicago, IL, and points in IL, IN, IA, KY, MI, OH, PA, TN, and WI. Applicant's representative is: James E. Mc Hie, 55 Muenich Court, Hammond, IN 46320.

MC-FC-80158. By decision of November 5, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to WESTLUND BUS LINES, INC., of Marinette, WI, of Certificate No. MC-151319 issued March 8, 1982 to WESTLUND d/b/a a SEQUING BUS LINES, Marinette, WI authorizing the transportation over irregular routes, of *passengers and their baggage*, in chapter operations, beginning and ending at points in Marinette County, WI, and extending to points in MI, MN, IL, and IA. Applicant's representative is: Richard A. Rechlicz, Ladewig & Rechlicz, N 88 W 16414 Main Street, Menomonee Falls, WI 53051.

MC-FC-80161. By decision of November 8, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 3 approved the transfer to EXECUTIVE MOVING & TRUCKING CO., INC., of Kingston, NH, of Certificate and Permits issued under MC 30508 and MC-30508 (Sub-2, 3, 5, 6, 7, 11, 12, and 13), issued to DEARBORN'S MOTOR EXPRESS, INC., of Exeter, NH, which authorize the transportation, over regular and irregular routes, of general commodities (with exceptions), (a) within specified points in NH, MA, ME, VT, NY, and CT, and (b) between points in the U.S., under continuing contract(s) with Tri-State Shippers Association, Inc., of Exeter, NH. Applicant's representative

is: Robert L. Cope, 1730 M Street, NW., Suite 501, Washington, DC 20036.

Note.—Transferee is not a carrier.

MC-FC-80166. By decision of November 5, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 3 approved the transfer to B, V & W Trucking, Ltd. of Hampton, VA of Certificate MC 159737 issued to Rudy Vines d.b.a. Rudy Vines Trucking of Hampton, VA authorizing the transportation for or on behalf of the United States Government of general commodities (except household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the United States (except AK and HI). Applicant's representative is: Frank L. Willard, Suite #1001, First Merchants, Bank Blvd., Norfolk, VA 23510. TA lease is not sought. Transferee is not a carrier.

[FR Doc. 82-31610 Filed 11-17-82; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Hearing

AGENCY: National Commission for Employment Policy.

ACTION: Notice of Hearing.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is given of a hearing to be held at Cobo Hall, Detroit, Michigan.

DATE: December 1, 1982, 9:00 a.m.-4:00.

STATUS: This meeting will be open to the public.

MATTERS TO BE DISCUSSED: The National Commission for Employment Policy will hold a public hearing on the public policy issues surrounding unemployment, especially job loss that results from changes in the nature of the work place. Witnesses are encouraged to respond to the following topics:

(1) What kinds of Federal assistance might aid State and local governments and the private sector in responding to severe unemployment?

(2) What changes in Federal law or policies would enhance efforts at the State and local level to alleviate the effects of prolonged unemployment?

(3) What kinds of activities are being carried out that have national implications for responses to worker dislocation?

As a national Commission concerned with advising the President and Congress, witnesses should address

their remarks to issues and problems that suggest national responses.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Donohue, National Commission for Employment Policy, 1522 K Street, NW., Suite 300, Washington, D.C. 20005, 202-724-1571.

SUPPLEMENTARY INFORMATION: The National Commission for Employment Policy was established by title V of the Comprehensive Employment and Training Act (Pub. L. 95-524). The Act gives the Commission the broad responsibility of advising the President and Congress on national employment issues. The purpose of this hearing is to seek advice from members of the public.

This hearing will be open to the public. People wishing to testify, however, must apply in writing or by phone (202) 724-1571 to the Commission by November 29. Name, address, and topic must be included. Topics must be relevant to those listed under "Matters To Be Discussed," above. Five copies of written testimony must be provided at the hearing and oral testimony must be limited to 10 minutes. Written testimony will be accepted in place of oral testimony.

Minutes of the meeting and materials prepared for it will be available for public inspection at the Commission's headquarters, 1522 K Street, NW., Suite 300, Washington, D.C. 20005.

Signed in Washington, D.C., this third day of November 1982.

Patricia W. Hogue,
Director.

[FR Doc. 82-31774 Filed 11-17-82; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Executive Resources Board

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: Appointment of members of the Executive Resources Board.

DATE: November 18, 1982.

FOR FURTHER INFORMATION CONTACT: David Johnstone, Personnel Officer, National Endowment for the Humanities, 806 15th Street, NW., Washington, D.C. 20506, 202-724-0356.

SUPPLEMENTARY INFORMATION: Section 3393(b) of Title 5, U.S. Code, requires each agency to establish one or more Executive Resources Boards. The board shall have the responsibility for managing, and establishing policy for managing, the executive resources of the

agency. This notice gives the current membership of the Executive Resources Board and rescinds any previously published notices of membership. The members of the Executive Resources Board are: (1) Chairman, Geoffrey Marshall, and Deputy Chairman, (2) Richard Ekman, Director of the Division of Education Programs, (3) Armen Tashdian, Director of the Office of Planning and Policy Assessment, and (4) Alternate, John Agresto, Assistant Chairman.

William J. Bennett,
Chairman.

[FR Doc. 82-31670 Filed 11-17-82; 8:45 am]

BILLING CODE 7536-01-M

Performance Review Board

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: Appointment of Members of the Performance Review Board.

DATE: November 18, 1982.

FOR FURTHER INFORMATION CONTACT: David Johnstone, Personnel Officer, National Endowment for the Humanities, 806 15th Street, NW., Washington, D.C. 20506, 202-724-0356.

SUPPLEMENTARY INFORMATION: Section 4314(c) of Title 5, U.S. Code, requires each agency to establish, in accordance with the regulations prescribed by the Office of Personnel Management, one or more Performance Review Boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendation to the appointing authority relative to the performance of the senior executive.

This notice gives the current membership of Performance Review Board and rescinds any previously published notices of membership. The members of the Performance Review Board are: (1) Chairman, Geoffrey Marshall, Deputy Chairman, (2) Richard Ekman, Director of the Division of Education Programs, (3) Armen Tashdian, Director of the Office of Planning and Policy Assessment, and (4) Alternate, John Agresto, Assistant Chairman.

William J. Bennett,
Chairman.

[FR Doc. 82-31671 Filed 11-17-82; 8:45 am]

BILLING CODE 7536-01-M

Humanities Panel; Meeting

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. Law. 92-463, as amended), notice is hereby given that the following meeting of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

DATE: December 6-7, 1982.

TIME: 9:00 a.m. to 5:30 p.m.

ROOM: 807.

PROGRAM: This meeting will review applications submitted for Pilot Grants, Division of Education, for projects beginning after April 1, 1983.

The proposed meeting is for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meeting will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that this meeting will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506; or call (202) 724-0367.

Stephen J. McCleary,
Advisory Committee, Management Officer.

[FR Doc. 82-31660 Filed 11-17-82; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Responses; Availability

Recommendation Responses From

Marine—U.S. Coast Guard: Sep. 28: M-80-27 and -28: Published Navigation and Vessel Inspection Circular (NVC) 4-82, "Uninspected Commercial Vessel Safety," on Mar. 9, 1982, regarding unsafe practices and vessel arrangements on fishing vessels. Oct. 6: M-

82-32: The Rules of the Road Advisory Council will meet in December to discuss a draft interpretive ruling on Rule 9(a)(ii) of the Inland Rules concerning narrow channels. *M-82-33*: Will remind marine community that the revised *Navigation Rules: International-Inland* are mandatory, including Rule 34(e) regarding use of the bend signal. *M-82-34*: Believes that the intent and meaning of Rule 34(h) of the Inland Rules concerning whistle signals is clear as stated, but the Rules of the Road Advisory Committee will discuss the recommendation to publish an interpretive ruling. *Oct. 14: M-81-90*: Will ask the National Association of State Boating Law Administrators to inform State agencies which are responsible for either placing children at or licensing child care institutions that have boating programs about the provisions of the boating safety laws. *M-81-91*: Has been trying since 1978 to improve its working relationship with Mexican authorities to permit timely entry of Coast Guard rescue aircraft in Mexican waters. *Oct. 19: M-82-1*: In cooperation with the Maritime Administration, the curricula of the approved radar schools will be reevaluated to determine the need for more emphasis on radar navigation as used by operators of ferries and other harbor craft. The change in radar observer regulations from examination by the Coast Guard to demonstration of proficiency by exercise on a radar simulator is in the final stages of agency clearance. *M-82-2*: Annex 4, paragraph 3 of Inter-governmental Maritime Consultative Organization resolution A-423(XI) prevents the use of in-band transponders on vessels other than survival craft, which would preclude the use of a transponder to identify the Staten Island ferries on all 3-cm and 10-cm radar units aboard vessels. Installing other types of transponders would serve no purpose unless other vessels were equipped with the proper equipment to interrogate the transponder and display the response. *M-82-3*: Does not concur in the recommendation to revoke the deviation from the equipment requirements of the Navigation Safety Regulations, 33 CFR 164.35, granted to the city of New York that permits the Staten Island ferries to operate without a gyrocompass and an illuminated gyrocompass repeater. In restricted visibility, a properly utilized radar and a magnetic steering compass should be adequate for safe navigation in the limited area in which the ferries operate. *Oct. 21: M-81-27*: Paragraph C.3.h. of Chapter 13 of Commandant Notice 16500 dated 29 July 1982 has been changed to require publishing the date construction begins on an offshore structure, before its aids to navigation are placed in operation, in the Local Notice to Mariners.

Ocean Drilling & Exploration Company: Oct. 5: M-82-36: Ordered 4,300 survival suits to be placed on all of its offshore drilling units worldwide.

Railroad—Federal Railroad Administration: Oct. 7: R-82-34: Has completed a study, "Analysis of Locomotive Cabs," into the crashworthiness of in-service locomotives and into design applications for new locomotives to protect occupants from injury.

New York City Transit Authority: Oct. 28: R-82-22: Is designing and will install new

decals on the end doors of all cars emphasizing its policy that prohibits passengers from riding or crossing between cars on a moving train. *R-82-23*: Believes that it is impractical to expect educational or enforcement programs to be effective in preventing passengers from moving between cars on the NYCTA system, and believes that the most effective way to address the problem is through design efforts that eliminate or significantly reduce the hazard severity and probability.

Burlington Northern, Inc.: Sep. 23: R-81-84 and -85: Company instructions regarding overheated journal bearings and hot box detectors are adequate, clearly defined, and available in special instructions to all appropriate employees. *R-82-3*: The quality of inspection and maintenance procedures meet company as well as FRA requirements. Quality maintenance procedures covering inspection, maintenance of track turnouts, crossings, and special work is stressed at instructional classes with maintenance supervisors, foremen, and employees.

Chicago and North Western Transportation Company: Oct. 5: R-81-84 and -85: Regarding hot box detector and overheated journal bearings: Investigates each accident immediately, reviews company policies, and takes corrective action. Has an efficiency test concerning hot box detectors.

Chicago, Milwaukee, St. Paul and Pacific Railroad Company: Oct. 20: R-81-84 and -85: Made more stringent its procedures for handling hot box detector data, reissued instructions to its train dispatchers and operators concerning the correct reading and interpretation of detector tapes, and held a seminar on hot box detectors for supervisors.

The Family Lines Rail System: Oct. 27: R-81-99 through -101: Seaboard Coast Line has taken action to implement the recommendations, concerning establishing procedures for signal maintainers that promote compliance with Federal railway signal regulations; establishing a test procedure which confirms that a signal system is completely operative after equipment or circuitry has failed; and reviewing and resolving operating department policies and written instructions to signal maintainers that may be in conflict and result in unsafe acts to avoid train delays.

Association of American Railroads: Oct. 5: R-82-103: Informed its members of the failure record of the D-28 wheel. *R-82-104*: Action to expedite the removal of the D-28 wheel was effective July 1, 1982, and should result in most of these wheels being out of service before Oct. 1, 1984.

District of Columbia: Oct. 28: R-82-78 through -81: Will evaluate current fire department procedures and the capabilities of each emergency response and supporting agency concerning emergencies on the Washington Metropolitan Area Transit Authority rapid rail service.

Highway—Federal Highway Administration: Oct. 22: H-82-16: Issued On Guard Bulletin titled "Aluminum Wheel Hubs—Be Careful" (Vol. 13, No. 7, Sept. 1982) which described procedures from maintenance manuals for installing bearing cups into aluminum wheel hubs.

Department of Health & Human Services: Oct. 28: H-82-37: All Head Start grantees

and delegate agencies will be urged to immediately review their transportation policies and systems in relation to the Pupil Transportation Safety Standard and made needed improvements. HHS will consider other steps to provide improved training and technical assistance to local Head Start projects in the planning and management of their transportation systems.

International Bridge, Tunnel & Turnpike Association: Undated: H-82-6: Of the 42 United States toll facilities, all but 5 or 90 percent have already adopted the Manual on Uniform Traffic Control Devices as a standard for traffic control devices on their respective facilities.

Pacific Intermountain Express Co.: Oct. 29: H-82-19: Will establish qualifications and standard procedures for selecting new-hire hazardous materials drivers, and will insure that the qualifications and procedures are adhered to before a driver is allowed to perform driving duties. *H-82-20*: Will incorporate into its Bulk Commodities Division Driver's Manual a requirement for drivers transporting bulk hazardous materials to promptly report the receipt of specified traffic citations, and a statement of company policy regarding disciplinary actions for speeding or other unsafe driving practices.

State of Maryland: Oct. 5: H-82-33: Department of Transportation is reviewing recommendation to adopt an "Operation Lifesaver" program as a foundation for a Statewide effort to reduce accidents at railroad/highway grade crossings in Maryland.

Commonwealth of Pennsylvania: Oct. 15: H-82-4: FHWA data state that the total rail/highway crossing accidents in Pennsylvania decreased about 19 percent from 1980 to 1981. Pennsylvania's accident/casualty rates per 10,000 vehicle registrations are less than half the national average. Pennsylvania has an aggressive and comprehensive effort to curb drunk driving. States should establish those types of programs which have the potential for reducing large numbers of accidents, including those at grade crossings. *Oct. 4: H-82-35*: Although the reaction to the implementation of the REDDI program by many County Alcohol Highway Safety Coordinators and enforcement officials has not been positive, Pennsylvania will continue to study the approach along with the development of extensive public information and education activities in the State.

State of Alaska: Oct. 13: H-82-35: Concurs that public education and accident control programs such as "REDDI" may be valuable.

State of California: Oct. 14: H-82-35: There is no evidence that REDDI programs have any effect on the number of accidents involving drinking drivers. California's experience with this type of citizen reporting has been negative, and the State is reluctant to consider such a program again.

State of Nevada: Oct. 1: H-82-35: The Traffic Safety and Highway Patrol Divisions of the Department of Motor Vehicles are working on a program similar to the REDDI program.

State of Hawaii: Oct. 1: H-82-35: Requests additional information about REDDI-type programs.

State of New Mexico: Sep. 23: H-82-35: Will investigate the feasibility of a REDDI-type program.

Pipeline—Research and Special Programs Administration: Oct. 26: P-82-42: Is considering a Notice of Proposed Rulemaking to amend the gas and liquid pipeline safety regulations concerning weld repair to allow the repair of certain cracks and the multiple repair of girth weld defects. Procedural requirements based upon American Petroleum Institute Standard 1104 would be incorporated in the weld repair regulations to assure sound, ductile welds upon completion of the weld repair. Adoption of such a revision to the repair procedures in both gas and liquid pipeline safety regulations would eliminate the need for "prospectively" granting waivers for the repair of certain girth weld defects.

City of Cordele, Georgia: Oct. 13: P-80-73: Customer programs for natural gas odor recognition are in effect.

American Road & Transportation Builders Association: Oct. 7: P-82-29: Advised members of the importance of notifying utility operators of plans to excavate and of using one-call services wherever available.

American Consulting Engineers Council: Oct. 13: P-82-11: Advised members to increase attention to confirming the adequacy of design specifications in assuring adequate clearance for affected utilities, and advised that such specifications direct that affected utilities be notified at least 48 hours in advance of an actual excavation in a particular area, using the one-call system where available or feasible.

Interstate Natural Gas Association of America: Oct. 13: P-79-1: Advised members to review their remote installation alarm systems and to correct any deficiencies found.

American Public Gas Association: Oct. 15: P-80-43: Advised members to review 49 CFR 191.5, Telephone Reporting of Leaks, Accidents, and Other Related Failures, to ensure that appropriate instructions have been issued to their employees regarding the reporting requirements. *P-80-44:* Advised members to review and modify as necessary their procedures for maintaining odorization records and files in compliance with 49 CFR 192.625, Odorization of Gas, and has advised its members to review and modify as necessary their maintenance and operation procedures to ensure that all leaks resulting from excavator damage have been located and repaired. *P-80-45:* Advised members to review and modify as necessary their procedures for maintaining necessary maps and records to include all distribution services and record accurate measurements to implement the gas systems operation and maintenance plan.

Utility Location and Coordination Council: Oct. 14: P-82-10: The ULCC Executive Committee has directed that each local chapter of the American Public Works Association be encouraged to support and promote the recommendation for local governments to require as a condition of a permit to perform work in or adjacent to public streets and rights-of-way that the permittee provide advance notification to operators of underground facilities about

excavation, augering, blasting, or other activities which may endanger underground facilities, using a one-call system if available.

Pacific Gas and Electric Company: Oct. 5: P-82-1: Employee training has emphasized emergency shutdown training and exercises.

Missouri Power & Light Company: Oct. 7: P-82-32: Is implementing a systematic review of inspection records to assure that unsafe conditions noted by inspectors are promptly corrected. *P-82-33:* Inspected each district regulator station and reviewed control line locations. *P-82-34:* Reviewed its maps and records of district regulator station piping to determine their accuracy and completeness. *P-82-35:* Is working to increase public awareness regarding the prevention of excavation-caused damage to underground facilities and is working with the Missouri Public Service Commission and other gas utilities toward establishing a statewide damage prevention program. *P-82-36:* Will study the feasibility of further telemetering equipment with alarms being installed in the electrical load dispatching office in Moberly, Missouri. *Oct. 12: P-81-21:* Reviewed records and maps to identify locations of unrestrained plastic pipe, and installed appropriate restraints. *P-81-22:* Will study the feasibility of adding more telemetering to its system.

Lehigh Utilities, Inc.: Oct. 12: P-76-63 and -64: Barricades have been installed at all of its LPG tank sites that might be subject to damage from a vehicle.

ARCO Petroleum Products Company: Oct. 12: P-81-33: Emphasized to each supervisor the importance of checking all valve line-ups, especially new or infrequent ones.

Griffith Company: Oct. 13: P-76-95: Actively promoted State legislation requiring operators/owners of "hazardous" underground utilities to provide accurate "as built" information to contractors, when they are conducting construction operations near these facilities, but the hazardous utility owners and operators were successful in soundly defeating the proposed measure.

Poss Constructors, Inc.: Oct. 18: P-76-95: Appointed a full-time Safety Director to coordinate efforts in locating underground utilities before beginning to excavate.

Shell Offshore, Inc.: Oct. 18: P-80-18 through -22: All pipelines and other hazards within 500 feet of the work location will be marked with buoys. The contractor, drilling rig, anchor handling vessels, and barges conducting operations in the area are provided with copies of a scale plat depicting location of the proposed activity and all associated anchors, existing pipelines, and other hazards. A company representative is instructed to board drilling rigs, derrick barges, pipeline lay barges, etc., when they come to a company location to conduct operations, and insure that they are furnished with plats of all hazards.

Wisconsin Natural Gas: Oct. 19: P-76-83: Performed a complete inspection to determine the location of every sewer lateral in the construction area by either instrumentation or excavation, and took corrective action where necessary. *P-76-84:* Researched its records for locations where similar construction techniques could have been performed. *P-76-85:* Company

construction standards require that location of underground facilities be located and marked prior to construction. *P-76-86:* Company's Safety and Training Division conducted a series of meetings in December 1976 to review the circumstances of this incident. The Engineering and Operations Department and the Safety and Training Division developed a training program for detecting and clearing sewer lateral conflicts and for preventive procedures during construction.

Mid-America Pipeline Company: Oct. 20: P-79-2 through -5: NTSB did not respond to the company's letter dated Aug. 7, 1979, concerning these recommendations.

Delta Natural Gas Company, Inc.: Oct. 20: P-79-9: Filed with the Kentucky Public Service Commission on Dec. 13, 1979, a copy of Delta's evaluation of the London, Kentucky Gas System (dated Nov. 2, 1979). *P-79-10 through -12:* Standard practices regarding (1) converting from low to intermediate pressure, (2) an emergency operating plan (including accident investigation), (3) accident investigation, and (4) a company, public, and public officials education plan have been filed with the Kentucky Public Service Commission.

Dresser Industries, Inc.: Oct. 25: P-78-38: Made changes to printed installation instructions for its couplings to emphasize the cautionary note about providing proper anchorage where pipe movement out of the coupling might occur. *P-78-39:* Material on coupling test data and application recommendations are available to the American Gas Association, but the AGA does not collect and disseminate information on specific products. *P-78-40:* Has always provided testing service for customers for all types of polyethylene pipe that have not been tested and approved, using Dresser-manufactured stiffeners. Since Dresser has no quality or dimensional controls over materials manufactured and sold by others, Dresser cannot accept the responsibility of approving for use in a Dresser product a part that is often critical in assuring the product's recommended performance unless Dresser manufactures the part.

The Union Light, Heat and Power Company: Oct. 25: P-81-1: Verified by field investigation all service connection records for locations where gas mains operating over 60 psig are near other gas mains operating at 60 psig or less. The field verification included testing by pressure differential for customers whose service line did not have a primary regulator. Company has included in its uprating procedures provisions to assure that physical field determination, by excavation or pressure differential testing, will be performed for future upratings in areas where there is more than one gas main. *P-81-2:* Revised its emergency plan covering emergency shutdown and/or pressure reduction measures, and revised its uprating procedures to assure that uprating plans for specific projects will include procedures for rapid and complete shutdown in an emergency. *P-81-3:* Physically inspects all service cock/valve boxes for accessibility annually, checks operability of service cock/valve in conjunction with any meter change,

and field checks service cock/valve box location records at least every 10 years. *P-81-4*: Has and will continue to install outside shutoff cocks/valves and boxes on all customer service lines, regardless of the location of the gas meter set, and has and will continue to require all new meter sets to be outside the building served, wherever practical. *P-81-5*: Revised its survey procedures and reporting procedures to require positive reporting of the items required to be covered during the designated building inspection and gave refresher training to employees who conduct the inspections. *P-81-6*: Conducted a field survey of all customers to ascertain that no unrestrained pressure couplings remain upstream of customer's meters. *P-81-7*: Established a quality assurance division to develop and administer a quality assurance program for all gas operations including accuracy of records, verification of field reports, and transferral of information to computerized records.

Note.—Single copies of recommendation letters (identified by recommendation number) and response letters are free on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Dated: November 18, 1982.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-358; Construction Permit No. CPPR-88, EA 82-129; CLI 82-33]

Cincinnati Gas & Electric Co. (William H. Zimmer Nuclear Power Station); Order To Show Cause and Order Immediately Suspending Construction

I

The Cincinnati Gas & Electric Co. (CG&E) holds Construction Permit No. CPPR-88 which was issued by the Commission in 1972. The permit authorizes the construction of the William H. Zimmer Nuclear Power Station Unit 1, a boiling water reactor to be used for the commercial generation of electric power. The Zimmer plant is located on the licensee's site in Moscow, Ohio.

II

A. Initial Identification of QA Problems

In early 1981 the NRC conducted an investigation into allegations made by present and former Zimmer site employees and by the Government Accountability Project. The NRC investigation revealed a widespread breakdown in CG&E's management of the Zimmer project as evidenced by

numerous examples of non-compliance with twelve of the eighteen quality assurance Criteria of Appendix B to 10 CFR Part 50. Consequently, CG&E paid a civil penalty of \$200,000 for the failure to implement an acceptable quality assurance program, false quality assurance documents, and intimidation and harassment of quality control inspectors. (See Notice of Violation and Proposed Imposition of Civil Penalties, Dated November 24, 1981 and Investigation Report No. 50-358/81-13.) In addition CG&E agreed to take actions to correct identified QA failures and prevent their recurrence and to determine quality of completed construction work.

1. Actions to Correct Identified QA Failures and Prevent Recurrence. A meeting was conducted by Region III on March 31, 1981, and the utility agreed to implement ten actions to correct quality assurance failures identified during the January-March 1981 investigation and to preclude their recurrence. These actions included: (1) Increasing the size and technical expertise of the CG&E QA organization; (2) taking action to assure independence and separation of the QA/QC function performed by Kaiser from the construction function; (3) conducting 100% reinspections of the quality control (QC) inspections performed after that date by Kaiser and other contractors; (4) reviewing for adequacy, and revising as appropriate, all QC inspection procedures; (5) training QA/QC personnel on new and revised procedures; (6) reviewing for adequacy, and revising as appropriate, the procedures governing the identification, reporting and resolution of deviations from codes and Final Safety Analysis Report (FSAR) statements; (7) reviewing for adequacy the procedures governing nonconformance reporting and justifying the disposition of each voided nonconformance report; (8) establishing an adequate program for control of QA and QC records; (9) performing a 100% review of all future surveillance and nonconformance reports written by contractor personnel; and (10) reviewing and revising the CG&E audit program so that it included technical audits of construction work and more comprehensive and effective programmatic audits. These commitments were confirmed in an Immediate Action Letter to the licensee on April 8, 1981.

2. Actions to Determine Quality of Completed Construction Work. Following the identification in 1981 of significant quality assurance problems and related management breakdowns, CG&E agreed to establish a

comprehensive program to determine the quality of the completed construction work. The Quality Confirmation Program (QCP) was submitted to the NRC by the licensee on August 21, 1981. The QCP addressed problems identified by the investigation in the following areas: (1) Structural steel; (2) weld quality; (3) traceability of heat numbers on piping; (4) socket weld fitup; (5) radiographs; (6) electrical cable separation; (7) nonconformance reports; (8) design control and verification; (9) design document changes; (10) subcontractor QA programs; and (11) audits.

3. Results of Actions Taken by the Licensee to Determine the Quality of Completed Construction Work. Many construction deficiencies have been identified by the licensee during the conduct of the QCP and other quality reviews and reported to the NRC pursuant to 10 CFR 50.55(e) which could have been prevented or identified in a timely manner by the licensee and its contractors had there been a properly managed QA program. Major construction deficiencies identified to date by the quality reviews are listed in order of identification and include the following:

- Welds performed using an unqualified welding procedure for welds greater than 0.864 inches.
- Unauthorized stamping of fittings and use of "high-stress" stamps.
- ASME structural weld and welder qualification deficiencies.
- Welds performed and welders not qualified for weld thickness range per ASME requirements.
- Approximately 2400 feet of small bore piping identified with questionable heat treatment.
- Welder qualifications with a substantial number of documentation discrepancies.
- Carbon steel weld rod may have been used for a portion of several stainless steel recirculation line welds.
- Electrical cable tray installation and inspection deficiencies.
- Hangers installed for the control rod drive system are of indeterminate quality.
- Both weld and radiograph quality deficiencies for sacrificial shield welds and radiograph deficiencies identified for the containment monorail and the ventilation stack.
- Deficiencies in the H. J. Kaiser procurement program for structural steel and other materials.
- Inadequate design control by Sargent & Lundy (architect engineer) for electrical separation.

- Inadequate weld preparation prior to radiography (ripples not removed) which caused masking of discontinuities in some welds.
- Reactor control, reactor protection, and neutron monitoring panels, including field installed wiring do not, in some cases, conform to design drawings with regard to cable separation.
- Inadequate engagement of "gamma plugs" in large-bore piping and lack of heat number traceability of the "gamma plugs." (During radiography of a pipe weld, a gamma source is sometimes inserted through a small hole in the side of the pipe. After radiography the hole is plugged to provide a pressure boundary.)
- Inadequate inspection program and installation procedures for "Nelson stud" installation for cable tray hangers.
- Concrete and steel coating program not in accordance with the QA Program and the Sargent & Lundy specification requirements.
- Design changes made to the Fire Protection System piping in the cable spreading room in 1979 were inadequately controlled.
- The Sargent & Lundy (architect engineer) dynamic stress analysis of small bore piping is questionable.
- Cable separation problem with regard to division separation between non-essential cables being bundled with essential cables of different divisions.
- Pipe support installation procedures did not contain seismic clearance criteria between pipe supports and cable trays or conduit and associated supports as required by the specification.

These deficiencies represent those which the staff considers most significant. There were additional 10 CFR 50.55(e) reports made by the licensee and the licensee has identified a large number of nonconformances (which could reflect construction or other types of deficiencies). As of September 30, 1982 the licensee's continuing quality confirmation program reviews had identified approximately 4,200 nonconformances of which about 800 have been "dispositioned", i.e., the licensee had made a determination as to resolution. (Inspection Report No. 50-358/82-12, report pending.) The large number of nonconformance reports and the significance of the matters being identified corroborate the staff's 1981 finding of significant breakdown in the licensee's quality assurance program.

B. Findings Subsequent to Licensee Actions Taken to Correct QA Failures and Prevent Recurrence

Since the Immediate Action Letter was issued on April 8, 1981 and quality assurance and management deficiencies were brought to the attention of the licensee, hardware and programmatic QA/QC problems have been identified by the NRC and the National Board of Boiler and Pressure Vessel Inspectors. These problems are discussed in the following paragraphs and indicate the licensee and the constructor are still having difficulty implementing satisfactory QA/QC programs:

During an inspection conducted the latter part of 1981 and the early part of 1982 (Inspection Report No. 50-358/82-01, issued on June 24, 1982) three items of noncompliance were identified. The findings concerned (1) the failure to clearly establish and document the authorities and duties of all QA Department personnel, (2) the failure to provide adequate certification of qualifications of all QA Department personnel, and (3) the failure to provide adequate procedures. The licensee failed to adequately address the provisions of Regulatory Guide 1.58 (ANSI N45.2.6-1978) concerning personnel in the QA Department. Additionally, inadequately qualified personnel were reviewing and approving quality procedures controlling electrical activities, which contained deficiencies.

Furthermore, as a result of the licensee reviews it was revealed that some weld inspectors involved in the QCP Task I, Structural Steel, were not adequately certified and the task was stopped. The task was restarted following upgrade of the inspectors through training provided by additional certified weld inspectors.

During an inspection conducted in March and April 1982 (Inspection Report No. 50-358/82-05, issued on July 1, 1982) two items of noncompliance were identified. The findings concerned the lack of implementation and timeliness of corrective actions and the failure to adequately review and document potentially reportable matters.

During an inspection conducted in April, May, and June of 1982 (Inspection Report No. 50-358/82-06, issued on November 2, 1982) two items of noncompliance were identified. The findings concerned (1) the performance of quality activities required of the welding engineers by inadequately qualified clerks and (2) the failure to perform required calibrations during a critical quality activity, Induction Heating Stress Improvement (IHSI) program.

A recent inspection conducted during June and July of 1982 (Inspection Report No. 50-358/82-10, report pending) identified a number of significant concerns. These concerns were discussed with the licensee on July 9, July 15, August 15, and October 19, 1982. Four significant items of concern (potential items of noncompliance) were identified: (1) The inadequate control and documentation of welder qualifications; (2) the failure to take corrective actions following the identification of inadequate records to support welder qualifications; (3) the unauthorized correction, supplementation, and alteration of quality records; and (4) the failure to follow procedures controlling weld filler metal control, logging and control of requests for information/evaluation, and imposition of reporting requirements on contractors. The NRC findings concerning welder qualifications resulted in the requalification of approximately 100 active onsite welders and the need for the licensee to develop a program to evaluate the previous work of the welders whose qualifications were not adequately documented.

An inspection was conducted following notification of the Region III Office that a CG&E Stop Work Order (SWO) had been initiated on August 5, 1982, pertaining to Catalytic, Inc. (CI) activities in the area of the control rod drive system hangers and supports. CI is a contractor of the licensee performing construction work including rework activities identified by the QCP program. During this inspection conducted during August and September of 1982 (Inspection Report No. 50-358/82-13, report pending), significant concerns were identified regarding the implementation of CG&E's quality assurance program and its management program established to control and monitor the activities of Catalytic, Inc. (CI). The concerns involved the areas of (1) the description of organization and functional interfaces, (2) training of CI personnel, (3) design control measures, (4) procedure content and implementation, (5) document control, (6) inspection and surveillance activities, (7) nonconforming conditions, (8) corrective actions, (9) records, and (10) audits. The findings were discussed with the licensee on August 12, September 10 and 17, and October 19, 1982.

As a result of the inspection findings and subsequent discussions with the licensee, Stop Work Orders were issued by the licensee, stopping all essential work by CI on October 11, 1982, pending resolution of the programmatic problems.

identified by the NRC and licensee reviews.

The licensee has initiated Stop Work Orders in addition to those affecting CI due to inadequate quality assurance in the areas of application of coatings (October 12, 1982), electrical cable installation (October 12, 1982), and special process procedures (November 1, 1982). The Stop Work Orders involve ongoing activities. The November 1, 1982 Stop Work Order involved procedures not meeting requirements notwithstanding that the procedures had been specifically reviewed by CG&E for adequacy subsequent to the issuance of the April 8, 1981 Immediate Action Letter.

Additionally, during the week of October 10, 1982, the Authorized Nuclear Inspector (ANI) for the N-stamp holder (H. J. Kaiser) recalled ASME work packages then being used in the field because of the performance of ASME code work (hanger attachment removal and piping cutouts) was outside the approved QA Program procedures. The ASME code work was being controlled and performed utilizing an H. J. Kaiser administrative memo which bypassed the ANI's required involvement in the code activities. The NRC was apprised of the required corrective actions during a meeting involving CG&E and H. J. Kaiser on October 15, 1982. The corrective actions taken and planned were considered acceptable by the Authorized Nuclear Inspector.

The National Board of Boiler and Pressure Vessel Inspectors, at the request of the State of Ohio, have been onsite since March 1, 1982. The National Board has issued three interim reports documenting findings regarding ASME code activities. The National Board findings include deficiencies in the following areas regarding on-going ASME code activities: design control, procurement, procedures, special processes, nonconforming conditions, and corrective actions. The findings are generally consistent with past and present NRC findings.

C. Rework Activities

As a result of the information obtained from the licensee's reviews of plant quality, the licensee is proceeding prior to completion of the relevant QCP tasks, to initiate rework activities. A major example of rework activities is the area of structural steel welding. The reinspection and rework of structural steel welds located in a number of areas of the plant have been in process for a number of months. Approximately 70 percent of the structural welds are being reworked to make the welds acceptable.

In the case of these welds, rework is being undertaken prior to the completion of the quality reviews to determine the acceptability of all structural steel welds and beam/hanger materials. The rework of these welds prematurely may result in the addition of new weld material over unacceptable weld material or beam/hanger materials. Following completion of the quality reviews unacceptable areas may require additional rework activities. This approach to rework activities indicates a lack of a comprehensive management program to address rework activities and the safety impact of those activities on the facility.

III

The foregoing information indicates that: 1) The Zimmer facility has been constructed without an adequate quality assurance (QA) program to govern construction and to monitor its quality, resulting in the construction of a facility which currently is of indeterminate quality; 2) substantial efforts are underway to determine the quality of past construction activities and numerous construction deficiencies have been identified and are continuing to be identified such that both reanalysis and rework will be required to bring the facility into conformance with the application and regulatory standards on the basis of which the construction permit was originally issued; and 3) rework of deficiencies identified by the Quality Confirmation Program (QCP) has been undertaken prior to completion of other relevant QCP tasks and other reviews, resulting in the potential for additional reworking of the same item if further deficiencies are found, as has been the case, by the quality reviews. Consequently, the NRC presently lacks reasonable assurance that the Zimmer plant is being constructed in conformance with the terms of its construction permit and 10 CFR Part 50, Appendix B, and that there is adequate management control over the Zimmer project to ensure that NRC requirements are being met.

The verification of the facility's quality and appropriate actions to correct deficiencies in construction are of utmost importance to the public health and safety should the licensee receive a license to operate the facility. Moreover, the licensee must be in a position to assure that its construction activities have been properly carried out in accordance with Commission requirements, as the Commission inspectors are not able to personally verify every individual aspect of construction that may impact on safety. In view of the importance to safety of construction verification and corrective

actions and the past pattern of quality assurance deficiencies, the Commission has concluded that safety-related construction, including rework activities, should be suspended until there is reasonable assurance that future construction activities will be appropriately managed to assure that rework activities and all other construction activities will be conducted in accordance with 10 CFR Part 50, Appendix B, and other Commission requirements. The Commission has further determined that in light of the foregoing considerations the public health, safety and interest require suspension of construction, effective immediately pending further authorization.

IV

Accordingly, pursuant to sections 103, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that:

A. Effective immediately, safety-related construction activities, including rework of identified deficient construction, shall be suspended.

B. The licensee shall show cause why safety-related construction activities, including reworking activities, should not remain suspended until the licensee:

(1) Has obtained an independent review of its management of the Zimmer project, including its quality assurance program and its quality verification program, to determine measures needed to ensure that construction of the Zimmer plant can be completed in conformance with the Commission's regulations and construction permit.

(a) The independent organization conducting this review shall be knowledgeable in QA/QC matters and nuclear plant construction and shall be acceptable to the Regional Administrator. The independent organization shall make recommendations to the licensee regarding necessary steps to ensure that the construction of the facility can be completed in conformance with the Commission's regulations and the construction permit. A copy of the independent organization's recommendations and all exchanges of correspondence, including drafts, between the independent organization and CG&E shall be submitted to the Regional Administrator at the same time as they are submitted to the licensee. In making recommendations, the independent organization shall consider at a minimum the following alternatives for management of the Zimmer project

and shall weigh the advantages and disadvantages of each alternative:

1. Strengthening the present CG&E organization.

2. Creation of an organizational structure where the construction management of the project is conducted by an experienced outside organization reporting to the chief executive officer of CG&E.

3. Creation of an organizational structure where the quality assurance program is conducted by an experienced outside organization reporting to the chief executive officer of CG&E.

4. Creation of an organizational structure with both quality assurance and construction project management conducted by an experienced outside organization reporting to the chief executive officer of CG&E.

(b) The licensee shall submit to the Regional Administrator the licensee's recommended course of action on the basis of this independent review. In evaluating the recommendations of the independent organization, the licensee shall address why it selected particular alternatives and rejected others. The licensee's recommendations and its schedule for implementation of those recommendations shall be subject to approval by the Regional Administrator.

(2) Following the Regional Administrator's approval in accordance with section IV B(1)(b),

(a) Has submitted to the Regional Administrator an updated comprehensive plan to verify the quality of construction of the Zimmer facility and the Regional Administrator of NRC Region III has approved such plan. In preparing this updated comprehensive plan, the licensee shall review the ongoing Quality Confirmation Program to determine whether its scope and depth should be expanded in light of the hardware and programmatic problems identified to date. The updated plan shall include an audit by a qualified outside organization, which did not perform the activities being audited, to verify the adequacy of the quality of construction; and

(b) Has submitted to the Regional Administrator a comprehensive plan, based on the results of the verification program, for the continuation of construction, including reworking activities, and the Regional Administrator has confirmed in writing that there is reasonable assurance that construction will proceed in an orderly manner and will be conducted in accordance with the requirements of the Commission's regulations and Construction Permit No. CPCR-88.

(3) The Regional Administrator may relax all or part of the conditions of

section IV.B for resumption of specified construction activities, provided such activities can be conducted in accordance with the Commission's regulations and the provisions of the construction permit.

V

Within 25 days of the date of this order, the licensee may show cause why the actions described in section IV should not be ordered by filing a written answer under oath or affirmation that sets forth the matters of fact and law on which the licensee relies. As provided in 10 CFR 2.202(d), the licensee may answer by consenting to the order proposed in section IV of this order to show cause. Upon the licensee's consent, the terms of section IV.B of this order will become effective. Alternatively, the licensee may request a hearing on this order within 25 days after the issuance of this order. Any request for a hearing or answer to this order shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request or answer shall also be sent to the Director, Office of Inspection and Enforcement, and to the Executive Legal Director at the same address, and to the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137. A request for a hearing shall not stay the immediate effectiveness of section IV.A of this order.

If the licensee requests a hearing on this order, the Commission will issue an order designating the time and place of hearing. If a hearing is held, the issues to be considered at such a hearing shall be whether the facts set forth in sections II and III of this order are true and whether this order should be sustained.

Commissioners Ahearne and Roberts dissent from this decision. Their dissenting views are attached.

It is so ordered.

Dated at Washington, D.C., this 12th day of November 1982.

For the Commission.

John C. Hoyle,

Acting Secretary of the Commission.

Dissenting Views of Commissioner Ahearne

I agree with both the substance and the direction for change described in this order. However, I would have simply issued a Show Cause Order and would not have made it immediately effective.

Dissenting View of Commissioner Roberts

I disagree with the action taken by the Commission majority on several grounds. First, I believe the Commission's action in immediately suspending construction at the Zimmer facility is precipitous. Earlier this year, Cincinnati Gas and Electric Company (CG&E) made substantial changes in its management structure in order to manage more effectively construction activities and to monitor more carefully quality assurance programs. Despite the fact that this new organizational structure is relatively untested, the Commission is now suspending effective immediately all construction and corrective actions at the site. Additionally, the NRC Staff admits that CG&E's enhanced Quality Confirmation Program (QCP) and large quality control staff is effectively identifying existing construction problems. Moreover, to the extent that actual construction deficiencies have been found, CG&E's management has demonstrated its willingness to take strong remedial actions by issuing stop work orders in those areas where construction deficiencies have been found. In a plant that is approximately 98 percent complete, the Commission is requiring the relatively few remaining construction activities and the ongoing corrective actions necessitated by the QCP to stop immediately while additional organizational changes are implemented.

Second, I believe the Commission's action does not comport with its own practice. In *Licensees Authorized to Possess * * * Special Nuclear Materials*, CLI-77-3, 5 NRC 16, 20 (1977), the Commission said that "[a]vailable information must demonstrate the need for [such] emergency actions and the insufficiency of less drastic measures" (emphasis added). See also *Consumers Power Co.* (Midland Plant, Units 1 & 2), CLI-73-38, 6 AEC 1082, 1083 (1973). I believe that, in this case, some of the less drastic alternatives proposed by the Staff would be adequate to resolve the problems at this facility. For example, the Commission could send CG&E a letter indicating that at this time the Commission does not have sufficient information to conclude that Zimmer has been constructed in substantial conformance with the construction permit. The Commission could request the provision of information on the part of CG&E which, if available, would provide the Commission with the necessary assurance. See 10 CFR 50.54(f).

Third, in the absence of willfulness, the Commission may suspend construction effective immediately in accordance with Section 9b of the Administrative Procedures Act and the Commission's regulations *only* if the Commission finds that the public health, safety, or interest requires such action. I do not believe that the concerns listed in the Commission's Order show that the public health and safety requires immediate suspension of all construction and corrective actions at the Zimmer site. Indeed, Mr. James Keppler, the Region III Administrator, has stated that CG&E's QCP has been successful in identifying existing construction problems. Transcript of Public Meeting on the Status of Zimmer, October 28, 1982 at 5. Additionally, most of the NRC inspection findings arising out of the QCP point to administrative or procedural deficiencies, rather than to actual material or construction errors. While the NRC's level of confidence in the adequacy of the plant construction has been reduced, it has not been shown by the NRC that problems exist which require immediate resolution to protect the public health and safety. Moreover, I do not believe this action is in the public interest.

I am also concerned that the Order has been approved without consideration for the Applicant's proposal to correct management and construction problems. That proposal, outlined in a letter to the Commissioners dated November 10, 1982, contained all of the essential elements approved by this Order. Specifically, the proposal calls for obtaining new project management, stopping all rework on quality confirmation matters, and an independent third party review to confirm the acceptability of selected safety systems. In view of the voluntary agreement by CG&E to such drastic measures, I feel that this Order is primarily punitive in nature and does little to correct problem in the interest of public health and safety.

Finally, I disagree with the Commission's Order because of the potential for delay inherent in this procedure. CG&E has an absolute right to a hearing on the Commission's Order. If CG&E avails itself of this right, then other "interested persons" will be entitled to demand a hearing. Once started, the hearing would be difficult to bring to an expeditious close. Even if the Staff and CG&E were to reach agreement on the corrective actions to be taken, litigation of the requirements imposed by the Commission Order would continue. *Consumers Power Co.* (Midland Plant, Units 1 & 2), ALAB-315,

3 NRC 101 (1976); *Dairyland Power Cooperative* (LaCrosse Boiling Water Reactor), LBP-81-7, 13 NRC 257, 264-65 (1981).

[FR Doc. 82-31680 Filed 11-17-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-245]

The Connecticut Light & Power Co. et al.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 87 to Provisional Operating License No. DPR-21, issued to the Connecticut Light and Power Company, the Hartford Electric Light Company, Western Massachusetts Electric Company, and Northeast Nuclear Energy Company (the licensees), which revised the Technical Specifications for operation of the Millstone Nuclear Power Station, Unit No. 1 (the facility) located in Waterford, Connecticut. This amendment is effective as of its date of issuance.

The amendment approves revised Technical Specification provisions to allow start-up following the plant outage for Reload 8.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 15, 1982, as supplemented November 2, 1982; (2) Amendment No. 87 to License No. DPR-21, including the Commission's transmittal letter, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385. A single copy of items (2) and (3) may be

obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 12th day of November, 1982.

For the Nuclear Regulatory Commission.
Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5,
Division of Licensing.

[FR Doc. 82-31678 Filed 11-17-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-245]

Northeast Nuclear Energy Co.; Systematic Evaluation program; Availability of Draft Integrated Plant Safety Assessment Report for the Millstone Nuclear Power Station, Unit 1

The Nuclear Regulatory Commission's (NRC) Office of Nuclear Reactor Regulation (NRR) has published its Draft Integrated Plant Safety Assessment Report related to Millstone Nuclear Power Station, Unit 1, which is operated by Northeast Nuclear Energy Company in Waterford, Connecticut.

The report documents the review completed under the Systematic Evaluation Program (SEP). The SEP was initiated by the NRC to review the design of older operating nuclear reactor plants to reconfirm and document their safety. The review has provided for (1) An assessment of the significance of differences between current technical positions on selected safety issues and those that existed when the Millstone 1 Plant was licensed, (2) a basis for deciding on how these differences should be resolved in an integrated plant review, and (3) a documented evaluation of plant safety. Equipment and procedural changes have been identified as a result of the review. It is expected that the final version of this report and its supplements will form part of the basis for considering the issuance of a full-term operating license in place of existing provisional operating license.

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the NRC's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut for inspection and copying. Single copy of this report (Document No. NUREG-0824) may be requested from the U.S. Nuclear Regulatory Commission, Director, Division of Technical Information and

Document Control, Washington, D.C. 20555, Attention: Publications Unit.

Dated at Bethesda, Maryland, this 5th day of November 1982.

For the Nuclear Regulatory Commission.
Thomas V. Wambach,
Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82-31676 Filed 11-17-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-245]

**Northeast Nuclear Energy Co., et al.;
 Notice of Issuance of Amendment to
 Provisional Operation License**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 86 to Provisional Operating License No. DPR-21, to the Connecticut Light and Power Company, the Hartford Electric Light Company, Western Massachusetts Electric Company, and Northeast Nuclear Energy Company (the licensees), which revised the Technical Specifications for operation of the Millstone Nuclear Power Station, Unit 1 (the facility), located in the town of Waterford, Connecticut. The amendment is effective on its date of issuance.

The amendment modifies the Appendix A Technical Specifications to incorporate revised operating limits associated with the modifications to the Scram Discharge Volume (SDV) for improved hydraulic coupling, which replaces the interim license conditions imposed by the Commission's Order of October 2, 1980, issued by the Office of Inspection and Enforcement.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated October 16, 1980, and supplements thereto dated December 9, 1981, March 9, October 15 and November 2, 1982, (2) Amendment No. 86 to License No. DPR-21, including its transmittal letter, and (3) the Commission's related Safety Evaluation, including the Technical Evaluation Report, dated August 31, 1982, prepared by the Commission's contractor, Franklin Research Center. All of these

items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 12th day of November, 1982.

For the Nuclear Regulatory Commission.
Dennis M. Crutchfield,
*Chief Operating Reactors Branch No. 5,
 Division of Licensing.*

[FR Doc. 82-31677 Filed 11-17-82; 8:45 am]

BILLING CODE 7590-01-M

[Project WM-10]

**Receipt of a Site Characterization
 Report From the U.S. Department of
 Energy**

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of a Site Characterization Report From the U.S. Department of Energy.

SUMMARY: The U.S. Department of Energy (DOE) has filed with the Nuclear Regulatory Commission (Commission) a Site Characterization Report (SCR) for a candidate high-level waste repository on the Hanford Reservation in the State of Washington. This SCR was received by the Commission November 12, 1982, and has been designated as Project WM-10.

FOR FURTHER INFORMATION CONTACT: Mr. Hubert J. Miller, Chief, High-Level Waste Technical Development Branch, Division of Waste Management, Nuclear Regulatory Commission, Washington, DC 20555.

SUPPLEMENTARY INFORMATION: The submission of an SCR is pursuant to the Commission's procedural rule regarding disposal of high-level radioactive wastes in geologic repositories. The rule is codified at 10 CFR Part 60 and was published February 25, 1981 (46 FR 13971). In accordance with § 60.11, "As early as possible after commencement of planning for a particular geologic repository operations area, and prior to site characterization, the DOE shall submit . . . a Site Characterization Report."

The NRC staff review of this SCR is not a licensing proceeding, but an ongoing pre-application process. This process is designed to enable DOE to gather the information it needs to decide whether to apply for a license—or more specifically, an NRC authorization to

construct a repository at a particular site. The SCR review process is intended to be a vehicle for identifying at an early stage what the specific potential licensing issues are at a site based on what is known from investigations to date. It permits an opportunity for consultation between the DOE and NRC, with public involvement, on the site characterization and data gathering programs that the DOE plans in order to be able to address and resolve identified issues. To ensure continuous review of DOE activities at each site, DOE is required by NRC regulations to submit semiannual reports on the progress of site characterization.

It should also be noted that under 10 CFR Part 51, § 51.40(d), DOE is required to characterize at least three sites representing two geologic media, one of which is not salt, as "the minimum necessary to satisfy the requirements of NEPA [the National Environmental Policy Act]." DOE has informed NRC that it has ongoing studies at Yucca Mountain at the Nevada Test Site (NTS), as well as salt sites in the Gibson Dome area of Utah's Paradox Basin, the Texas Panhandle area of the Permian Basin, and four salt domes in the Gulf Interior Region in Louisiana, Mississippi, and Texas. DOE has not notified NRC of any final decision as to which of the sites it will characterize.

The specific requirements for contents of the SCR are contained in § 60.11(a). Further guidance on preparing an SCR is contained in NRC Regulatory Guide 4.17, "Standard Format and Content of Site Characterization Reports for High-Level Waste Geologic Repositories." Copies of Reg. Guide 4.17 are available from NRC/GPO Sales Program, Division of Technical Information and Document Control, Nuclear Regulatory Commission, Washington, DC 20555.

In accordance with § 60.11(d), the Director of NRC's Office of Nuclear Material Safety and Safeguards (Director) will, over the next several months, prepare a Draft Site Characterization Analysis (Draft SCA) of the information provided in the SCR. A notice announcing the availability of this analysis and inviting the public to comment will be published in the Federal Register. A period not less than 90 days will be allowed for public comments on the Draft SCA. The Director will then prepare a final site characterization analysis issuing an opinion that the Director has either no objection to DOE's site characterization program, if such an opinion is appropriate, or specific objections to DOE's proceeding with characterization of the named site. In addition, the

Director may make specific recommendations to DOE on matters relating to its site characterization activities. This SCA will be a critique of the plans of the DOE contained in the SCR. Readers of the SCA interested in detailed aspects of the DOE site characterization program will have to consult the SCR. Therefore, to be in the best position to review the NRC SCA when it is issued, it is advised that copies of the SCR be obtained now (see the last paragraph below).

Subpart C of 10 CFR Part 60 states that requests for consultation may be made in writing by representatives of state, Indian tribal, and local governments and may include, among other things, a review of NRC regulations, licensing procedures, potential schedules, and the type and scope of state activities in the future licensing review process as permitted by law. For further information regarding Subpart C of 10 CFR 60, please refer to this portion of the Code of Federal Regulations or to the Federal Register Notice dated February 25, 1981 (46 FR 13971).

A copy of the SCR for the Hanford site is available for public inspection at the Nuclear Regulatory Commission, Public Document Room, 1717 H Street, Washington, DC 20555. Copies of the SCR are available from the U.S. Department of Energy, Richland Operations Office, ATTN: Mr. Lee Olson, P.O. Box 550, Richland, WA 99352, Telephone (509) 376-7334 or FTS 444-7334.

Dated at Silver Spring, Maryland, this 12th day of November 1982.

For the Nuclear Regulatory Commission,
Robert E. Browning,
Deputy Director, Division of Waste Management.

[FR Doc. 82-31679 Filed 11-17-82; 6:45 am]
BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12806; (811-3383)]

Maxim Growth Fund, Inc.; Filing of Application

November 12, 1982.

Notice is hereby given that Maxim Growth Fund, Inc., ("Applicant"), 1675 Broadway, Denver, CO 80202, registered under the Investment Company Act of 1940 ("Act") as an open end, diversified, management investment company, filed an application on September 17, 1982, for an order of the Commission pursuant to Section 8(f) of the Act declaring that Applicant has ceased to be an

investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant a Maryland corporation, states that on January 19, 1982, it filed a registration statement pursuant to Section 8 of the Act. Applicant states that its registration statement under the Securities Act of 1933 was never declared effective. Applicant represents that it has not made a public offering of its securities and does not have more than 100 securityholders for purposes of section 3(c)(1) of the Act.

Applicant states that Maxim Account C of Insuramerica Corporation, a unit investment trust registered under the Act, serves as a vehicle for investment in Applicant. However, according to the application, Applicant has never engaged in any business activities other than its initial registration and does not propose to engage in any activities other than those necessary to wind up its affairs.

Applicant represents that it has no debts or other outstanding liabilities; it has no securityholders; and it is not a party to any litigation or administrative proceeding.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person may, not later than December 7, 1982, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who

request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-31598 Filed 11-17-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12804; (812-5286)]

NEL Equity Fund, Inc., et al.; Filing of Application

November 10, 1982.

Notice is hereby given that NEL Equity Fund, Inc., NEL Retirement Equity Fund, Inc., NEL Growth Fund, Inc., NEL Income Fund, Inc., NEL Tax Exempt Bond Fund, Inc. and NEL Cash Management Trust (collectively, the "Funds"), each of which is a registered, open-end, management investment company, and NEL Equity Services Corporation ("NELESCO"; together with the Funds, the "Applicants"), 501 Boylston Street, Boston, Massachusetts 02117, filed an application on August 23, 1982, and an amendment thereto on October 27, 1982, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting Applicants from the provisions of Section 22(d) of the Act and Rule 22d-1 thereunder to the extent necessary to permit sales of the shares of the Funds at net asset value to certain Affiliated Employees (as defined below). The application also requests that the relief provided by the order extend to any additional "open-end management companies" as may in the future be described in a registration statement filed pursuant to Section 8 of the Act as a NEL Fund or a member of the NEL group of funds ("Future NEL Funds"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act for the complete text of the provisions thereof from which an exemption is being sought.

According to the application, NELESCO, a Massachusetts corporation and a registered broker-dealer under the Securities Exchange Act of 1934, serves as principal underwriter for each of the Funds. NELESCO is a wholly-owned subsidiary of New England Mutual Life Insurance Company ("New England

Life"), a mutual life insurance company organized under Massachusetts law. New England Life serves as investment adviser to NEL Cash Management Trust, NEL Income Fund and NEL Tax Exempt Bond Fund. Loomis, Sayles and Company, Incorporated ("Loomis, Sayles"), an indirect subsidiary of New England Life, serves as investment adviser to the other Funds and as sub-adviser to NEL Income Fund and NEL Tax Exempt Bond Fund, and also serves as investment adviser to the Loomis-Sayles Capital Development Fund and Loomis-Sayles Mutual Fund.

Applicants state that New England Life has eight existing direct and indirect subsidiaries (together with any such subsidiaries hereafter created or acquired, the "New England Companies"). In addition, Applicants state that New England Life and its insurance company subsidiaries have contractual agreements with approximately 95 general agents and approximately 3,400 agents (together with any such general agents or agents hereafter appointed by New England Life or its insurance company subsidiaries, the "New England Life Agents") authorizing the sale of certain insurance products. Applicants further state that approximately 80% of New England Life Agents, and virtually all of such agents who are licensed to sell securities, are registered representatives of NELESCO authorized by NELESCO to market Fund shares and as such receive information regarding the Funds from NELESCO on a continuing basis. Other New England Life Agents also allegedly receive information concerning the Funds through internal company publications circulated to the agents on a regular basis. While the New England Life Agents are not restricted to offering only the insurance and investment products of the New England Companies, as a practical matter a substantial portion of their business involves such products, and Applicants submit that New England Life Agents have a high level of familiarity with and loyalty to the New England Companies.

Applicants state that each of the Funds engages in a continuous public offering of its shares pursuant to an effective registration statement under the Securities Act of 1933. Shares of each Fund other than NEL Cash Management Trust (whose shares are sold at net asset value) are sold at a price equal to net asset value per share plus a sales charge (ranging from 1.01% to a maximum of 8.70% of the net amount invested, except in the case of the NEL Tax Exempt Bond Fund, where the maximum charge is 4.71%).

Applicants propose to allow those Affiliated Employees specified as eligible to do so in then-current Fund prospectuses, on their own behalf or on behalf of their spouses or minor children under the age of 21 years, either directly or indirectly through retirement or employee benefit plans or other fiduciary accounts exclusively for the benefit of one or more of such Affiliated Employees, spouses or minor children, to purchase shares of any Fund, or of any Future NEL Fund, at net asset value (determined in accordance with Rule 22c-1 under the Act) without the imposition of any sales charge otherwise applicable pursuant to the prospectus of such fund. The prospectus of each Fund and any Future NEL Fund would describe the ability of eligible Affiliated Employees to make such purchases.

An "Affiliated Employee" is defined by the Applicants to be any active, permanent, salaried employee, retired employee eligible for pension benefits ("Retired Employee"), surviving spouse of an employee or a Retired Employee, or director or trustee or former director or trustee (but only if the former director or trustee had served as a director or trustee for a period of at least one year) of a New England Company, a Fund, a future NEL Fund or any other mutual fund advised by a New England Company; any New England Life Agent; or any employee, Retired Employee or surviving spouse of an employee or Retired Employee of a New England Life Agent. Purchases may be made at net asset value on behalf of a spouse or minor child only if the purchase is directed by an Affiliated Employee.

Applicants state that the New England Companies and New England Life Agents currently employ, respectively, approximately 4,000 and 4,300 Affiliated Employees. The Funds and the two other mutual funds advised by a New England Company are stated to currently have no employees other than persons employed by a New England Company or New England Life Agent. Applicants state that each of the Funds currently has a board of directors (or board of trustees) consisting of six persons, all of whom serve as such for each Fund and four of whom are not employees of any New England Company. Applicants further state that the New England Companies and the other mutual funds advised by a New England Company have a total of approximately 15 directors who are not otherwise qualified as Affiliated Employees.

Applicants state that few, if any, individual or in-person group sales solicitations or presentations concerning

the Funds will be made for the purpose of soliciting investment in the Funds by Affiliated Employees. Applicants represent that the Funds will not bear any expenses associated with such solicitations or presentations, including the cost of notifying Affiliated Employees, or the cost of preparing, reviewing and approving account applications or administering any payroll deduction plan, except as may be permitted under Section 12(b) of the Act or Rule 12b-1 thereunder. New England Life and other New England Companies will, however, continue their practice of providing information to employees regarding employee benefits and retirement plans (including Individual Retirement Accounts), which information may include information regarding the Funds. All Affiliated Employees would receive, at least annually, notice of the availability of shares of the Funds and any Future NEL Funds at a price equal to the net asset value of such shares. This notice would be furnished to each Affiliated Employee by and at the expense of his or her "employer" (the Affiliated Employee's employer, or, in the case of a director or trustee, the company of which the Affiliated Employee is a director or trustee, or, in the case of a retired employee or a surviving spouse, the former employee's employer) or New England Life. The notice would describe the Funds, indicate that investments might be made at net asset value and describe in reasonable detail the various ways in which investments might be made. The notice would also indicate where additional information concerning the Funds, including prospectuses of the Funds, could be obtained. Applicants further state that Affiliated Employees would agree not to resell Fund shares acquired pursuant to the requested exemption except by repurchase or redemption by or on the account of the Fund issuing such shares.

Applicants submit that the sale of Fund shares to Affiliated Employees at net asset value may conflict with the provisions of Section 22(d) of the Act and Rule 22d-1 thereunder. Applicants further state that while Rule 22d-1(i) provides an exemption from Section 22(d) of the Act and permits sales without any sales charge to certain employees of affiliated persons of the Funds, this exemption is not available to Affiliated Employees who are employed in positions that do not directly provide investment advice to, or distribute shares of, the Funds. Applicants state that while an argument might be made that purchases of Fund shares at net asset value by Affiliated Employees

under an employee benefit plan are permitted by Rule 22d-1(f), which permits elimination of sales charges on sales pursuant to a uniform offer described in the prospectus and made to certain employee benefit plans, provided such plans satisfy uniform criteria relating to the realization of economies of scale in sales effort and sales-related expense, it is not clear that the proposed net asset value sales to Affiliated Employees would meet the "uniform offer" requirement of Rule 22d-1(f).

Section 6(c) of the Act provides, in pertinent part, that the Commission by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act or of any rule thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants maintain that investment by Affiliated Employees in shares of the Funds at net asset value is supported by public policy considerations, that such sales should result in demonstrable economies in sales effort and sales related expense as compared with other sales and would not be unjustly discriminatory, and that the grant of the exemption requested by the Applicants is appropriate in the public interest and consistent with the protection of investors and the purposes of Section 22(d) of the Act. Applicants further maintain that the affiliation of the Funds with New England Life and certain New England Companies and Agents creates a unique relationship between the New England Companies and Agents and the Funds, and that this relationship can be expected to result in economies of sales effort and reduced sales-related expenses that justify elimination of all sales charges on shares of the Funds purchased by Affiliated Employees without discrimination against other employee benefit plans or other purchasers of the Funds' shares. Applicants represent that the investment by Affiliated Employees in shares of the Funds at net asset value will have no material adverse effect on the interests of existing shareholders in the Funds.

Applicants further maintain that the anticipated economies of scale will result from the fact that little, if any, effort will be expended by NELESCO (and no effort will be expended by the Funds) to personally solicit investment

in the Funds by Affiliated Employees, that funds for purchases of Fund shares by Affiliated Employees through certain retirement or other employee benefit plans or payroll deduction programs will be aggregated for payment to the respective Funds in which Affiliated Employees or their plans are investing and that all employees will receive, at least annually and at the expense of their employers or New England Life, a notice of this program. Applicants maintain that the proposed ability to allow such investments in Fund shares will promote Affiliated Employees' incentive, goodwill, and loyalty, which will benefit the Funds as well as the New England Companies and Agents.

Notice is further given that any interested person may, not later than December 2, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-31597 Filed 11-17-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 12802; (812-5324)]

Tenn-Tom Venture Corp. Filing of Application

November 10, 1982.

Notice is hereby given that Tenn-Tom Venture Corporation ("Applicant"), 406 Third Avenue North, Columbus, MS 39701, registered under the Investment

Company Act of 1940 ("Act") as a closed-end, non-diversified, management investment company, filed an application on September 21, 1982, requesting an order of the Commission pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Sections 18(i) and 16(a) of the Act to the extent necessary to permit it to issue two classes of voting common stock. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was incorporated in Alabama on December 7, 1981, and registered under the Act on September 21, 1982. Applicant states that it intends to apply for a license from the Small Business Administration in order to operate as a minority enterprise small business investment company ("MESBIC") pursuant to Section 301(d) of the Small Business Investment Act of 1958. Applicant states that its purpose is to provide financial and technical assistance to small businesses controlled by persons eligible for assistance from a MESBIC ("Eligible Persons").¹

Applicant states that it intends to issue two classes of common stock—Class A Common and Class B Common. Class A Common will be offered primarily to Eligible Persons; its holders will be entitled to elect 60% of the members of the board of directors if at least \$100,000 of Class A Common is sold. Once class voting exists, no person or entity will be permitted to hold more than 10% of the outstanding Class A Common.

Class B Common will be sold in \$25,000 minimum amounts, pursuant to a private placement memorandum, to corporations with gross assets of ten million dollars or more, banks, trade associations, trust companies, insurance companies, pension funds, tax-exempt organizations, savings institutions, credit unions, and other financial institutions.

As here pertinent, Section 18(i) of the Act provides that every share of stock issued by a registered management investment company shall be voting stock and have equal voting rights with every other outstanding voting stock. Section 16(a) of the Act provides, with certain exceptions, that each director of

¹ Applicant states that the term "Eligible Persons" refers to those persons whose participation in the free enterprise system has been hampered because of social or economic disadvantage. Such persons include, but are not necessarily limited to, women, Afro-Americans, American Indians and members of other minority or ethnic groups.

a registered investment company shall have been elected to such office by the holders of the outstanding voting securities of such company.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the exemptions requested, Applicant asserts that the issuance of two classes of common stock (1) is necessary and in the public interest because it ensures that those who would be most affected by Applicant's operations actively participate in and control the Applicant and (2) is appropriate and consistent with the purposes of the Act since adequate protection has been afforded to those sophisticated Class B Common shareholders who will purchase their shares with the knowledge that those shares carry limited voting rights.

The Applicant states that in order to protect the rights of Class B Common shareholders, (1) class voting will cease to exist if a majority of Class A Common is not held by Eligible Persons, (2) no person or entity may hold more than 10% of the Class A Common; (3) any committee of the board of directors must have at least one Class B director; (4) a majority vote of the directors of each class is required to approve any changes in the by-laws of the Applicant; (5) approval by both classes of directors is required for the issuance of common stock; and (6) no shares of either class may be issued and sold by the Applicant at less than book value.

Applicant submits that the granting of its requested exemptive order is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 6, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing

thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-31596 Filed 11-17-82; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by OMB

Agency Clearing Officer—Kenneth A. Fogash 202-272-2142.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Extension

Rule 17a-8

No. 270-53

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 an extension of the previously granted clearance of Rule 17a-8, (17 CFR 240.17a-8) under the Securities Exchange Act of 1934, rule 17a-8 requires brokers and dealers and dealers to make certain reports and records which are useful in regulatory investigations or proceedings and are essential to the Commission in its obligation to protect the investing public. The potential respondents are all registered brokers and dealers and exchange members.

Submit comments to OMB, Desk Officer: Robert Veeder, 202-395-4814.

Dated: November 8, 1982.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-31602 Filed 11-17-82; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by OMB

Agency Clearance Officer: Kenneth A. Fogash (202) 272-2142.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Extension

Rule 17a-5 and Form X-17A-5

No. 270-155

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 extension of the previously granted clearance of Rule 17a-5 (17 CFR 240.17a-5) and Form X-17A-5. The rule and related form are the basic documents for reporting the financial and operational condition of brokers and dealers.

The potential respondents are all registered securities brokers and dealers.

Submit comments to OMB Desk Officer: Robert Veeder (202) 395-4814.

Dated: November 8, 1982.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-31599 Filed 11-17-82; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by OMB

Agency Clearance Officer Kenneth A. Fogash (202) 272-2142.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Extension

Rule 17a-4

No. 270-198

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 an extension of the previously granted clearance of Rule 17a-4 (17 CFR 240.17a-4) under the Securities Exchange Act of 1934. Rule 17a-4 is necessary to ensure that broker-dealers are preserving books and records required to be made by Rule 17a-3 and other Commission Rules. Without Rule 17a-4, the Commission would have difficulty in determining whether broker-dealers are in compliance with other Commission rules, particularly the anti-fraud and anti-manipulative rules. The potential respondents are all registered brokers and dealers.

Submit comments to OMB Desk Officer:
Robert Veeder (202) 395-4814.

Dated: November 8, 1982.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-31605 Filed 11-17-82; 8:45 am]

BILLING CODE 8010-01-M

Form Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272-2142.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Extension

Annual Asset Letter

File No.: 270-242

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 [SEC] has submitted for extension of clearance the voluntary circular letter or questionnaire to registered investment companies requesting their "total assets" as of September 30, of each fiscal year. Response data of which is included in the SEC's Annual Report to Congress.

Submit comments to OMB Desk Officer:
Mr. Robert Veeder, Office of Information and Regulatory Affairs, Room 3235, Washington, D.C. 20503

Dated: November 10, 1982.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-31603 Filed 11-17-82; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by OMB

Agency Clearance Officer-Kenneth A. Fogash 202-272-2700.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Amendment

Rule 13e-4

No. 270-190

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 a proposed amendment to Rule 13e-4 under the Securities Exchange Act of 1934 which regulates cash tender offers and exchange offers by issuers for their equity securities.

The potential respondents are issuers or their affiliates who conduct tender offers to purchase shares from the issuers' security holders who own a

specified number of shares that is less than one hundred. The proposed amendment would except such tender offers from the provisions of Rule 13e-4.

Submit comments to OMB Desk Officer:
Robert Veeder 202-395-4814.

Dated: November 10, 1982.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-31604 Filed 11-17-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19230; File No. SR-NSCC-81-7]

Clearing Corp.; Order Approving Proposed Rule Change

November 10, 1982.

Introduction

On June 1, 1981, the National Securities Clearing Corporation ("NSCC") submitted a proposed rule change (SR-NSCC-81-7) under Section 19(b)(2) of the Securities Exchange Act of 1934 (the "Act") that would (i) require bank participants, as NSCC has traditionally required non-bank participants, to comply fully with NSCC's financial and operational standards and (ii) amend NSCC's rules respecting its clearing fund. The proposal was published in the *Federal Register* on August 3, 1981.¹ The Commission did not receive any comments, NSCC solicited comments from its participants on two occasions and received one letter of comment.²

On February 2, 1982, NSCC submitted an amendment to the proposed rule change in response to the comments it received from the New York Clearing House Association ("NYCH") respecting the original submission. The Commission published notice of the amendment in the *Federal Register* on February 25, 1982, and invited interested persons to comment.³

The Commission received two letters of comment.⁴ Finally, on November

¹ Securities Exchange Act Release No. 17979 (July 27, 1981) 46 FR 39526.

² Letter dated June 19, 1981 from Deborah S. Prutzman, Counsel, New York Clearing House Association, to Robert J. Woldow, Vice President and General Counsel, National Securities Clearing Corporation. NSCC submitted that letter to the Commission on June 23, 1981.

³ Securities Exchange Act Release No. 18494 (February 18, 1982) 47 FR 8263.

⁴ The first letter, dated March 17, 1982 was from John P. Lee, Executive Vice President, New York Clearing House Association, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission. The Commission received a second letter addressed to the Commission staff dated April 14, 1982 from Robert J. Woldow, Vice President and General Counsel, National Securities Clearing Corporation. That letter responded to comments made by the New York Clearing House in their

1982 NSCC filed various technical amendments to its proposal.

Description of the Proposed Rule Change

The proposed amendments to the clearing fund rule are designed to bring the rule into conformity with standards announced by the Division of Market Regulation (the "Division") for use in reviewing applications for full clearing agency registration under the Act (Registration Standards).⁵ Because the proposed rule change is both elaborate and important to the financial integrity of NSCC, this order describes the clearing fund rule and the proposed changes in some detail.

In addition, to highlight issues of first impression, this order discusses in some detail significant changes NSCC has proposed to the current rule.

Composition of the Clearing Fund

Under NSCC's present rule, bank members are not required to make contributions to the clearing fund. The proposed rule change would require all clearing members, including bank members, to contribute to the clearing fund.⁶

Under the proposal, the size of each member's contribution would be determined by application of one or more formulae adopted by NSCC's Board of Directors and applied to members uniformly.⁷ The formulae

March 17, 1982 letter to the Commission. The substance of NYCH's comments and NSCC's response are discussed *infra*, at pp. 11-19.

⁵ Section 17A(b)(1) of the Act provides that it is:

"* * * unlawful for any clearing agency, unless registered in accordance with this subsection, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a clearing agency with respect to any security (other than an exempt security)."

Section 17(A)(b)(3) of the Act requires the Commission, before granting registration, to make a number of determinations with respect to a clearing agency's organization, capacity and rules. To provide guidance to the clearing agencies in structuring their organization, systems and rules to comply with the provisions of Section 17(A)(b)(3) the Division of Market Regulation published Registration Standards. The Registration Standards, among other things, require a clearing agency to have a clearing fund which "(i) is composed of contributions based on a formula applicable to all users, (ii) is in cash or highly liquid securities and (iii) is limited in the purposes for which it may be used." See Securities Exchange Act Release No. 16900 (June 17, 1980) pp. 55-60, 45 FR 41920 (June 23, 1980).

⁶ In addition, to conform NSCC's rules to the Registration Standards, so that bank members and broker-dealer members would be subject to similar requirements, the proposed rule change would delete throughout NSCC's rules the category "Non-Member Bank" (used in the past to refer to banks).

⁷ NSCC's current Clearing Fund Formula provides:

Each [broker-dealer] Member of the Corporation is required to contribute to the Clearing Fund

would require contributions from each member based on that member's use of NSCC services, with the required contributions escalating as a member's use of NSCC's various services escalates. NSCC believes that it has designed the formulae to call for contributions sufficient to protect NSCC against the varying risks created by members' varying use of NSCC's services.

Under the proposed rule change, each clearing member's required contribution is set at a minimum of \$10,000, which must be deposited in cash. Contributions required in excess of the minimum may be made in cash; or may be secured by depositing qualifying bonds⁸ or letters of credit issued by approved banks in favor of NSCC.⁹

The proposed rule change would also restructure the clearing fund by creating separate sub-funds corresponding to the various major systems for which NSCC assumes responsibility to complete transactions.¹⁰ Each sub-fund is referred to as a "Fund" under the proposed rule. Members using services as to which NSCC does not guarantee the settlement of transactions, such as the state transfer tax processing service and correspondent delivery and collection services, are required to contribute to an

unallocated portion of the clearing fund referred to as the "General Fund". The Funds for NSCC's major guaranteed Systems together with the General Fund comprise the "Clearing Fund."¹¹

Under the proposal, NSCC would segregate clearing fund assets from its other corporate assets. In addition, although the required contribution of each member that participates in one or more Systems and/or one or more non-guaranteed services would not be segregated physically from other Funds and the General Fund, each such contribution would be allocated on the books and records of NSCC to the individual System's Fund and/or the General Fund. The bookkeeping allocation to particular Funds and to the General Fund would occur in proportion to each member's use of particular systems as compared to its use of all NSCC services.¹²

Use of the Clearing Fund

The proposed rule provides that each Fund would be limited in use to satisfying NSCC's losses or liabilities incident to the clearance and settlement business arising in the System to which the Fund pertains. The proposal also provides that the Clearing Fund in its entirety would be limited to satisfying losses arising from NSCC's clearance and settlement business.¹³

The proposed rule further provides that NSCC (i) may in its discretion invest any cash in the clearing fund in securities issued or guaranteed by the United States government or a United States government agency; (ii) may pledge securities in which Clearing Fund cash is invested, qualifying bonds pledged by members to NSCC, and letters of credit issued in favor of NSCC as security for loans to NSCC obtained to cover losses or liabilities arising from the clearance and settlement business¹⁴;

¹¹ The contribution to each sub-fund would be determined by application of a formula designed to provide sufficient funds to protect against the specific risks created by operation of each system to which each fund relates.

¹² Use of a system is measured by reference to a participant's average daily gross debits and average daily gross credits in the system. For example, if a participant has an average daily settlement dollar figure of \$300,000,000 in the CNS System, \$150,000,000 in ESS, and \$300,000 in non-guaranteed systems, 59.9% of his total fund contribution would be allocated to the CNS System Fund, 39.9% would be allocated to the Envelope System Fund and less than 1% would remain unallocated (i.e., placed in the General Fund).

¹³ Simply stated, under the proposed rule, the ESS fund cannot be used to cover CNS losses and the CNS fund cannot be used to cover ESS losses. Both the CNS and ESS fund, however, may be used to cover losses in non-guaranteed services once the General Fund is exhausted.

¹⁴ NSCC anticipates pledging securities to secure loans to NSCC only in circumstances in which

and (iii) may borrow cash from the fund to meet its unsatisfied settlement obligations to settling members. In addition, under the proposed rule, NSCC must deposit in its name any cash not invested under the provisions of the rule in a depository or depositories selected by NSCC.¹⁵

Assessments on the Clearing Fund

Although under the proposed rule, NSCC may use the clearing fund to satisfy " * * * losses or liabilities of the corporation incident to the clearance and settlement business", losses chargeable to the clearing fund would be treated differently depending upon whether the loss resulted from a member's default or from other events not attributable to default. Losses attributable to a member's default would be assessed to the insolvent member's clearing fund deposit in accordance with the following priorities: First, the member's deposit to each Fund would be applied to its respective obligations to the related Systems. Second, the member's remaining deposit, whether to a Fund or to the General Fund, if any, would be applied to any System(s) to which the member remains obligated. (If the member remains obligated to more than one System, the remaining deposit would be applied pro rata to those Fund deficiencies in proportion to the total amount of the deficiency.) Finally, any remaining deposit would be applied to the defaulting member's obligations to NSCC that are not related to a guaranteed System.

If a loss remains after a defaulting member's total deposit has been exhausted or if a loss results from events not attributable to a participant insolvency, the proposed rule provides that NSCC's retained earnings would be applied to that loss unless NSCC's Board of Directors elects not to do so.¹⁶ If NSCC's Board of Directors elects not to apply its retained earnings, or if a loss remains after the application of NSCC's retained earnings, the proposed rule provides that (i) losses in a guaranteed

NSCC expects to recover the loss and in which it is important to avoid a pro-rata clearing fund assessment. (Sizeable pro-rata assessments reduce the capital for which broker-dealer members receive credit under the Commission's net capital rule and can place broker members in capital violation.) Under the proposed rule, NSCC must repay, within 30 days, any such loan out of excess operating revenues or retained earnings.

¹⁵ Any interest earned by NSCC on cash or qualifying bonds will be credited to members that deposit such cash or bonds.

¹⁶ Pursuant to policy adopted by NSCC's Board of Directors, NSCC must apply a minimum of 25 percent of its retained earnings to a loss prior to making an assessment on the Clearing Fund.

maintained by the Corporation an amount approximately equal to:

(i) 2% of the Member's average daily settlement debits and credits other than the Member's envelope settlement systems debits and credits, plus

(ii)(a) 2% of the Member's average daily envelope settlement systems debits and credits, or (b) 5% of the Member's average daily envelope settlement systems debits, whichever is greater, adjusted by a factor (defined in the formula);

provided, however, that each Member shall be required to contribute a minimum of \$10,000 (the "minimum contribution"). The first \$10,000 of a Member's contribution is required to be in cash unless all or part of the Member's open account indebtedness is collateralized with Letters of Credit, in which case, the first \$50,000 of the Member's contribution is required to be in cash.

⁸ The term "qualifying bonds" refers to those bonds NSCC has determined to be liquid and acceptable for purposes of the Clearing Fund. At present, qualifying bonds include: unmatured bearer bonds which are direct obligations of, or obligations guaranteed as to principal and interest by, the United States or unmatured bearer bonds which are general obligations of; and obligations guaranteed as to principal and interest by, a state or political subdivision thereof in the first or second rating of any nationally known statistical service.

⁹ The proportions of cash, qualifying bonds and letters of credit are determined by the clearing fund formula.

¹⁰ NSCC has two major guaranteed systems: (i) Continuous Net Settlement System ("CNS") and (ii) Envelope Settlement System ("ESS"). In each of these systems, a transaction is accepted by NSCC, the securities delivery and payment obligations of both sides of the transaction are assumed by NSCC. The clearing fund is intended to provide an indemnity pool in the event that any member of NSCC defaults on NSCC guaranteed obligations.

System would be charged to that System's entire remaining Fund and (ii) a loss which is not attributable to a guaranteed System would be charged to the entire remaining Clearing Fund (*i.e.*, all System Funds plus the General Fund).¹⁷ In the event that a loss is charged to a System or to the entire Clearing Fund, each clearing member's contribution to that System or to the entire Fund is to be assessed pro-rata for that loss. Further, if a member's actual deposit falls below the required deposit as a result of an assessment, the member must deposit, upon NSCC's demand, an amount sufficient to eliminate the deficiency. Any member failing to satisfy NSCC's demand may be disciplined or suspended by NSCC. Any loss charged pro-rata and later recovered, in whole or in part, will be credited to all members against which the loss was assessed in proportion to the amounts actually paid by them, whether or not they are still members.

Limitations on NSCC's Right To Assess a Member's Contribution to the Clearing Fund

If losses assessed pro-rata exceed the actual deposit,¹⁸ NSCC may charge its members on a pro-rata basis to make up the deficiency. NSCC's current clearing fund rule limits a member's liability for a pro-rata assessment, to twice the amount of its required deposit, provided the member elects to resign within 10 days of the pro-rata charge notice. The proposed rule change would reduce this potential liability, if a member elects to resign, to merely the amount of its required contribution at the time of the assessment.¹⁹

¹⁷ Under the proposed rule change NSCC will, to the extent possible, associate a loss in the future to the CNS, ESS Systems or non-guaranteed services. This means, for instance, if an antitrust judgment is entered against NSCC, NSCC will use its best efforts to determine whether all or part of the judgment can reasonably be related to CNS or ESS activities before determining that it is a loss to be assessed against the General Fund.

¹⁸ The term "actual deposit" refers to the monies, securities and letters of credit a participant has contributed to the clearing fund. Because a participant's clearing fund requirement is calculated monthly, not daily, and because a participant's use of NSCC's systems may change, at any given time a participant's actual deposit may be more or less than the amount required to be deposited by the clearing fund formulae ("required contribution").

¹⁹ Upon resignation, under the proposed rule, a member's potential liability for a pro-rata assessment relates to its entire required contribution, not to its contribution to a particular Fund. For example, if a member's required contribution to the Clearing Fund is \$50,000 of which \$30,000 is allocated to CNS Fund, \$25,000 to ESS Fund and \$5,000 to General Fund, that member's liability upon resignation is \$50,000. This means that if NSCC makes a pro rata CNS assessment of \$90,000 per member and as a result that member

The proposed rule also provides that NSCC may make several pro rata charges to cover a single loss or liability. A member's liability for successive pro-rata charges attributable to the same loss is limited, if the member timely elects to resign, to the greater of the member's required contribution immediately prior to the time of the first pro-rata charge or the amount of all prior pro-rata charges attributable to the same loss or liability.

NSCC's Right to Require Increased Clearing Fund Contributions

Under the proposed rule change, NSCC may call for increased clearing fund contributions in three instances: first, when a member's actual deposit is less than its required deposit as a result of a pro-rata assessment; second, when a member increases its use of NSCC services;²⁰ and third, when NSCC calls for additional assurances from a member under close surveillance.²¹

The proposed rule provides that, except for members under surveillance, NSCC must give members at least 10 business days prior written notice of any proposed increase in the required contribution. A member that is unwilling to make further contributions to the clearing fund may resign by giving notice to NSCC within 10 days of the receipt of notice of the proposed increase. Members failing to give NSCC timely notice of resignation are bound to the additional contribution.

Return of the Clearing Fund Contribution

If, as a result of NSCC's monthly review of clearing fund contributions, NSCC determines to decrease the clearing fund contribution of any member, the excess contribution will be returned on the member's request. NSCC may determine, however, to withhold all or part of the excess contribution of a member under surveillance.

The proposed rule also provides that a member's clearing fund contribution will be returned upon termination of that member's participation in NSCC, whether voluntary or involuntary, provided: (i) all transactions open at the time it ceases to be a member have been

elects to resign, NSCC would be entitled to \$50,000, not just the \$30,000 allocated to the CNS Fund.

²⁰ The proposed rule change would conform NSCC's rules to its current practice, by requiring NSCC to review the clearing fund contribution of its members monthly.

²¹ NSCC Standards for Financial Responsibility and Operational Capability provide that a member may be placed under NSCC's surveillance whenever, in addition to other enumerated circumstances, any condition exists which could materially impact the operational and financial viability of that member.

closed and all the member's obligations to NSCC have been satisfied or, in the discretion of NSCC, deducted from the member's clearing fund contribution; or (ii) the member presents to NSCC indemnities or guarantees NSCC deems satisfactory; or (iii) another member assumes all transactions and obligations of the terminating member.

Summary of Clearing Agency Registration Standards With Respect to Clearing Funds

The Commentors have relied heavily on the Registration Standards in presenting their arguments to the Commission concerning the proposed rule change. The Commission therefore believes that it would be useful to reproduce the applicable portions of the Registration Standards:

[I]t is appropriate for a clearing agency to establish by rule an appropriate level of clearing fund contributions based, among other things, on its assessment of the risks to which it is subject. Contributions to the clearing fund should be based on a formula which applies to all users on a uniform, non-discriminatory basis. The forms of contributions should be in cash or open account indebtedness secured by United States Government obligations, highly rated municipal bonds or such other investments as the rules of the clearing agency may provide which assure safety and liquidity.

Because contributions to clearing funds protect clearing agencies against specified contingencies and are returned when participants withdraw from clearing agencies, the rules of clearing agencies should limit the use that they may make of clearing fund contributions. A clearing agency should not use the fund in a manner that exposes it to unreasonable risks. Therefore, the rules of the clearing agency should limit the investments which it can make with the cash portion of its clearing fund to United States Government obligations or any other investments which provide safety and liquidity of the principal invested. In summary, the cash portion of the fund should be invested in light of the clearing agency's fiduciary responsibilities and as provided for in the rules of the clearing agency.

Except as discussed below, the rules of the clearing agency should limit the purposes for which the clearing fund may be used to protecting participants and the clearing agency (i) from the defaults of participants and (ii) from clearing agency losses (not including day-to-day operating expenses) such as losses of securities not covered by insurance or other resources of the clearing agency. In addition, whenever the clearing fund is charged for any reason other than to satisfy a clearing loss attributable to a participant solely from that participant's clearing fund deposit²², each participant

²² If the clearing fund deposit of a particular participant is charged as a result of a clearing loss solely attributable to that participant, the clearing agency's rules should provide that the participant

should promptly be given notice of both the amount of, and the reasons for, the charge. The amount should be promptly assessed pro rata against each participant who must thereafter make good the charge against its clearing fund deposit.

With respect to further assessing a clearing agency participant to cover losses other than losses solely attributable to the participant, the Division believes that a clearing agency's rules should provide for a maximum assessment which is fixed by the clearing agency's rules in order that, at any given time, a participant can ascertain its maximum potential liability. These limitations must be determined in light of factors such as the clearing agency's risks in its operations and the size of its clearing fund * * *.²³

* * * The Division believes that the rules of the clearing agency may permit the clearing agency to use a small percentage of the clearing fund for a short period of time to cover unexpected and unusual requirements for funds * * *. The Division believes that there may be legitimate purposes for which a clearing fund may be utilized for a longer period of time so long as (i) the funds are properly protected, (ii) the funds are utilized to facilitate the process of clearance and settlement and (iii) the participants and the Commission specifically approve such use during the registration proceedings.²⁴ * * * If any such monies are not returned expeditiously to the clearing fund, the clearing fund should be charged and the participants should make good the charge against their clearing fund deposits * * *.²⁵

Summary of Comment Letters

The Commission received two comment letters respecting the amended version of the proposed rule change. By letter dated March 17, 1982, NYCH commented on the proposed rule change and the amendments. Generally, these comments addressed four areas in which NYCH believes that the proposed rule fails to comply with the Registration Standards and thus with the Act. NYCH argued that the proposed rule: (i) would not properly limit the uses that NSCC may make of clearing fund contributions; (ii) would allow creditors of NSCC to reach clearing fund assets to satisfy NSCC's general obligations; (iii) would not adequately protect contributions made with respect to one NSCC system from losses incurred in another system; and (iv) would allow NSCC inappropriately to pledge assets in the clearing fund to secure loans to NSCC. In addition, NYCH stated that it believes that many provisions in the proposed rule are ambiguous.

must promptly replenish the deficiency in its clearing fund deposit. [Footnote in Registration Standards]; Securities Exchange Act Release No. 16900 (June 17, 1980) p. 57.

²³ *Id.* at 57-58.

²⁴ This sentence appears in the text of the Registration Standards as a footnote to the preceding sentence. *Id.* at 59.

²⁵ *Id.*

By letter to the Commission dated April 14, 1982, NSCC responded to the NYCH comments. NYCH's major points and NSCC's response to those comments are summarized below, in the following sections: (i) Purpose of the Clearing Fund; (ii) Segregation of Funds for Different NSCC Systems; and (iii) The Clearing Fund as an NSCC Asset.

i. Purpose of the Clearing Fund.

NYCH Comments

NYCH asserts that the primary purpose of the 1975 Amendments to the Act requiring clearing agency registration "was to protect investors from loss by improving the integrity of the clearance and settlement system in the United States." NYCH continues that the Commission in its Registration Standards determined that the clearing fund was intended to be the appropriate regulatory mechanism to provide that protection.

Specifically, NYCH argues that the clearing fund is designed primarily to protect investors from the defaults of clearing agency participants by indemnifying solvent participants against losses related to guaranteed transactions in the clearance and settlement system and not by protecting the clearing agency against all clearing agency losses or insuring the viability of each clearing agency. In support of that contention, NYCH cites statements in the Registration Standards that the clearing fund be designed to cover "limited" and "specified contingencies" and not be exposed to "unreasonable risk." In addition, NYCH argues that the Registration Standards expressly limit the broad use of clearing fund assets, and thus that NSCC's proposed rule change fails to comply, in several respects, with the requirements of the Registration Standards.²⁶

First, NYCH asserts that the Registration Standards contemplate the use of the clearing fund only to cover "losses." In contrast, NYCH points out, NSCC's proposal permits the use of the clearing fund to cover "losses or liabilities" incident to the operation of NSCC's clearance and settlement business. NYCH believes that the added language "or liabilities" may allow the clearing fund to be used to satisfy claims based on general corporate liability. NYCH questions, for example, whether this language would permit use

²⁶ The Registration Standards allow broad or extended use of the clearing fund so long as . . . (i) the funds are properly protected, (ii) the funds are utilized to facilitate the process of clearance and settlement and (iii) the participants and the Commission specifically approve such use during the registration proceedings. See Securities Exchange Act Release No. 16900 at p. 59.

of the clearing fund to satisfy treble damages imposed as a result of a judicial decision that NSCC violated antitrust laws. NYCH argues that such an application of the clearing fund would be inconsistent with the Registration Standards.²⁷

Second, NYCH argues that NSCC's proposed rule change would not protect the clearing fund from unreasonable risk, because, among other things, NSCC may borrow from the clearing fund (*i.e.*, pledge assets to secure loans to cover loss or borrow cash for settlement). NYCH asserts that such borrowing would subject the fund to NSCC's credit risk and contravene the Registration Standard's mandate that clearing funds should be composed of cash or highly liquid securities.

In addition, NYCH appears to object to the provision in the proposed rule change that would allow NSCC to borrow clearing fund cash to meet settlement obligations because NYCHG believes that this provision also would not comply with the requirements in the Registration Standards that (i) a small portion of the clearing fund may be used only for short periods of time to cover unanticipated contingencies and (ii) a clearing agency may use the clearing fund for a longer period of time only if, among other things, the participants specifically approve such use. In support of this contention, NYCH therefore believes that the proposed rule fails to conform to both requirements in the Registration Standards because they contain no restrictions * * * as to the duration of permissible use, percentage of fund that can be used or the type of contingencies covered * * *. For those reasons, the NYCH expressly withholds its consent to this portion of the proposed rule change.

NSCC's Response

NSCC contends that NYCH is incorrect in its view that the focus of the 1975 Amendments to the Act concerning clearing agencies is "to protect investors from loss by improving the integrity of the clearance and settlement system." Instead, NSCC states that Section 17A(a)(1) represents an aggregation of many Congressional findings. NSCC

²⁷ In connection with this point, NYCH believes that an ideal proposed rule would provide two levels of priority to "permissible" losses within a system. In NYCH's view, funds should first be used to satisfy participant defaults and losses of securities attributable to a System and only thereafter be used to satisfy other NSCC liabilities. NYCH theorized that as between preventing severe financial impairment of NSCC as a business entity and protecting NSCC members against losses of securities and participant defaults, the Commission should prefer the latter.

continues that these findings " * * * were not as NYCH states, the justification for requiring registration of clearing agencies, but justification for the creation of a national system in which those clearing agencies * * * would be linked." NSCC believes that

" * * * the purpose for the registration of clearing agencies can more clearly be seen in the affirmative findings which the Commission must make under Section 17A(b)(3)(A) wherein it is stated that a clearing agency shall not be registered unless, '[s]uch clearing agency is so organized and has the capacity to be able to facilitate the prompt and accurate clearance and settlement of securities transactions for which it is responsible, [and] to safeguard securities and funds in its custody or control or for which it is responsible' * * * 28

NSCC also asserts that NYCH is incorrect in stating that the primary purpose of the clearing fund is to protect investors from losses. Instead, NSCC submits that clearing funds exist for two purposes: to protect solvent clearing agency participants individually and to protect clearing agencies and their participants collectively. NSCC further believes that the Registration Standards permit clearing agencies to use clearing fund assets to protect themselves. As NSCC states, quoting the Registration Standards:

[T]he clearing fund may be used to protecting [sic] participants and the clearing agency (i) from the defaults of participants and (ii) from clearing agency losses (not including day-to-day operating expenses) such as losses of securities not covered by insurance or other resources of the clearing agency.²⁹

NSCC further argues that the primary purpose of the clearing fund is not, as NYCH suggests, to guarantee completion of clearance and settlement transactions. NSCC asserts that neither Congress nor the Commission mandated that clearing funds be used solely to guarantee completion of transactions and points to the statement in the Registration Standards that a clearing agency should establish the appropriate level of clearing fund contributions based on its assessment of the various risks to which it is subject.

Second, NSCC argues that NYCH's argument that the clearing fund be used only to satisfy "losses" as opposed to "losses and liabilities" is semantic. NSCC asserts that a liability is a potential loss which has not been realized and that a loss is pecuniary deprivation. As such, NSCC argues that the NYCH concern about potential

liabilities is unwarranted since there could be no assessment against the clearing fund absent a pecuniary deprivation (i.e., a loss).

Third, NSCC takes issue with NYCH's assertion that funds allocated to a particular System should cover participant defaults and security losses in that System before being applied to other losses in the System. NSCC believes that NYCH's suggestion that losses affecting NSCC members, such as participant defaults and security losses, should take priority over general System losses that affect the corporation is not supported by either the Act or the Registration Standards.

Fourth, NSCC argues that, contrary to NYCH's assertions, NSCC's ability to borrow from the clearing fund does not subject the fund to unreasonable risk. NSCC notes the high standard of care which clearing agencies must assume with respect to clearing fund assets. In addition, NSCC points out that its ability to borrow from the clearing fund does not abridge the Registration Standards' requirement that the clearing fund be composed of "cash or highly liquid securities", as NYCH suggests. Instead, NSCC believes that the phrase "cash or highly liquid securities" refers to the form of participants' deposits, and not to disposition restrictions on the clearing fund.

Finally, NSCC disagrees with NYCH's assertion that NSCC's ability to borrow cash from the clearing fund for settlement " * * * fails to qualify under the narrow exception allowing use of a small portion of the clearing fund for short periods to cover unanticipated contingencies." NSCC believes that NYCH has incorrectly applied this provision, because in its view, NSCC's anticipated use of the clearing fund amounts to ordinary use that will cover losses related to the clearance and settlement business.³⁰ Accordingly, NSCC explains, the proposed rule does not contain the prerequisites applicable to unanticipated contingencies since NSCC does not contemplate such use and, as such, did not make provisions to accommodate the prerequisites.

²⁹ Specifically, NSCC intends to use this provision to meet interest expenses incurred by NSCC when a member fails to meet its settlement obligations to NSCC causing a short term overdraft in NSCC's account at the settling bank. In this instance, NSCC will deposit clearing fund cash equal to the overdraft in a compensating balance account for a period of time equal to the time the overdraft is outstanding. The settling bank will be entitled to the interest earned in this account as compensation for financing the overdraft. Subsequently, the funds deposited in the compensating balance account will be returned to the clearing fund, and the defaulting members will be required to replace the interest lost on the cash during the time such cash was deposited in the compensating balance account.

ii. Segregation of Funds for Different NSCC Systems.

NYCH Comments

NYCH contends that each System's Fund should be segregated from other System Funds and from the General Fund. NYCH believes that strict financial integrity requires that contributions made by members to protect a System used by such members should not be used to satisfy losses incurred in other Systems or in services covered by the General Fund. NYCH asserts that segregation of the various Funds is desirable because:

" * * * the smooth functioning of the national clearing system is best served by assuring participants that when a problem exists with one of NSCC's systems, NSCC's ability to operate its other systems remains intact."³¹

NYCH stated that while it recognizes that NSCC's amended proposal limits somewhat the use of a Fund to losses or liabilities incurred in the related System, it believes that NSCC's efforts fall short of what is required. In NYCH's view, the proposal provides insufficient segregation by allowing NSCC, under some circumstances, to apply a guaranteed System's Fund to losses or liabilities attributable to non-guaranteed services. Such incomplete segregation, NYCH argues, could result in a loss of participant confidence in the adequacy of a Fund for its related system whenever financial stress occurs in relation to a non-guaranteed service. NYCH continues that such incomplete separation is especially unfair because, as they understand, some participants that use non-guaranteed services do not share the burden of contributing to the clearing fund but enjoy the "insurance" benefits of the fund.

Second, NYCH expressed concern that the provision of the proposed rule that would allow NSCC to use clearing fund assets as security for loans to satisfy losses or liabilities arising from the clearance and settlement business may be construed to allow NSCC to pledge deposits attributable to the envelope system funds to secure loans made to NSCC to cover losses attributable to the CNS System. NYCH stated that this issue also exists with respect to the provision of the proposed rule that would allow NSCC to borrow cash from the clearing fund to meet settlement obligations without regard to the system involved. Again, NYCH believes such a result would violate its concept of segregation and expose the

³¹ See letter dated March 17, 1982, from John P. Lee, Executive Vice President, NYCH, to the Commission at p. 5.

²⁸ See Letter dated April 14, 1982, from Robert J. Woldow, Vice President and General Counsel, NSCC, to Commission staff at p. 5.

²⁹ *Id.* at p. 6. (Emphasis in NSCC comment letter.)

deposits of participants that use only NSCC's envelope services to collateral liens.

Finally, NYCH objects to NSCC's ability at the time a participant's membership is terminated to apply a member's clearing fund deposit allocated to one System to all outstanding obligations that member has to NSCC.

NSCC Response

NSCC rejects NYCH's basic premise that the national clearance and settlement system is best served by segregating the various System Funds to insure that " * * * when a problem exists with one of NSCC's Systems, NSCC's ability to operate its other Systems remains intact * * * " NSCC notes that it has accommodated NYCH by segregating completely the Funds of the guaranteed Systems so that losses arising in one guaranteed System will not be assessed against funds in a separate guaranteed System. Moreover, NSCC believes that the degree of segregation it has adopted is both appropriate and adequate for its protection. In any event, because NSCC is a non-profit organization without vast retained earnings to cover clearing agency losses, NSCC believes that it would be irresponsible to relinquish its general right to assess the funds of guaranteed systems for a liability arising in other than guaranteed Systems. In addition, NSCC notes that NYCH's suggestion that the various Funds be completely segregated comes very late in the day because it was not mentioned when NYCH suggested that NSCC segregate the CNS Fund from the ESS Fund.

Second, NSCC responded to NYCH's concern that, under the proposed rule, NSCC could circumvent the fund's segregation by borrowing cash from the Envelope System Fund to meet settlement obligations arising in the CNS System. NSCC stated that these concerns were unfounded because the borrowed funds would likely be recovered in such cases, and, if not, a CNS assessment would be required to replenish cash borrowed from the Envelope System Fund.

Third, NSCC argues that its ability to exhaust a member's clearing fund deposit allocated to one fund by applying it to all obligations the member has to NSCC is important to assure fairness and financial responsibility. In the case of a participant's insolvency, for example, NSCC believes that it is appropriate to use an insolvent participant's excess deposits allocated to a guaranteed system to satisfy that participant's liabilities arising in any

system. Any other procedure, in NSCC's view, would require NSCC to return the excess deposit from one system to the insolvent's trustee and assess solvent NSCC members for the deficiency in the second system.

iii. The Clearing Fund as an NSCC Asset.

NYCH Comments

NYCH asserts that to maintain the independence and financial integrity of the clearing fund assets, a separate legal trust should be established for each fund. NYCH argues that separate trusts for each Fund are necessary to ensure the integrity of the members' deposits in the event NSCC becomes insolvent. NYCH believes that, under the proposed clearing fund structure, NSCC participants would be general creditors in a bankruptcy proceeding with no priority interest in their clearing fund contributions. In addition, NYCH asserts that, absent trust arrangements for the various Funds and the General Fund, any general creditor of NSCC could attach such Funds. Further, while NSCC and its counsel believe that the structure of the clearing fund provides essentially the same protection as NYCH's trust proposal, NYCH notes that no judicial decisions specifically on point exist, and argues that any uncertainties should therefore be resolved in favor of establishing separate trusts for the different Funds.

Finally, the NYCH asserts that, absent the establishment of trusts, at the very least NSCC must amend the language of the proposed rule to codify the legal theories and underlying assumptions on which NSCC and its counsel relied in concluding that the structure of the clearing fund provided protection tantamount to trust arrangements. Specifically, NYCH believes that the proposed rule should be amended to state that the interest of NSCC in the clearing fund is not proprietary but only a security interest. In addition, NYCH believes that NSCC's financial statements should explain that title to the cash deposit and qualifying bonds remains in the member subject to certain contractual rights of NSCC.

NSCC's Response

NSCC believes that NYCH's position that adequate segregation of the clearing fund can only be achieved through the establishment of a trust is incorrect. NSCC argues that this statement represents a legal conclusion with which neither NSCC nor its outside counsel agrees.

In addition, NSCC believes that the strict limitations inherent in trust arrangements would prevent NSCC from

operating with the speed and efficiency necessary to work out participant insolvencies. NSCC points out that NSCC and its predecessor organizations have experienced exposure from more than a dozen participant insolvencies and yet never have made an assessment against clearing fund deposits. Thus, NSCC perceives no sound business or legal arguments for establishing cumbersome trust arrangements for the various Funds.

Determinations Regarding the Proposed Rule Change

Under Section 19(b)(2) of the Act, the Commission must approve NSCC's proposed rule change if the Commission finds that it is consistent with the requirements of the Act and the rules thereunder applicable to registered clearing agencies. If the Commission is unable to make that finding, it must institute proceedings to determine whether to disapprove the proposed rule change.

The principal provisions of the Act applicable to clearing agencies are contained in Section 17A of the Act. Paragraph (b)(3) of that Section provides, among other things, that a clearing agency shall not be registered unless it is so organized and has the capacity to facilitate the prompt and accurate clearance and settlement of securities transactions for which it is responsible. That paragraph also requires that the rules of a clearing agency, among other things: (i) " * * * provide for the equitable allocation of * * * charges among its participants"; (ii) be " * * * designed to promote the prompt and accurate clearance and settlement of securities transactions"; (iii) be " * * * designed to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and the public interest"; (iv) " * * * are not designed to permit unfair discrimination in the admission of participants or among participants in the use of the clearing agency"; and (v) " * * * do not impose any burden on competition not necessary or appropriate to the furtherance of the purposes of this Title."

In addition, the Commission's determinations regarding NSCC's proposed clearing fund rule also must be made in the context of the Commission's statutory responsibility to facilitate the establishment of a safe, efficient and

equitable national clearance and settlement system.³²

Discussion of Issues

i. Appropriate Level of Clearing Fund.

The Registration Standards require a clearing agency:

* * * to establish by rule an appropriate level of clearing fund contributions based, among other things, on its assessment of the risk to which it is subject.³³

NSCC stated that it designed the clearing fund formulae with due regard to the various risks associated with the various clearance and settlement systems it operates. Because the risks associated with operating its systems fluctuate with the volume of activity per system, NSCC designed the proposed rule to provide for continuous monitoring, on a monthly basis, of each participant's contribution to the fund vis-a-vis its use of NSCC's systems. The monthly review requirement is intended to ensure that a member's clearing fund contribution keeps pace with that member's variable use of NSCC services. NSCC may also increase the clearing fund requirement of a thinly capitalized member or a member under surveillance. The increased clearing fund requirement for such members is intended to reflect the increased risk of doing business with such a member.³⁴

The Commission has determined that the proposed rule change meets the Registration Standards concerning the appropriate level of clearing fund contributions. The Commission believes that, by tying its proposal to relevant use and risk factors, NSCC has designed its formulae and the rules requiring variable contributions in a manner consistent with the Registration Standards. While the Commission believes that within a range of reasonableness the particular size of a clearing fund is a matter reserved for NSCC's regulatory judgment, the Commission in making its determinations, reviewed carefully (i) the size of NSCC's clearing fund; (ii) other risk-limiting NSCC procedures; and (iii) NSCC's track record in connection with several participant insolvencies. In addition, because the

Fund of each guaranteed System is segregated from losses of other guaranteed Systems, the Commission has looked carefully at the size of each Fund in relation to the risks associated with the related system. The Commission has also reviewed NSCC's proposal to decrease its right to assess a member's contribution, if the member elects to resign, from twice its required contribution to merely the required amount of its contribution.

Currently, NSCC has \$2 million in retained earnings and approximately \$104 million in clearing fund contributions available to cover all losses NSCC incurs. Although these figures appear small when compared with the average daily money settlement exposure at NSCC in excess of \$2 billion, the Commission believes that they appear reasonable in relation to potential residual losses associated with either participant defaults or other claims against the system.³⁵ To date, the largest loss suffered by NSCC (a result of a participant insolvency) amounted to only \$875,000, a figure smaller than NSCC's retained earnings. Indeed, NSCC, despite more than a dozen participant insolvencies and other losses, has never needed to assess the clearing fund.³⁶

The Commission believes that a clearing agency's clearing fund should not be viewed in isolation; but rather as one element in a complement of safeguards designed to protect the clearing agency against losses attributable to clearance and settlement operations. In addition to substantial insurance policies covering certificate-related losses, NSCC has adopted other procedures to hedge against its settlement exposure, including marks-to-the-market on open fail positions, special marks for positions in volatile securities and special surveillance and collateral requirements for financially

impaired members. The Commission believes that these procedures, along with NSCC's general authority to call for additional assurances and reverse certain CNS and ESS deliveries, enhance greatly the sufficiency of the clearing fund.

The Commission believes that NSCC has exercised prudent regulatory judgment in designing the clearing fund formulae consistent with its loss experience and other financial safeguards. Further, the Commission has determined that the levels of ESS and CNS Funds appear to be reasonable at this time to protect NSCC and sensible in proportion to the members' projected use of the various Systems. Accordingly, the Commission believes that the CNS and ESS formulae appear to be consistent with the Act and the Registration Standards.

In addition, the Commission has determined that NSCC's decision to reduce its authority to assess a member's clearing fund contribution, if a member elects to resign, from twice the required contribution to merely the required contribution is an appropriate exercise of regulatory judgment. While the Commission recognizes that NSCC's proposal would reduce by one-half the funds available potentially to cover losses, assuming all members elect to resign, the Commission also recognizes the importance of maintaining limitations on the size of the clearing fund that relate reasonably to experience. Because the loss history, size of NSCC's retained earnings and NSCC's other risk reducing mechanisms support NSCC's regulatory judgment with respect to its clearing fund formulae and the size of the clearing fund, the Commission believes that an additional mandatory two-fold assessment appears to be unnecessary at this time to protect NSCC and its members.³⁷

ii. Purpose of the Clearing Fund.

The Registration Standards provide that the clearing fund may be used to protect:

participants and the clearing agency: (i) from the defaults of participants and (ii) from clearing agency losses (not including day-to-day operating expenses) such as losses of securities not covered by insurance or other resources of the clearing agency.³⁸

NSCC's proposal provides, in part, that the clearing fund is to be used to satisfy losses or liabilities incident to

³² Section 17A(a) of the Act directs the Commission to use its authority under the Act to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of securities (other than exempt securities) in accordance with certain specified Congressional findings and objectives.

³³ See Securities Exchange Act Release No. 16900 at pp. 55-56.

³⁴ In that respect, NSCC recently filed and the Commission approved, on a temporary basis, a new formula for the ESS Clearing Fund that would impose an increased contribution requirement on "thinly capitalized" ESS users. See Securities Exchange Act Release No. 18852 (June 28, 1982).

³⁵ As a practical matter, NSCC's daily net exposure is much less than \$2 billion for several reasons. First, NSCC losses could only approximate such a figure if all NSCC members failed and NSCC was unable to retain collateral that it could liquidate. Second, it is extremely unlikely that NSCC would experience several participant insolvencies at a time. Third, NSCC's exposure is limited because it daily marks-to-the-market member fails carried in the system and has substantial authority to reverse deliveries in CNS to defaulting participants and to monitor and retain ESS deliveries. Fourth, NSCC policies encourage close surveillance of, and calls for additional assurances from, financially and/or operationally distressed members.

³⁶ NSCC has covered losses that would otherwise be assessed against the clearing fund with excess operating revenues available at the time of the loss. NSCC stated that, in part to protect clearing fund deposits, it intends to continue covering small losses out of excess operating revenues or surcharges to participants.

³⁷ In the event that a change in that policy were necessary in the future, the Commission is confident that NSCC would modify its rules at that time in the interest of protecting its participants and the public.

³⁸ See Securities and Exchange Act Release No. 16900 at p. 57.

the clearance and settlement business. As noted, NYCH believes that NSCC's proposal is inconsistent with the Registration Standards because it does not confine the use of the clearing fund to indemnification of losses attributable to lost securities or participant failures; does not list all types of losses that could be covered; and would allow NSCC to use the clearing fund to cover general corporate liabilities and day-to-day operating expenses.

The Commission however, has determined that use of the clearing fund, as NSCC proposes, to " * * * satisfy losses and liabilities incident to the clearance and settlement business * * * " is consistent with the requirements of the Act. In making that determination, the Commission has considered NYCH's and NSCC's arguments in light of the Act and the Registration Standards.

The Registration Standards indicate appropriately that a clearing fund is intended to protect both clearing agencies and clearing agency participants. The Commission reaffirms this duality of purpose. Moreover, we believe that any prudent measures which enhance the viability of a clearing agency and its members will necessarily contribute to investor protection. Congress recognized, among other things, that a safe national "clearance and settlement system would * * * increase the protection of investors * * * ." Indeed, because the direct objective of Section 17A is the development of a safe, prompt and accurate national system for the clearance and settlement of securities transactions, the viability of a clearing agency is an important consideration in determining the appropriateness of the types of losses clearing fund rules authorize a clearing agency to cover.

More specifically, the Commission believes that NSCC's proposed rule is sufficiently focused to assure the safeguarding of funds and securities in the possession of NSCC. A clearing fund rule need not include a definitive list of all types of potential losses that would be covered under the rule, nor must a clearing agency confine the use of clearing fund deposits to the completion of guaranteed transactions.³⁹ Rather, the Commission believes that NSCC's ability to apply the fund in all instances in which a loss has resulted from the operation of clearance and settlement services is of paramount importance to

the protection of the clearing agency, its participants and ultimately public investors. Any loss or liability that threatens the existence of a clearing agency may also threaten the national clearance and settlement system. As such, the Commission believes that satisfaction by NSCC of any judgment against NSCC resulting from NSCC's clearance and settlement activities would constitute a legitimate use of NSCC's clearing fund.⁴⁰

Further, the Commission believes that the proposed rule change cannot, as NYCH worries, enable NSCC to use clearing fund deposits to meet day-to-day operating expenses. NSCC must, consistent with the Registration Standards, meet such expenses with revenue generated through fees, including necessary surcharges. In addition, NSCC's pricing policy requires, consistent with Commission pricing orders under Section 17A of the Act, that gross billable revenues for services cover the cost of providing such services. Thus, pursuant to that policy, NSCC cannot and does not intend to use clearing fund assets to cover day-to-day operating expenses.

Finally, the Commission cannot agree with the NYCH suggestion that losses affecting particular NSCC members, such as participant defaults and security losses, should take priority over general system losses that affect the collective membership. Nothing in the Act requires that type of priority for one or another type of loss attributable to clearance and settlement activities.

iii. Use of the Clearing Fund Other Than to Satisfy Losses.

NYCH's arguments concerning the appropriate use of clearing fund deposits have revolved around the Registration Standards. Those standards provide that a clearing agency's rules should, among other things (a) limit the use of clearing fund contributions, (b) not expose the fund to unreasonable risk, (c) limit the investment of clearing fund cash to United States government obligations and other investments which provide liquidity and (d) invest the cash portion of the fund in light of a clearing agency's fiduciary duties. In addition to consideration of those standards, the Commission has reviewed the proposed

rule in light of the Act's general requirements that the rules of a registered clearing agency facilitate the prompt and accurate clearance and settlement of securities transactions, provide for equitable allocation of fees and assure the safeguarding of funds and securities.

NSCC's proposed rule sets forth three permissible uses of the clearing fund other than to satisfy clearance and settlement losses. The first use, which would allow NSCC to invest clearing fund cash in securities issued or guaranteed by the United States government and its agencies, appears to satisfy the safety and liquidity objectives contemplated by the Act and the Registration Standards.⁴¹ In addition, the yield on such investments, which is passed on to clearing members, has the effect of reducing the cost to members of clearing fund contributions.

The Commission has also determined that the second proposed use, which would allow NSCC to borrow cash from the clearing fund to meet its settlement obligations to settling members, is consistent with both the Act and the Registration Standards. In connection with this determination, the Commission rejects NYCH's contention that such use would abridge the Registration Standards by exposing clearing fund cash to NSCC's credit status, which it argues would subject the fund to unreasonable risk. The Commission believes this contention is derived from a misconception of the purpose of this provision. Under this provision, NSCC would not borrow cash in any unconventional or unanticipated manner. Rather, the provision would only be used under the proposed rules, as it is used today—when a clearing member fails to make timely money settlement. In those instances, NSCC's bank advances the funds to NSCC to cover the member's settlement obligations. The bank does not charge interest directly to NSCC; instead, it allows NSCC to deposit overnight in a "compensating balance account" funds equal to the amount of the advance. In turn, NSCC charges the cost (i.e., lost interest) to the failing participant. Both

³⁹ Indeed, the Commission believes that it would not be possible to anticipate and incorporate into a legislative-type rule a comprehensive digest of potential events that could result in loss to the clearing agency.

⁴⁰ The Commission notes that NSCC is a user controlled entity. Accordingly, actions taken by NSCC in providing clearance and settlement services and making assessments against fund deposits generally will be authorized by its representative user board. Therefore, the Commission rejects any suggestion that some clearing agency losses (i.e., losses outside guaranteed systems) should not be considered losses incident to clearance and settlement or that assessments for such losses are inappropriately levied.

⁴¹ In response to recent judicial decisions regarding repurchase agreements, NSCC has discontinued its practice of investing clearing fund cash in retail repurchase agreements and is currently investing clearing fund cash in Treasury bills. NSCC anticipates reentering the repurchase market when the legal implications of these transactions become clear. NSCC has indicated that, at such time, NSCC will execute repurchase agreements under documents sufficient to create a security interest in its undivided share in a pool of government securities, which typically are the subject of retail repurchase agreements.

the principal and interest are returned to the clearing fund account immediately the following day, assuming the defaulting participant covers its obligation to NSCC.⁴² These transactions are reflected on the books and records of NSCC. Because such use of clearing fund cash is an unavoidable alternative to suspending an otherwise solvent participant, the Commission believes that this controlled overnight use is critical to the operation of an efficient national clearance and settlement system and does not expose the fund to unreasonable risk. In addition we believe that NSCC's procedure of careful documentation of all such transactions is consistent with a clearing agency's responsibility to safeguard funds and securities.

While the Commission recognizes that NSCC's ability to borrow clearing fund cash to meet settlement obligations would not fall under the provision in the Registration Standards that allows a short-term unanticipated use of cash, the Commission also rejects NYCH's argument that such use represents the kind of long-term extraordinary use that, under the Registration Standards, would make participant approval during the registration process particularly important. Rather, the Commission believes that the universe of permissible uses, under the Registration Standards, is larger than short-term unanticipated uses and long-term uses. Indeed, the Commission believes that there will be short-term anticipated uses that are necessary to protect the clearing agency and its participants and are common among clearing agencies.

The Commission believes that NSCC's ability to deposit clearing fund cash in a compensating balance account "to meet settlement obligations", as described in the preceding paragraph, seems to be a practical and ordinary use of clearing fund cash needed to protect NSCC and its participants from possibly undesirable consequences that can attend suspending an otherwise solvent participant. (Suspension of a participant with a large open position that is, for whatever reason, late one day in meeting settlement obligations can increase exposure to NSCC and its participants.) In addition, this carefully controlled, short-term use does not expose the principal on deposit in the compensating balance account to any risks other than those that affect clearing fund cash on deposit in NSCC's

regular clearing fund account. As such, the Commission believes that this use does not run adverse to any interest participants have in cash on deposit with NSCC and is the kind of use that is consistent with the primary purpose of the Registration Standards (*i.e.*, protecting clearing agencies and their participants from loss). Finally, the Commission believes that such use promotes both economic and administrative efficiency because it makes needed cash available to NSCC conveniently.

Third, because the proposed rule change would allow NSCC to pledge securities and letters of credit on deposit with NSCC, NYCH argues that NSCC's ability to borrow funds using clearing fund assets as collateral would expose the assets to unreasonable risk. NSCC stated, however, that it would pledge assets to cover clearance and settlement losses only in instances in which it reasonably expects to recover the loss promptly.⁴³ NSCC believes that it needs this authority in such circumstances to avoid an assessment against the fund, because such assessments necessarily reduce the aggregate good capital available to broker-dealer members to meet the Commission's net capital requirements.

The Commission has determined that pledging clearing fund assets for a loan that covers a loss in lieu of making prorata assessments does not subject such assets to unreasonable risk, particularly when pledges are to occur in instances in which prompt recovery of the loss is reasonably expected.⁴⁴ By the terms of the proposed rule, NSCC would be able to pledge clearing fund assets only when it would otherwise be permissible to assess the fund. Indeed, in the worst case, if NSCC were unable to recover the loss promptly and pledged assets were subsequently liquidated by the lending institution, that liquidation would be tantamount to a clearing fund assessment.⁴⁵ Since the pledge can only

occur, under NSCC's rules, when an assessment would otherwise be authorized, it would elevate form over substance to permit NSCC to assess the fund but not to pledge fund assets. Moreover, to assure the use of fund assets is short-term in duration, NSCC has limited its ability to pledge fund assets to 30 days. Accordingly, the Commission has determined that such limited use under restricted circumstances is consistent with a clearing agency's responsibility to safeguard funds and securities.

Finally, the Commission believes that it is acceptable policy for NSCC to avoid assessing the clearing fund whenever prompt recovery is expected. Such a policy enables broker-dealer members, in making net capital computations, to count the portion of the clearing fund deposit that would otherwise be liquidated. Such a policy also avoids the administrative inconvenience and participant confusion associated with assessment and reimbursement.

iv. Segregation of the Funds for Different NSCC Systems.

The Commission believes that it is important for each clearing agency in the national clearance and settlement system to obtain appropriate contributions to its respective clearing fund(s) from all participants. Participant contributions help distribute the cost and risks of clearing agency administration equitably among participants. Moreover, because the Commission has determined that NSCC's CNS Fund and ESS Fund appear responsibly designed to protect the respective Systems, the Commission believes that the substantial segregation of the guaranteed System Funds comports with the aggregate level of protection necessary both to NSCC and to its participants.⁴⁶ The Commission also believes that this segregation is desirable in light of the varying risks associated with the different Systems. As a general matter, however, the Commission believes that clearing fund protection can be organized responsibly in different ways at different clearing agencies.

equitable pro-rata assessment. Further, as stated, NSCC would assure that if assets were pledged from one System's Fund to cover a loss in another System, any resulting assessment would serve to replenish the Fund of the first System.

⁴⁶ Initially, NYCH asked for segregation of the Funds because banks generally have not participated in the CNS System, and NSCC cooperated with them in achieving this segregation. Despite that separation, however, the Commission anticipates that banks will be drawn increasingly into the CNS System by virtue of their institutional trade and municipal bond activity through Depository Trust Company and NSCC.

⁴² If the defaulting party is, due to sudden insolvency, subsequently unable to meet its obligations, NSCC would proceed to use its reversal powers and to close-out the member's position under NSCC rules.

⁴³ Under the proposed rule, NSCC must repay such loans within 30 days.

⁴⁴ NSCC anticipates such short-term use only when a member fails to settle, as in the previous discussion, and the lending bank requires a pledge to advance settlement monies or when NSCC makes payments, such as a state transfer tax payments, as agent for its participants. In the latter instance, if NSCC paid transfer taxes by mistake, then during the time NSCC is attempting to recover the funds from the taxing authority, NSCC would be able, under the proposed rule change, to reimburse the disadvantaged member with funds obtained by pledging clearing fund assets.

⁴⁵ The Commission recognizes that liquidation of pledged assets in such circumstances could affect participants owning a disproportionate share of the pledged assets inequitably. In such case, the Commission expects NSCC, and NSCC has undertaken, to adjust the loss to result in an

Because NSCC operates as a collective on a not-for-profit basis, any impairment of its General Fund necessarily exposes the entire clearing agency. Because a clearing agency is a unitary financial institution, and because most participants use a variety of NSCC services, it is simply not possible to have severe financial exposure with respect to the General Fund and, at the same time, no exposure to participants involved in other Systems. As a result, the Commission concludes that NSCC's proposal allowing NSCC to assess the funds of guaranteed Systems for losses attributable to non-guaranteed services is consistent with the requirements of the Act.

v. The Clearing Fund as an NSCC Asset.

The Commission believes that further segregation of fund assets beyond that proposed by NSCC is not necessary to comply with NSCC's statutory obligation to safeguard funds and securities. Further, the Commission believes that a trust structure for the clearing fund would be cumbersome to administer, particularly when immediate action is required to minimize losses to participants.⁴⁷

The Commission recognizes that complex legal issues and dramatic financial problems could arise in the event of NSCC's insolvency. The Commission is also cognizant of the varying legal opinions, neither of which is directly supported by case law, obtained by NYCH and NSCC. As a result, it is the Commission's judgment that the appropriate structure of the NSCC's clearing fund must be determined, in face of this uncertainty, in light of both practical and regulatory considerations.

The Commission notes that NSCC has undertaken to maintain the financial integrity of the clearing fund in several ways: (i) NSCC's financial statements would explain that title to the cash deposits and qualifying bonds remain with the member subject only to NSCC's contract rights, under the proposed rule; (ii) NSCC would send notice of the above to members and other recipients of NSCC's financial statements; (iii) NSCC would maintain the cash deposits in the clearing fund separate from

general funds of NSCC; (iv) NSCC would not use cash deposits in the clearing fund to pay general clearance and settlement obligations; and (v) NSCC would keep accurate records concerning any transactions (pledging or borrowing) involving clearing fund assets. In face of the inherent uncertainties resulting from lack of case law in this area, the Commission believes that NSCC has undertaken responsible precautions to protect members' clearing fund deposits in the unlikely event of NSCC's insolvency. Accordingly, the Commission, after weighing these protections along with NSCC's needs as a financial institution that acts as a guarantor of members' obligations, has determined that it is not necessary under the Act to establish separate trust for clearing funds.

The Proposed Rule Change Is Approved

The Commission has considered the issues raised by the proposed rule change and the comments. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to register clearing agencies, and in particular, the requirements of Section 17A of the Act and the Registration Standards. Specifically, the Commission believes that the proposed rule change is appropriate to protect NSCC and its participants and represents an equitable allocation of the risks and benefits of participation in NSCC, by requiring all members to contribute to the clearing fund in relation to their use of NSCC's systems and in relation to the special risks NSCC encounters in providing services to a cross-section of financial institutions, including some whose financial position may at any point be precarious. The proposed rule change by providing funds to ensure that NSCC could continue to function in the face of various losses related to the clearance and settlement business, promotes the prompt, safe and accurate clearance and settlement of securities transactions. Additionally, the Commission finds that the structure, purpose and permissible use of funds under the proposed rule change limit the clearing fund to protecting participants and NSCC from participants defaults and clearing agency losses and do not expose participants' contributions to unreasonable risk.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-31606 Filed 11-17-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 19224; File No. SR-NYSE-82-17]

Self-Regulatory Organizations; Proposed Rule Changes by New York Stock Exchange, Inc.; Concerning Price Reporting Errors in the Designated Order Turnaround System

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 October 27, 1982 the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule 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 changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule amendments, if approved, would require the specialist to guarantee the execution prices he reports through the Designated Order Turnaround System ("DOT").

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 changes and discussed any comments it received on the proposed rule changes. The text of these statements may be examined at the places specified 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 Statutory Basis for, the Proposed Rule Change

(1) *Purpose.* The purpose of the changes in Exchange Rules 123A.47 and 411 is to provide for a more efficient, more cost effective way of resolving price errors in market order executions reported through the DOT System.

⁴⁷ A clearing fund trust would likely result in the funds being released to NSCC only after a trustee has determined that such release is proper. Any delay associated with the use of funds could financially and operationally impair NSCC and the national clearance and settlement system. Such a result would be inconsistent with the statutory goal of assuring safety and efficiency in clearance and settlement and the intended purpose of an accessible indemnity fund.

Rather than incurring the expense of correcting an erroneous price (about \$75 per trade), member organizations now often place the transaction at the correct price in their error account, taking any profit or absorbing any loss. This inefficiency will be eliminated if the specialist guarantees the execution prices he reports via DOT. The proposed rule however would not expect his to do so if the erroneously reported price is more than one-half point away from the actual price. This limitation should not materially affect the efficiency of the proposed procedure, since most errors fall within the half-point limit.

Notwithstanding the proposed procedure, the DOT subscribing member organization can request a correction of the error, and the specialist will have to do so, provided he receives the request prior to the opening of trading on the third business day following the day of the transaction.

The proposed rule changes also support a proposal under consideration to streamline comparison by using the DOT System's log at the end of the trading day as direct input for comparison. The computer produced record of all the day's transactions will eliminate the present need for individual clearing firms to submit records of such transactions.

(2) *Statutory Basis.* The rule changes proposed herein further the Congressional findings enunciated in Section 11A(a)(1) of the Securities Exchange Act, as amended (the Act), in that they will help assure economically efficient execution of securities transactions through new data processing and communications techniques, and in Section 17A.(a)(1)(A), (B), (C), in that they will help assure prompt and accurate clearance and settlement through efficient, effective, and safe procedures, using new data processing and communications techniques.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the rule changes will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In fact, the Exchange's purpose in proposing these rule changes is to enhance the cost-effectiveness of its DOT System which competes with other systems, such as CAES (NASD), PACE (Philadelphia Stock Exchange), and SCOREX (Pacific Stock Exchange) in providing fast, efficient executions of small orders. These rule changes thus promote rather than impede competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited written comments on the proposed rule changes from its members or others, nor have any written comments been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes or,

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

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 5th Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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. 522, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned 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 Division of Market Regulation, pursuant to delegated authority.

Dated: November 8, 1982.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-31800 Filed 11-17-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-19225; File No. SR-PHLX 82-2]

Proposed Rule Change by Philadelphia Stock Exchange, Inc.; Disciplinary Rules

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 October 28, 1982, the Philadelphia Stock Exchange, Inc., ("PHLX") filed with the Securities and Exchange Commission the proposed rule 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 rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PHLX proposes to adopt amendments to its by-laws and rules pertaining to disciplinary actions and procedures.

These by-law and rule amendments are intended to achieve several important objectives.

First, the PHLX Business Conduct Committee, a Standing Committee, will be given exclusive jurisdiction in PHLX disciplinary actions to hold hearings, render decisions and impose sanctions. Currently, the Business Conduct Committee may authorize the initiation of disciplinary actions and may approve settlements of such actions but the jurisdiction to conduct hearings and issue decisions in such matters rest with a different PHLX Standing Committee, the Hearing Committee. By centralizing the authority to initiate, hear and decide cases in one committee, the PHLX hopes to achieve greater consistency in its enforcement efforts.

Second, a new PHLX Standing Committee to be called the Disciplinary Review Committee, will be created and would have jurisdiction to review on appeal the decisions of the Business Conduct Committee in disciplinary actions. Currently, the entire Board may consider an appeal or may designate, on a case-by-case basis, a subcommittee to consider such matters. By creating a Standing Committee to hear and decide all appeals, the PHLX will eliminate the possibly cumbersome current procedure and in its place hopes to achieve consistency and expertise in such matters.¹

¹ Under the rule proposal, the Board could, on its own motion, review decisions of the Disciplinary Review Committee and must review certain decisions of this Committee.

Third, improvements to the procedures which govern disciplinary actions would be implemented, including a narrowing of the classes of cases which may give rise to summary disciplinary actions, a clarification of prehearing procedures, and a clarification of when a respondent defaults and the consequences of such a default.

Fourth, conduct inconsistent with just and equitable principles of trade would be prohibited by rule. Currently, though PHLX By-Laws enable it to discipline for such misconduct, it could be argued that in the absence of a specific prohibitory rule the PHLX lacks such authority. By promulgating this rule the PHLX closes the door to such arguments.

The substantive By-Law and rule changes are listed and discussed below.

(1) *By-Law Section 10-9.* This by-law would be amended to grant the Business Conduct Committee exclusive jurisdiction to initiate, hear and decide disciplinary actions.

(2) *By-Law Sections 10-10 and 11-3.* This by-law would be amended to create the Disciplinary Review Committee and give this Committee jurisdiction to review on appeal the decisions of the Business Conduct Committee.

(3) *Rule 707.* This rule will allow the Exchange to bring disciplinary actions based on conduct inconsistent with just and equitable principles of trade.

(4) *Rule 960.2(e).* This rule would be amended to require the Business Conduct Committee to state in its minutes the reasons why it determined not to authorize disciplinary action when such action had been recommended to it by Exchange staff.

(5) *Rule 960.4.* This rule would be amended to: (i) require that a respondent request a hearing when he files his answer to a statement of charges, and; (ii) provide that a respondent who fails either to answer the statement of charges or to request a hearing when he files his answer to a statement of charges has waived his right to a hearing and the Business Conduct Committee may then prepare its final decision in the matter.

(6) *Rule 960.5.* This rule would be amended to provide the procedure by which the Business Conduct Committee would conduct those disciplinary actions which go to a hearing. A hearing would be held before a three-person panel. The presiding person will be an active member of the Business Conduct Committee. The other two members of the panel would be selected by the Chairman of the Business Conduct Committee from a pool of possible panelists designated by the

Chairman of the Board of Governors. The amended rule will provide procedures to encourage the selection of impartial panelists. The presiding member of the panel would then have the authority to schedule a pre-hearing conference to be attended by himself and the parties at which the parties would attempt to stipulate to pertinent facts and the authenticity of relevant documents. After the hearing, the panel would submit a report to the full committee containing its proposed findings and conclusions.

(7) *Rule 960.8.* This rule will be amended to provide that the Business Conduct Committee will, after its review of the case record, issue written decisions in disciplinary proceedings based on a majority vote of its members.²

(8) *Rule 960.9.* This rule will be amended to provide the procedures by which the Disciplinary Review Committee will review on appeal the decisions of the Business Conduct Committee. A review on appeal would be initiated by the filing of a petition for review by a respondent, or could be initiated by the Disciplinary Review Committee, on its own motion. The Disciplinary Review Committee would then have the discretion to order a hearing on review, or decide the matter based on the record and the petition for review. Should the hearing be ordered, it would be held before a panel of three Committee members and such other persons appointed by the Chairman of the Committee. The panel would conduct the hearing and then submit a report containing its proposed findings and conclusions to the Committee.³ The Committee would in all cases issue its written decision, based on a vote of a majority of its members.

(9) *Rule 960.6.* This rule would be amended to resolve current procedural problems with the summary disciplinary proceeding rule. The amended rule would limit the use of summary proceedings to cases where allegations were expressly admitted or not in dispute. After the rendering of a summary decision, the respondent would be given an opportunity to file a written reply and request a hearing to show cause that a summary decision is not warranted.

(10) *Rule 960.12.* This rule has been promulgated to ensure that Committee

² Should the Committee's decision differ from the recommendation of the Hearing Panel, the Committee shall record the reasons for its action in its minutes.

³ Should the Committee's decision differ from the recommendation of the Hearing Panel, the Committee shall record the reasons for its action in its minutes.

and Board members are fair and impartial with respect to disciplinary actions.

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 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 specified 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 Statutory Basis for, the Proposed Rule Change

The purposes of the by-law and rule amendments are to centralize the authority over disciplinary actions and proceedings and improve the procedures which govern these actions and proceedings. The by-law and rule changes discussed above will improve those mechanisms and procedures by which the Phlx both enforces compliance with the Securities Exchange Act of 1934 ("Act"), the rules and regulations thereunder and its own rules (See Act, Sec. 6(b)(1)) and disciplines its members and their associated persons for violations of such laws and rules in accordance with fair procedures, in an appropriate manner and with fitting sanctions (See Act, Secs. 6(b)(6) and 6(b)(7)).

B. Self-Regulatory Organization's Statement on Burden on Competition

The rule changes impose no burden on competition. Its purpose is to improve existing disciplinary procedures.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments have been solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such

longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written communications relating to the proposed rule 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 in the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned 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: November 8, 1982.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-31601 Filed 11-17-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region I Advisory Council Meeting; Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Montpelier, Vermont, will hold a public meeting at 10:00 A.M., Thursday, December 16, 1982, at the Lobster Pot Meeting and Party Room at 118 Main St., Montpelier, Vermont, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call District Director, U.S. Small Business Administration, Federal Building, 87 State

Street, P.O. Box 605, Montpelier, Vermont 05602. (802) 229-0538.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.
November 12, 1982.

[FR Doc. 82-31665 Filed 11-17-82; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration Region IV Advisory Council, located in the geographical area of Louisville, Kentucky, will hold a public meeting at 9:00 a.m., Tuesday, December 7, 1982, at the Top of The Tower, 101 S. 5th Street, Louisville, Kentucky, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call B. R. Wells, District Director, U.S. Small Business Administration, P.O. Box 3517, Louisville, KY 40201 (502) 582-5971.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.
November 12, 1982.

[FR Doc. 82-31666 Filed 11-17-82; 8:45 am]

BILLING CODE 8025-01-M

Region VI Advisory Council Meeting; Public Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of New Orleans, will hold a public meeting at 9:00 a.m., on Monday, December 6, 1982, at the Small Business Administration office, 1661 Canal Street (second floor), New Orleans, Louisiana, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call T. A. Aboussie, District Director, U.S. Small Business Administration, 1661 Canal Street, 2nd Floor, New Orleans, Louisiana 70113, (504) 589-2744.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.
November 12, 1982.

[FR Doc. 82-31664 Filed 11-17-82; 8:45 am]

BILLING CODE 8025-01-M

Region VII Advisory Council; Public Meeting

The Small Business Administration Region VII Advisory Council, located in the geographical area of Omaha, Nebraska, will hold a public meeting at noon at 3:30 p.m. Thursday, December 2, 1982, at the Omaha Club, 2002 Douglas

Street, Omaha, NE 68102, 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 Rich Budd, District Director, U.S. Small Business Administration, 19th & Farnam, Omaha, NE 68102, (402) 221-3620.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.
November 12, 1982.

[FR Doc. 82-31663 Filed 11-17-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-82-22]

Petitions for Exemption; Summary of Petitions Received Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: December 8, 1982.

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

FOR FURTHER INFORMATION CONTACT:

The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A),

800 Independence Avenue, SW.,
Washington, D.C. 20591; telephone (202)
426-3644.

This notice is published pursuant to
paragraphs (d), (e), and (g) of § 11.27 of
Part 11 of the Federal Aviation
Regulations (14 CFR Part 11).

Issued in Washington, D.C., on November
10, 1982.

John H. Cassady,
Assistant Chief Counsel, Regulations and
Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23403	United Air Lines, Inc.	14 CFR 91.32(b)(2)(ii), 121.333(c)(2)	To permit petitioner to operate its B-767 aircraft above flight level 410 up to and including flight level 431 without one pilot at the controls of that airplane wearing and using an oxygen mask.
20635	Beech Aircraft Corp.	14 CFR 21.197	Renewal of Exemption No. 3140 to permit the issuance of special flight permits to petitioner for ferrying aircraft, for purposes of completion and certification, between the various Beech Aircraft locations.
23392	Beaver Aviation Service Inc.	14 CFR 141.91(a)	To permit petitioner to conduct training at a satellite base located more than 25 nautical miles from the main base of operation.
23291	Central Air Service, Inc.	14 CFR 91.27(a)(1) 91.29	To permit petitioner to ferry its Douglas C-54 aircraft to a point of maintenance for necessary repairs.
23404	1st Lt. Timothy R. Morris, USAF	14 CFR 61.183 (d) and (e), 61.185 (a) and (b), 61.187(a).	To allow petitioner to receive a flight instructor instrument certificate based on training as a flight instructor in the U.S. Air Force.
23264	1st Lt. Paul A. Corbin, USAF	14 CFR 61.73(g)(5)	To permit petitioner to apply for a type rating in the Boeing 707/720 aircraft, although he does not possess an official U.S. Armed Forces record of a military checkout as pilot in command.
23359	Arrow Airways, Inc.	14 CFR 121.291(b)	To permit petitioner to operate its DC-8-63 aircraft in passenger service without performing a partial demonstration of emergency evacuation procedures.
23409	Riley Aircraft Mfg., Inc.	14 CFR 23-1505(c)	To permit the Supplemental Type Certification of a turbopropeller Cessna Model P-210 without establishing a maximum operating limit speed.
23389	American International Airways	14 CFR portions of Part 121	To permit petitioner to engage in scheduled domestic or flag air carrier operations utilizing flight release authority in lieu of dispatching authority.
23385	Gulfstream American Corp.	14 CFR 21.19(b)(1)	To permit petitioner to apply for supplemental type certification of a design change from two Rolls-Royce Spey Mark 511-8 turbofan engines to four Rolls-Royce RS401-07-08 turbofan engines on its Gulfstream III Model G-1159A.
23295	Rosenbalm Aviation, Inc.	14 CFR 121-505, 121.511	To permit petitioner's pilots and flight engineers to operate its aircraft for more than 8 hours in a 24-hour period, without an intervening rest period at or before the end of 8 scheduled hours of flight duty.
18114	Flying Tiger Line	14 CFR 121-547(c), 121-583(a)	Renewal of Exemption No. 2600 to permit petitioner to carry a reporter, photographer, or journalist aboard its B-747 and DC-8 airplanes without complying with the passenger-carrying requirements of Part 121.
23342	Israel Aircraft Industries, Ltd.	14 CFR 25.832	To permit petitioner to operate the Westwind Model 1125 above flight level 180 for nonrevenue operations without complying with the cabin ozone concentration requirements.
19826	Lone Star Helicopters	14 CFR 135.261(b)	Extension of Exemption No. 2923 to permit petitioner to operate helicopters in hospital emergency service without meeting the flightcrew duty time limitations.
22992	Miami Air Lease Inc.	14 CFR 91-31(a)	To reconsider Denial of Exemption No. 3618 to permit petitioner to operate its Douglas DC-6B (cargo service only) aircraft, Serial No. 45515, at a 5% increased zero fuel and landing weight.
23400	Hawaiian Hang Gliding Association	14 CFR 103.1	To permit petitioner to operate unpowered ultralight vehicles for instructional purposes with more than one occupant.
21266	Flight Management Co.	14 CFR 91.169, 91.181(a)	To extend current Exemption No. 3294, to permit petitioner's clients to operate small civil airplanes and helicopters of U.S. registry under §§ 91.183-91.215.
23407	Experimental Aircraft Association	14 CFR Part 43	To permit petitioner and other qualifying owners of antique and classic aircraft, who have restored the aircraft to an airworthy condition under the supervision of an FAA airframe and powerplant mechanic, to thereafter conduct inspections (including annual inspections) repairs, and alterations to that specific aircraft.
23394	Ports of Call Travel Club	14 CFR 91.303	To allow petitioner to operate up to nine Boeing 707 aircraft in the U.S., which are not in compliance, from January 1, 1985, until July 10, 1985, to allow time to bring the airplanes into compliance with the operating noise limit requirements.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
18573	Gates Learjet Corp.	14 CFR 91.32(b)(1)(ii)	Reconsideration of the Denial of Exemption NO. 2889A to permit operation of aircraft above flight level 410 without either pilot wearing an oxygen mask so long as there were two pilots at the controls, and each pilot has a quick-donning type of oxygen mask. Denied Oct. 8, 1982.
23036	Icelandair S. A.	14 CFR Portions of Parts 21 and 91	Extension of Exemption No. 3531A which permits petitioner to operate a leased U.S. registered DC-8-55 aircraft using the FAA approved MMEL and continuous airworthiness and inspection program. Granted Oct. 21, 1982.
18324	American Airlines	14 CFR 43.3 and 121.709(b)(3)	Renewal of Exemption No. 2578 to permit petitioner's certificated flight engineers to restore passenger supplemental oxygen masks during flight and make an entry in the aircraft logbook. A certificated mechanic rechecks the restored masks at the next maintenance station. Granted Oct. 22, 1982.
22776	Merle Norman Cosmetics Aviation, Inc.	14 CFR 135.225(d)(e)	To allow petitioner's pilots with more than 100 hours as pilot in command (PIC), to make an IFR takeoff at a military or foreign airport when visibility is less than 1 mile. Those PIC's with less than 100 hours as PIC in type of airplane would be restricted to the 1-mile visibility takeoff minimum. Cancelled Oct. 27, 1982.

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
22358	Zantop International Airlines, Inc.	14 CFR 121.311	To permit petitioner to operate its DC-6, CV-340/440, and L-188 aircraft after the March 6, 1982, compliance date without installation of the required combined safety belt and shoulder harness. Cancelled Nov. 5, 1982.
22872	Air Transport Assoc.	14 CFR Part 61, Appendix A and Part 121 Appendix E.	To permit the actual static airplane preflight inspection training and checking requirements for a pilot candidate for a rating in certain airplanes to be accomplished by using an advanced and approved pictorial means. Partial grant Nov. 5, 1982.
21844	Airborne Express, Inc.	14 CFR 121.623, 121.643, and 121.645	Amendment of exemption 3443 to permit petitioner to operate its DC-9 and YS-11 aircraft under the domestic air carrier fuel supply provisions of 121.639. Granted Nov. 3, 1982.
23268	Aero Union Corp.	14 CFR §§ 21.1971, 91.27(a)(1), and 91.29(a)	To permit petitioner to operate certain aircraft under Part 91 with one engine inoperative for the purpose of ferry flights without obtaining special flight authorization. Denied Oct. 29, 1982.
23139	Wylie Aircraft Corp.	14 CFR 91.31(e)(3)	Amendment to Exemption No. 3609 to allow petitioner to add aircraft under the exemption which permits petitioner to operate its DC-6B aircraft using a 5 percent increase in zero fuel and landing weight. Granted Nov. 3, 1982.
23317	MAOF Airlines, Ltd.	14 CFR Portions of Parts 21, 91, and 125	To permit petitioner to operate a leased U.S.-registered Boeing 707-139B aircraft, N778, Serial No. 17903, using a minimum equipment list (MEL). Granted Nov. 4, 1982.
23290	Trans World Airlines, Inc. and ATA	14 CFR 121.391(d)	To permit required flight attendants to be located at the mid-cabin flight attendant station during takeoff and landing on certain B-767 aircraft. This exemption was filed by ATA and applies to TWA and other similarly situated Part 121 certificate holders. Granted Nov. 4, 1982.
23003	Steve Ballew	14 CFR 135.243(b)(2)	To permit petitioner to serve as pilot in command of an aircraft under day visual flight rules without meeting the 500 hours time as pilot requirement. Denied Oct. 20, 1982.
17145	United Airlines	14 CFR 121.665 and 121.697(a)(b)	Extension of Exemption No. 2468B to permit petitioner to use computerized load manifests which bear the printed name and position instead of the required signature of the person responsible for loading the aircraft. Partial grant Oct. 25, 1982.
23379	Frontier Airlines, Inc.	14 CFR 91.307	To allow operation in the United States under a service to small communities exemption specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: 21 B-737-200. Granted Oct. 13, 1982.
21174	Texas International Airlines	14 CFR 91.307	To amend Exemption No. 3093 to add 2 aircraft. The present exemption allows operation in the United States under a service to small communities. Exemption specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows. The new exemption would cover until not later than January 1, 1988: 27 aircraft. Granted Oct. 14, 1982.
22633	Virgin Islands Seaplane Shuttle, Inc.	14 CFR 135.175(a)	To amend Exemption No. 3487 to permit petitioner to operate its three Gruman G-73 Mallard airplanes in passenger-carrying operations without approved airborne weather radar equipment installed in the airplanes with less restricted conditions and limitations. Partial grant Oct. 26, 1982.
23275	Arrow Airways, Inc.	14 CFR 121.311(f)	To permit petitioner to operate three DC-8-62 aircraft without each flight attendant having a seat for takeoff and landing in the passenger compartment that meets the seat requirements. Partial grant Oct. 27, 1982.
23185	Wein Air Alaska, Inc.	14 CFR 121.574(a)(1) and (5)	To permit petitioner to carry and operate oxygen storage and dispensing equipment for medical use by patients requiring emergency medical attention and being carried as passengers when the equipment is furnished and maintained by hospitals within the State of Alaska. Granted Oct. 27, 1982.
23128	National Aviation Academy	14 CFR 141.35(d)	To permit petitioner to designate Ronald G. Kroff as a chief flight instructor although he does not meet the 2,000 hours pilot in command requirement for a chief instructor. Granted Oct. 19, 1982.
23338	Spantax, S.A.	14 CFR Portions of Parts 21 and 91	To amend Exemption No. 3526 to the extent necessary to reflect a change in the lessor for the affected aircraft (a U.S.-registered McDonnell-Douglas DC-10-30, N1035F). Granted Oct. 15, 1982.
23299	Bell Helicopter Textron	14 CFR 133.1(b) and 133.45(a)(3)	To permit petitioner to exercise the Dallas/Fort Worth Metroplex Helicopter Emergency Lifesaver Plan which involves lifting personnel in a suspended Billy Pugh safety net. Granted Oct. 29, 1982.
23116	British Aerospace	14 CFR 25.807(c)(1)	To allow petitioner an alternative exit arrangement for Model BAe 146. The alternative exit arrangement consists of four Type I emergency exits which are positioned two each side of the fuselage; one at each end of the passenger cabin. The petitioner desires to use a passenger seating arrangement of 109 passengers which exceeds by 30 the number allowed for this proposal. Granted Oct. 18, 1982.
22954	Mr. Vestal G. Fulp	14 CFR 65.104	To permit petitioner to obtain a repairman certificate for a Quickie experimental airplane, N37672, even though a repairman certificate for that aircraft is being held by another individual. Denied Oct. 20, 1982.

[FR Doc. 82-31379 Filed 11-17-82; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

National Motor Carrier Advisory Committee

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FHWA announces that the National Motor Carrier Advisory Committee will hold a meeting on December 7 and 8, 1982, beginning at 9:00 a.m. both days, in Washington, D.C., at the Department of Transportation's Headquarters Building, 400 Seventh

Street, SW., Washington, D.C. 20590, Room 2230.

The first day of this meeting, December 7, will be devoted to meetings of the National Motor Carrier Advisory Committee's task groups on the Highway Cost Allocation Study, the Section 19 (of the Motor Carrier Act of 1980) Study, and Commercial Vehicle Sizes and Weights. These meetings will

be open to the public and room assignments will be available before 9:00 a.m. in room 2230.

The meeting of the full committee will be convened at 9:00 a.m. on December 8 in room 2230 and is also open to the public. The agenda for this meeting will include reports from each of the task groups. It is also anticipated that briefings will be provided for the committee by the National Highway Traffic Safety Administration on Heavy Truck Accident Causation and Safety, Commercial Vehicle Seatbelt Use Motivation, and the Presidential Commission on Drunk Driving. Two other subjects which are expected to be addressed are Standardization of the Heavy Duty Vehicle Inspection Process for Issuance of Safety Inspection Stickers and Standardization of Criteria for Placing Vehicles Out of Service.

FOR FURTHER INFORMATION CONTACT:

Mr. Thomas P. Holian, Executive Director, National Motor Carrier Advisory Committee, Federal Highway Administration, HCC-20, Room 4224, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426-0346. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday thru Friday.

Issued on November 10, 1982.

Ray Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 82-31339 Filed 11-17-82; 8:45 am]

BILLING CODE 4910-22-M

**Environmental Impact Statement:
Cleburne, Clay, Talladega, and
Calhoun Counties, Ala.**

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in the Talladega National Forest in Cleburne, Clay, Talladega and Calhoun Counties.

FOR FURTHER INFORMATION CONTACT:

Mr. R. W. Evers, District Engineer, Federal Highway Administration, 441 High Street, Montgomery, Alabama 36104, Telephone: (205) 832-7379. Mr. B. J. Kemp, State of Alabama Highway department, 11 South Union Street, Montgomery, Alabama 36130, Telephone: (205) 832-5440.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the State of Alabama Highway Department, will prepare an Environmental Impact Statement (EIS) for Alabama Project

FLH-6600(1). This proposal is the completion of the Talladega Scenic Drive which is a two-laned scenic route in the Talladega National Forest. The length of the corridor is 70 miles, of which 20 miles have been previously constructed.

Alternatives under consideration: (1) Locations—three alternate locations between Bull's Gap and Cheaha State Park and four alternate locations between US 78 and Piedmont; (2) a reduced facility alternative; (3) a no-action alternative; and (4) postponement of the action alternative.

Three public involvement meetings have been held to solicit public input for the proposal. Copies of the Draft EIS will be sent to appropriate Federal, State, and local agencies, and to private organizations and individuals who have expressed interest in the proposal. A public hearing will be held. Public notice will be given concerning the time and place of the hearing. The Draft EIS will be available for public review and comment at the hearing. Written comments have been solicited from Federal, State, and local agencies, officials, and individuals who may have an interest in the project.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to 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 November 12, 1982.

L. N. MacDonald,

Division Administrator, Montgomery, Alabama.

[FR Doc. 82-31661 Filed 11-17-82; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

Record of Decision; Stamford Railroad Station, Stamford, Conn.

Pursuant to the Regulations of the Council on Environmental Quality (40 CFR Part 1505) and the Implementing Procedures of the Federal Railroad Administration (45 FR 40854).

Decision

The Federal Railroad Administration (FRA), a modal agency within the U.S. Department of Transportation, has elected to replace the existing railroad

station in Stamford, Connecticut with a new overtrack station. Associated with this project, the FRA and the City of Stamford will share the cost of constructing a parking garage and access improvements in the station area. In cooperation with the FRA, the Urban Mass Transportation Administration (UMTA), the Connecticut Department of Transportation (CDOT) and the City will construct an intermodal terminal under Interstate 95 (I-95) immediately adjacent to the new station.

Project Description

As part of the Northeast Corridor Improvement Project (NECIP), authorized by Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 *et seq.*), the existing, at-grade station structures in Stamford, Connecticut will be replaced by a new overtrack structure with the passenger-handling functions occupying the main floor, employee facilities on the mezzanine level and vertical circulation elements in towers at either end of the station. The main concourse level will contain the ticketing facilities surrounded by circulation space, concession space and waiting space with public service facilities (toilets, lockers and telephones) located off the waiting areas. A mezzanine above the ticketing area will provide adequate space for a lounge, toilets and lockers for railroad employees. The north and south towers will contain an escalator, an elevator for the use of handicapped patrons, stairs and additional space for mechanical/electrical equipment and storage. Approximately 11,000 square feet of space will be provided.

The parking garage will contain approximately 750 parking spaces on five levels and will be connected to the south side of the station by an enclosed pedestrian bridge from the fourth level of the garage to the station concourse. Vertical circulation in the garage will be via elevator and stairs, thereby permitting patrons to reach the pedestrian bridge from other garage levels or to descend to ground level and cross Station Place to the eastbound platform. In addition, a new surface parking area will be constructed adjacent to the garage. These two facilities, plus existing surface parking that will remain, will increase the number of parking spaces from the present 440 spaces to 830 spaces.

Vehicular access to the north side of the station will be improved by providing dropoff areas. The south side will also have a passenger dropoff area and access to the parking garage. Station Place will remain a two-way

street with signalized intersections at Washington Boulevard and Atlantic Street. Dropoff traffic will be routed one-way around an island to permit direct, safe discharging of passengers. Entry to and egress from the garage will be possible from both the east and west ends.

In addition to these improvements, the construction of an intermodal transfer facility opposite the north station entrance will be funded by UMTA, CDOT and the City in order to provide for passenger interchange between trains and local buses, intercity buses, taxis, limousines, vanpools and personal automobiles. The site is located beneath I-95, presently utilized as a metered parking area for station patrons, and bounded by Washington Boulevard, Guernsey Street and North and South State Streets.

The western half of the intermodal transfer facility, with direct access from Washington Boulevard at South State Street and from North State Street, will provide waiting spaces for taxis and short term parking for private automobiles and corporate vanpools awaiting arriving rail passengers. The eastern portion will be a bus terminal with loading areas for local buses, intercity buses and airport limousines. Additional space will be provided for layovers of local transit buses during off-peak hours. Entry to the bus terminal will be from both North and South State Streets. South State Street will remain a two-lane, one-way road but will be slightly reconfigured to provide a passenger dropoff lane at the station entrance and a deceleration lane for buses entering the intermodal center, thereby eliminating 30 parking spaces.

Pedestrian access between the railroad station and the intermodal center will be via a tunnel beneath South State Street. Escalator, elevator and stair units will be extended from the north station tower down to the tunnel level, which would also connect with the existing undertrack tunnel. Passengers arriving at the intermodal center will be able to pass beneath South State Street and ascend to the westbound platform, to the station concourse level or the eastbound platform via the undertrack access tunnel.

The estimated cost of the new railroad station being funded 100 percent by the FRA is \$8.5 million. The FRA will also provide approximately \$5.5 million as its 50 percent share of the parking and access improvements. The total cost of the intermodal center, being funded by UMTA, CDOT and the City is \$4.7 million.

Description of Alternatives:

The following alternatives were considered in reaching a decision:

- A. No expenditure of federal funds (no-build alternative).
- B. Rehabilitation of the two existing station buildings.
- C. Construction of a new station and retention of on-site surface parking.
- D. Construction of a new station, parking garage and access improvements.
- E. Construction of a new station, parking garage, access improvements and intermodal center.

Basis for Decision:

The purpose of these improvements is to provide the traveling public with a modern, efficient and convenient transportation facility. In concert with other NECIP improvements, the new railroad station will attract intercity rail patrons to the NEC and provide the facilities necessary to accommodate the increased rail passenger demand. The intermodal facility will amplify the attractiveness of the new rail facility in that several transportation modes will interface more easily and make the area's transportation network more convenient.

The existing Stamford Station, which is located in the City's central business district, is composed of two structures that were built in 1895. The approximately 4,000 square foot structure to the north of the railroad right-of-way serves as the station. Although it appears structurally sound, the station is in a deteriorated condition as a result of age and lack of adequate maintenance. The south side structure is essentially vacant except for a small area housing the stationmaster and Consolidated Rail Corporation police.

The existing station is inadequate to accommodate the present level of passenger activity both in terms of the facilities provided and their condition. The facility is overcrowded and outmoded regarding basic station functions such as ticketing, seated waiting areas personal service amenities concessions and railroad offices. In addition, passenger and vehicular access is presently deficient as the only means of crossing the tracks is a pedestrian tunnel that is inaccessible to the handicapped and inconveniently located outside the station and there are no clearly defined pickup and dropoff areas. The need for improved facilities becomes more evident when considering that intercity rail patronage is expected to increase from a 1975 annual level of 152,000 riders to 551,000 annually by 1990. This increase, along with a modest

rise in commuter ridership (1.6 to 1.7 million), will result in a total station patronage of 2,254,500 in 1990, an increase of 28 percent. Therefore, the no-build alternative is not feasible.

Rehabilitation of the existing station area would include the reopening of the south station building, thereby doubling the floor space currently available. If this rehabilitation included preservation of original architecture, use of complimentary materials and a reallocation of space consistent with the original design, the project would restore this *National Register* eligible property. However, the amount and configuration of the space currently provided would still be deficient for accommodating future rail patronage. Division of the station space between two buildings would necessitate duplicate facilities leading to less efficient operations and overloading passenger-handling facilities during peak periods. In addition, because the pedestrian tunnel would remain the only route by which passengers could cross the tracks and no parking or access improvements would be made, the rehabilitation option would perpetuate the same deficiencies in circulation, parking and access as the no-build alternative and has, therefore, been determined impractical.

Due to the potential for increased demand for rail service beyond the anticipated patronage levels of 1990, another important evaluation criterion was whether the station would permit the expansion of the track/platforms from a 4-track, side platform configuration to a 5-track, island platform configuration. The no-build and rehabilitation alternatives will not permit this reconfiguration because the location of this platforms limits the area to 4 tracks. A fifth track with island platforms could only be achieved through demolition of one station building and platform. However, a new, over-track station would allow maximum utilization of the site's limited land area and would provide the flexibility required for the possible future expansion to 5 tracks.

Alternatives C, D and E include the construction of a new, overtrack station which will provide flexibility in the track/platform configuration as well as satisfy the space requirements for efficient and convenient passenger-handling facilities and operations needed for rail service in the 1990's. Alternatives D and E also include the construction of a parking garage, which will require the demolition of the former Stamford Street Railroad Trolley Barn and Office Building in order to provide

sufficient space at this congested site for the anticipated parking demand. Although these alternatives will double the existing onsite parking supply, they differ in their ability to improve the access and circulation characteristics of the present station. Because Alternative E provides the maximum benefit in satisfying all requirements at Stamford Station and will best enhance the interface between various transportation modes, it was selected as the alternative to be implemented in Stamford.

Environmental Preferred Alternatives:

Of the five alternatives, Alternatives C and D were judged to be environmentally preferred while Alternatives A and B were considered environmentally unacceptable. Alternative A would perpetuate the deterioration of the existing station buildings and not satisfy the transportation needs of the future. Although Alternative B would preserve the *National Register* eligible properties in the station area, it also would not adequately provide for the future transportation needs of the City of Stamford. Otherwise, Alternative B would have the same relative environmental impacts on air and noise quality as Alternatives C and D.

Alternatives C and D, while requiring the demolition of the historic railroad station, would improve the rail transportation center but to varying degrees. Both alternatives would provide for a new station as well as improved parking and site access thereby creating a more efficient facility than presently available. Alternative D would maximize the available parking with the inclusion of a parking garage. Both alternatives would improve ambient air and noise quality as well.

Measures to Minimize Harm:

As stated in the Final Environmental Impact Statement for this project, the present station and the former Stamford Street Railroad Trolley Barn and Office Building were determined eligible for

inclusion in the *National Register of Historic Places*. Pursuant to the procedures of the Advisory Council on Historic Preservation (ACHP), the criteria of effect were applied to the selected alternative and it was determined that the construction of a new station and parking garage will have an adverse effect on these historically significant structures. Through consultation with the State Historic Preservation Officer (SHPO) and the ACHP to develop a mitigation plan, it was determined that these structures will be permanently recorded in accordance with the Department of the Interior standards prior to demolition. As-built plans, professional photographic documentation and a detailed historical monograph will be compiled and submitted to the SHPO and the National American Engineering Record. In addition, the ticket kiosk from the westbound station building, the steel Fink trusses and trolley pole from the Trolley Barn, and the station's waiting room benches will be delivered to the Branford Trolley Museum, East Haven, Connecticut for adaptive reuse at the museum's site, in accordance with the Memorandum of Agreement ratified by the ACHP Chairman on November 1982. An historical exhibit, relating the contribution the station has made to the City of Stamford, will also be constructed and installed in the new station.

Short-term noise impacts during construction will be reduced by requiring the contractor to use equipment which complies with noise standards established by EPA for various pieces of equipment powered by internal combustion engines. Stationary equipment (such as air compressors) will be required to be located a minimum of 100 feet from any residence or station access point. If this method cannot be used, the contractor will be required to enclose the equipment or provide temporary noise barriers. In addition, outdoor work will be prohibited between 10:00 p.m. and 7:00

a.m., except for certain overtrack construction activities which are restricted to nighttime hours by Conrail.

Conclusion:

Based upon this evaluation of project criteria and impacts, the FRA has determined that a new overtrack railroad station, parking garage and access improvement will be constructed in Stamford, Connecticut in conjunction with the construction of an intermodal transfer facility by UMTA, CDOT and the City of Stamford, and all practicable measures to minimize harm have been incorporated.

Dated: October 29, 1982.

Thomas A. Till,
Deputy Administrator, Federal Railroad
Administration.

[FR Doc. 82-31594 Filed 11-17-82; 8:45 am]

BILLING CODE 4910-06-M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, 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 Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in October 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
868-X	DOT-E 868	U.S. Department of Defense, Washington, DC.	49 CFR 173.3(a), 173.7(a), 174.10, 174.104(f), 174.8, 177.810, 177.806(a).	To authorize exceptions to requirements for carrier inspection of manufacture, vehicle, loading, etc. for transportation of Class A and B explosives loaded by Department of Defense shippers in DOT Specification containers. (Modes 1, 2.)
970-X	DOT-E 970	do	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.)
2462-X	DOT-E 2462	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.73(b)	To authorize shipment of certain lead azide in glass bottles overpacked in non-DOT specification wooden box. (Mode 1.)
2913-X	DOT-E 2913	U.S. Department of Energy, Washington, DC.	49 CFR 172.101, 173.301(d)(1), 173.301(d)(2), 173.302(a)(1), 173.34(d), 175.3.	To authorize use of non-DOT specification metal cylinders, for transportation of certain nonflammable and flammable nonliquefied compressed gases. (Modes 1, 4.)
3992-P	DOT-E 3992	Ethyl Corp., Baton Rouge, LA.	49 CFR 173.314	To become a party to Exemption 3992. (Mode 2.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
4039-X	DOT-E 4039	Airco Industrial Gases, Murray Hill, NJ	49 CFR 173.316(a)	To authorize shipment of liquefied hydrogen in a non-DOT specification vacuum insulated portable tank. (Mode 1.)
4282-X	DOT-E 4282	Hercules, Inc., Wilmington, DE	49 CFR 172.101, 173.114a, 173.93(a)	To authorize use of privately owned and specially designed cargo tanks, for transportation of a Class B explosive and oxidizer. (Mode 1.)
4453-P	DOT-E 4453	Ireco Chemicals, Salt Lake City, UT	49 CFR 173.114a(h)(3)	To become a party to Exemption 4453. (Mode 1.)
4490-X	DOT-E 4490	Air Products & Chemicals, Inc., Allentown, PA	49 CFR 173.316(a)	To authorize use of non-DOT specification vacuum insulated cargo tanks, for transportation of a flammable gas. (Mode 1.)
4600-P	DOT-E 4600	Great Lakes Chemical Corp., West Lafayette, IN	49 CFR 173.315, 178.245-3(a)	To become a party to Exemption 4600. (Mode 1.)
4607-X	DOT-E 4607	Armstrong Laboratories Division, West Roxbury, MA	49 CFR 173.306(a)(3)	To authorize shipment of a compressed gas in an inside plastic coated glass bottle, packed in strong outside fiberboard boxes. (Modes 1, 2, 3, 4.)
4612-X	DOT-E 4612	Aldrich Chemical Co. Inc., Milwaukee, WI	49 CFR 173.135, 173.122, 173.136, 173.139, 173.154, 173.206, 173.230, 173.245, 173.247, 173.252, 173.253, 173.271, 173.276, 173.281, 173.293, 173.346, 173.382	To authorize shipment of small quantities of hazardous materials in inside glass bottles overpacked in metal cans further overpacked in DOT Specification 12B fiberboard boxes. (Mode 1.)
4717-X	DOT-E 4717	Union Carbide Corp., Danbury, CT	49 CFR 172.101, 173.314(c)	To authorize shipment of liquefied ethylene or ethane in a non-DOT specification, insulated tank car tank. (Mode 2.)
5243-P	DOT-E 5243	Angus Chemical Co., Northbrook, IL	49 CFR 173.103(a), 173.66(g)(1), 177.835(g)	To become a party to Exemption 5243. (Modes 1, 2, 3.)
5315-X	DOT-E 5315	U.S. Department of Defense, Washington, DC	49 CFR 173.87	To authorize transport of a rocket engine containing nitrogen tetroxide, methylhydrazine and helium contained in a specially designed temperature controlled semi-trailer. (Mode 1.)
5403-X	DOT-E 5403	Halliburton Services, Inc., Duncan, OK	49 CFR 173.245(a)(31), 173.248(a)(6), 173.249(a)(6), 173.263(a)(10), 173.264(a)(14), 173.268(b)(3), 173.272(i)(21), 173.289(a)(4), 178.343-2(b), 178.343-5(b)(1)(i), 178.343-5(b)(2)(i)	To authorize use of a non-DOT specification cargo tank meeting the requirements of DOT Specification MC-312 with certain exception, for transportation of certain corrosive material. (Modes 1, 3.)
5493-X	DOT-E 5493	Montana Sulphur & Chemical Co., Billings, MT	49 CFR 172.504(e), 173.314(c)	To authorize shipment of hydrogen sulfide in DOT Specification 105A600W tank cars. (Mode 2.)
5778-X	DOT-E 5778	Liquid Air Corp., Cambridge, MD	49 CFR 173.302(a)(4), 173.304(a)(1)(i)	To become a party to Exemption 5778. (Modes 1, 2.)
5792-X	DOT-E 5792	Publicker Industries, Inc., Greenwich, CT	49 CFR 172.101, 173.314(c)	To authorize shipment of liquefied flammable gases in non-DOT specification vacuum insulated tank car tanks. (Mode 2.)
5792-X	DOT-E 5792	El Paso Products Co., Odessa, TX	49 CFR 172.101, 173.314(c)	To authorize shipment of liquefied flammable gases in non-DOT specification vacuum insulated tank car tanks. (Mode 2.)
5820-X	DOT-E 5820	ICI Americas, Inc., Wilmington, DE	49 CFR 173.315(a)	To authorize shipment of nonflammable gases in non-DOT specification IMCO Type 5 portable tanks. (Modes 1, 2, 3.)
5959-X	DOT-E 5959	Ethyl Corp., Baton Rouge, LA	49 CFR 172.101, 173.315(a)	To authorize shipment of liquefied ethylene in non-DOT specification insulated cargo tanks. (Mode 1.)
6154-X	DOT-E 6154	Uniroyal Chemical, Naugatuck, CT	49 CFR 173.154(a)(12), 178.205-16	To authorize transport of certain flammable solids in a modified DOT Specification 12B fiberboard box. (Modes 1, 2, 3.)
6296-P	DOT-E 6296	Rhone-Poulenc Inc., Monmouth Junction, NJ	49 CFR 173.377(g)	To become a party to Exemption 6296. (Modes 1, 2.)
6305-P	DOT-E 6305	Angus Chemical Co., Northbrook, IL	49 CFR 173.113(a)(1)	To become a party to Exemption 6305. (Modes 1, 2.)
6334-X	DOT-E 6334	U.S. Department of Defense, Washington, DC	49 CFR 172.101, 172.504	To authorize use of DOT Specification MC-312 cargo tanks for transportation of an oxidizer. (Mode 1.)
6442-X	DOT-E 6442	do	49 CFR 173.53(k), 173.87	To authorize transport of a 155mm high explosive projectile containing either a corrosive or flammable liquid in metal canister with an inner polyethylene container. (Modes 1, 2.)
6518-X	DOT-E 6518	Stauffer Chemical Co., Westport, CT	49 CFR 172.101, 172.302, 173.119, 173.134, 173.154	To authorize shipment of specified pyrophoric liquids and solids, water reactive solid and certain other flammable liquids in non-DOT specification steel portable tanks or cylinders. (Modes 1, 3.)
6518-X	DOT-E 6518	Union Carbide Corp., Danbury, CT	49 CFR 172.101, 172.302, 173.119, 173.134, 173.154	To authorize shipment of specified pyrophoric liquids and solids, water reactive solid and certain other flammable liquids in non-DOT specification steel portable tanks or cylinders. (Modes 1, 3.)
6530-X	DOT-E 6530	MG Burdett Gas Products Co., Norristown, PA	49 CFR 173.302(c)	To authorize shipment of hydrogen and mixtures of hydrogen with helium, argon or nitrogen in DOT Specification 3A, 3AA, 3AX or 3AAX steel cylinders. (Modes 1, 2.)
6543-X	DOT-E 6543	Airco Industrial Gases, Murray Hill, NJ	49 CFR 173.119, 173.135(a)(6), 173.136(a)(5), 173.247, 175.3	To authorize shipment of certain corrosive and flammable liquids in non-DOT specification 16 gauge, Type 304 stainless steel cylinders and/or 14 gauge Type 316 stainless steel cylinders. (Modes 1, 2, 4.)
6543-X	DOT-E 6543	Synthatron Corp., Parsippany, NJ	49 CFR 173.119, 173.135(a)(6), 173.136(a)(5), 173.247, 175.3	To authorize shipment of certain corrosive and flammable liquids in non-DOT specification 16 gauge, Type 304 stainless steel cylinders and/or 14 gauge Type 316 stainless steel cylinders. (Modes 1, 2, 4.)
6563-P	DOT-E 6563	S.L.O. Health Products, Inc., Baywood Park, CA	49 CFR 173.302(a)(1), 175.3	To become a party to Exemption 6563. (Modes 1, 2, 3, 4, 5.)
6610-X	DOT-E 6610	Arco Chemical Co., Pasadena, TX	49 CFR 173.221	To authorize shipment of an organic peroxide in DOT Specification 111A100W6 tank cars and MC-307 cargo tanks. (Modes 1, 2.)
6611-X	DOT-E 6611	Air Products & Chemicals, Inc., Allentown, PA	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification vacuum insulated portable tank, for transportation of a nonflammable gas. (Modes 1, 3.)
6614-P	DOT-E 6614	Litehouse Products, Inc., Strongsville, OH	49 CFR 173.263(a)(28), 173.277(a)(6)	To become a party to Exemption 6614. (Mode 1.)
6651-X	DOT-E 6651	Enthone, Inc., New Haven, CT	49 CFR 173.28(h), 173.28(m)	To authorize one time reuse of the involved single-trip containers, for transportation of certain Class B poisonous solids. (Mode 1.)
6651-P	DOT-E 6651	Mitchell Bradford Chemical Co., Inc., Milford, CT	49 CFR 173.28(h), 173.28(m)	To become a party to Exemption 6651. (Mode 1.)
6653-X	DOT-E 6653	Shell Oil Co., Houston, TX	49 CFR 172.101, 173.245, 173.358	To authorize shipment of an insecticide or a corrosive material in DOT Specification 6D, removable head, 55-gallon cylindrical steel overpack. (Modes 1, 2, 3.)
6668-X	DOT-E 6668	Union Carbide Corp., Danbury, CT	49 CFR 173.304(a)(2), 178.57	To authorize shipment of liquid oxygen in non-DOT specification insulated, welded cylinders. (Modes 1, 2.)
6695-X	DOT-E 6695	Fauvel-Girel, Paris, France	49 CFR 173.315	To authorize use of a non-DOT specification IMO Type 5 portable tank, for transportation of certain nonflammable compressed gases. (Modes 1, 2, 3.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6895-Z	DOT-E 6895	Eurotainer, Paris, France	49 CFR 173.315	To authorize use of a non-DOT specification IMO Type 5 portable tank, for transportation of certain nonflammable compressed gases. (Modes 1, 2, 3.)
6724-X	DOT-E 6724	U.S. Department of Defense Washington, DC	49 CFR 172.101, 173.89, 175.3	To authorize transport of caseless ammunition in an inside fiberboard box with egg crate separations and overpacked in a non-DOT specification strong wooden box. (Modes 1, 4.)
6762-P	DOT-E 6762	Chemical Sales Co., Denver, CO	49 CFR 173.286(b)(2), 175.3	To become a party to Exemption 6762. (Modes 1, 2, 3, 4.)
6762-P	DOT-E 6762	Kellermeyer Chemical Co., Toledo, OH	49 CFR 173.286(b)(2), 175.3	To become a party to Exemption 6762. (Modes 1, 2, 3, 4.)
6772-X	DOT-E 6772	Monsanto Co., St. Louis, MO	49 CFR 173.119(a)(22), 173.245, 173.264(a), 173.346, 173.349, 173.369	To authorize transport of limited quantities of waste flammable liquids, poisonous liquids, and corrosive liquids in inside glass on compatible plastic bottles on metal cans, overpacked in a DOT Specification 17U steel drum. (Mode 1.)
6806-X	DOT-E 6806	Transfresh Corp., Salinas, CA	49 CFR 173.302(a), 175.3	To authorize transport of a flammable gas in a DOT Specification 3E1800 cylinder by passenger-carrying aircraft. (Mode 5.)
6844-X	DOT-E 6844	American Cyanamid Co., Wayne, NJ	49 CFR 173.249a	To authorize use of non-DOT specification 275-gallon "Dypak" single-trip polyethylene containers overpacked in a plywood box for transportation of a certain corrosive liquid. (Modes 1, 2, 3.)
6858-X	DOT-E 6858	GCS Container Service SA, Perth Amboy, NJ	49 CFR 173.119, 173.125, 173.245, 173.346, 48 CFR 90.05-35	To authorize use of non-DOT specification stainless steel portable tanks for transportation of certain flammable, corrosive, combustible, and Class B poison liquids. (Modes 1, 2, 3.)
6890-X	DOT-E 6890	U.S. Department of Defense, Washington, DC	49 CFR 173.100(cc), 175.3	To authorize transport of an explosive severance system consisting of linear segments which may contain up to 79 grams of hexanitrostilbene. (Modes 1, 2, 3, 4.)
6904-X	DOT-E 6904	Aldrich Chemical Co., Inc., Milwaukee, WI	49 CFR 173.246(a), 175.3	To authorize transport of certain corrosive materials in DOT Specification 12A fiberboard boxes having inside glass acid resistant bottles not exceeding 1 pint capacity. (Modes 1, 3, 4.)
6922-X	DOT-E 6922	PCR Inc., Gainesville, FL	49 CFR 173.314(c), 179.300-15	To authorize use of a DOT Specification 106A500-X multi-unit tank car tank, for shipment of certain compressed gases. (Modes 1, 2, 3.)
6944-X	DOT-E 6944	U.S. Department of Defense, Washington, DC	49 CFR 173.62(a), 177.834(L)(1)	To authorize transport of a liquid high explosive in a specially designed stainless steel desiccator. (Mode 1.)
6960-X	DOT-E 6960	Pepsi-Cola Co. Purchase, NY	49 CFR Parts 100-199	To authorize use of DOT Specification and non-DOT specification stainless steel drums not presently authorized in the Hazardous Materials Regulations, for shipment of certain corrosive liquids. (Modes 1, 3.)
6971-X	DOT-E 6971	Chem Service, Inc., West Chester, PA	49 CFR Parts 100-199	To authorize transport of small quantities of reagent chemicals in inside glass bottles packed in metal boxes, overpacked in a strong wooden or fiberboard box. (Modes 1, 2, 3, 4, 5.)
7005-X	DOT-E 7005	Stolt Tank Containers formerly United Tank, Dallas, TX	49 CFR 173.119, 173.141(a)(10), 173.221, 173.245(a)(30), 173.346, 173.620, 173.630, 48 CFR 90.05-35	To authorize use of non-DOT specification intermodal portable tanks for transportation of certain flammable, corrosive, Class B poisons, and combustible liquids and ORM-A materials. (Modes 1, 2, 3, 4, 5.)
7005-X	DOT-E 7005	GCS Container Service SA, Chiasso, Switzerland	49 CFR 173.119, 173.141(a)(10), 173.221, 173.245(a)(30), 173.346, 173.620, 173.630, 48 CFR 90.05-35	To authorize use of non-DOT specification intermodal portable tanks for transportation of certain flammable, corrosive, Class B poisons, and combustible liquids and ORM-A materials. (Modes 1, 2, 3, 4, 5.)
7023-X	DOT-E 7023	J. T. Baker Chemical Co., Phillipsburg, NJ	49 CFR 173.245(a), 173.263(a), 173.264(a), 173.266, 173.268(f)(5), 173.272(g), 173.272(i)(24)	To authorize use of non-DOT specification steel portable tanks, for shipment of an oxidizer or corrosive material. (Mode 1.)
7041-X	DOT-E 7041	Ethyl Corp. Baton Rouge, LA	49 CFR 173.134(a)(6)	To authorize shipment of pyrophoric waste materials in non-DOT specification cargo tank of the MC-331 type. (Mode 1.)
7052-X	DOT-E 7052	Battery Engineering, Inc., Hyde Park, MA	49 CFR 172.191, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as a flammable solid. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	ENDECO, Inc.	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as a flammable solid. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Ray-O-Vac Corp., Madison, WI	49 CFR 172.101, 175.3	To modify paragraph 8(e) to include thionyl chloride and lithium tetrachloroaluminate. (Modes 1, 2, 3, 4.)
7060-P	DOT-E 7060	Central Skyport Inc., Columbus, OH	49 CFR 175.702(b), 175.75(a)(3)(ii)	To become a party to Exemption 7060. (Mode 4.)
7063-X	DOT-E 7063	Occidental Chemical Corp., Hooker Industrial Spec., Niagara Falls, NY	49 CFR 173.191(a)	To authorize use of a removable-head non-DOT specification polyethylene pail, for transportation of corrosive materials. (Modes 1, 2, 3.)
7085-X	DOT-E 7085	California Seal Control Corp., San Pedro, CA	49 CFR 172.101, 173.100, 173.51(a)(7), 173.86	To authorize packaging not presently authorized by the Hazardous Materials Regulations for class C explosives. (Modes 1, 2, 3.)
7275-X	DOT-E 7275	Express Airways, Inc., Sanford, FL	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.)
7275-X	DOT-E 7275	Express Airways, Inc., Sanford, FL	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107 Appendix B	To authorize an additional Class A explosive as packaged under DOT-E 6658. (Mode 4.)
7285-X	DOT-E 7285	Fauvet-Ginel, Paris, France	49 CFR 173.315(a)	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of certain nonflammable, liquefied gases. (Modes 1, 2, 3.)
7285-X	DOT-E 7285	Compagnie des Containers Reservoirs, Paris, France	49 CFR 173.315(a)	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of certain nonflammable, liquefied gases. (Modes 1, 2, 3.)
7458-X	DOT-E 7458	Ekohwens Co., Eastlake, OH	49 CFR 173.304(a)(2), 178.42	To authorize manufacture, marking and sale of non-DOT specification seamless cylinders, for transportation of nonflammable gases. (Modes 1, 2, 3.)
7516-X	DOT-E 7516	GCS Container Service SA, Chiasso, Switzerland	49 CFR 173.119, 173.125, 173.245, 173.346, 48 CFR 90.05-35	To authorize use of non-DOT specification portable tanks for transportation of certain flammable, corrosive, poisonous, or combustible liquids. (Mode 3.)
7517-X	DOT-E 7517	Trinity Industries, Inc., Dallas, TX	49 CFR 173.314(c)	To authorize manufacture, marking, and sale of non-DOT specification fusion welded tank car tanks, for transportation of nonflammable compressed gases. (Modes 1, 2, 3.)
7574-X	DOT-E 7574	Remmers-Tomkins Flight Service, Inc., Burlington, IA	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.)
7654-X	DOT-E 7654	J. T. Baker Chemical Co., Phillipsburg, NJ	49 CFR 173.119(f)	To authorize use of a glass bottle not exceeding 500 milliliter capacity inside a metal container overpacked in a DOT Specification 12B fiberboard box for transportation of a flammable liquid. (Modes 1, 2.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7741-X	DOT-E 7741	Propellant Explosive & Rocket Motors Establishment, Aylesbury, England.	49 CFR 173.276(a), 173.302(a), 173.34(d), 175.3, 175.30.	To authorize shipment of anhydrous hydrazine and helium in non-refillable non-DOT specification cylinders. (Modes 1, 3, 4.)
7752-X	DOT-E 7752	Eurotainer, Paris, France	49 CFR 173.119, 173.125, 173.128(a), 173.131(a)(1), 173.132(a)(1), 173.245(a), 173.32(a)(2), 173.346, 176.76(g)(2), 48 CFR 90.95-35.	To authorize use of non-DOT specification intermodal portable tanks for transportation of various hazardous materials. (Modes 1, 2, 3.)
7767-X	DOT-E 7767	Hydraulic Research Textron, Pacoima, CA.	49 CFR 173.304(a)(1), 175.3, 178.47	To authorize manufacture, marking and sale of non-DOT specification welded steel cylinders, for transportation of nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
7777-X	DOT-E 7777	Lang Engineering Co., Inc., Rochester, WI.	49 CFR 173.248	To authorize use of DOT Specification 34 polyethylene containers, DOT Specification 12B or 12P corrugated fiberboard boxes, or DOT Specification 6D or 37M cylindrical steel overpacked with an inside Specification 2SL polyethylene containers for shipment of spent sulfuric acid. (Modes 1, 2, 3.)
7820-X	DOT-E 7820	GCS Container Service SA, Chiasso, Switzerland.	49 CFR 173.119, 173.125, 173.128(a), 173.131(a), 173.132(a), 173.245(a), 173.346(a), 46 CFR 90.05-35.	To authorize use of a non-DOT specification IMCO Type II insulated portable tank for transportation of certain corrosive, flammable, poison B and combustible liquids. (Modes 1, 2, 3.)
7823-X	DOT-E 7823	Allied Chemical Co., Morristown, NJ	49 CFR 173.246	To authorize transport of iodine pentafluoride in non-DOT specification welded stainless steel cylinders complying with DOT Specification 4BW with certain exceptions. (Modes 1, 2, 3.)
7897-X	DOT-E 7897	GCS Container Service SA, Chiasso, Switzerland.	49 CFR 173.119, 173.125, 173.128(a), 173.131(a)(1), 173.132(a)(1), 173.245(a), 173.32(a)(2), 173.346, 46 CFR 90.05-35.	To authorize use of non-DOT specification IMCO type II insulated portable tanks for the transportation of various hazardous materials. (Modes 1, 2, 3.)
7938-X	DOT-E 7938	GCS Container Service SA, Chiasso, Switzerland.	49 CFR 173.118a, 173.119, 173.125, 173.128, 173.131, 173.132, 173.144, 173.245(a)(30), 173.346, 173.630.	To authorize use of non-DOT specification portable tanks, for transportation of certain hazardous materials. (Modes 1, 2, 3.)
7943-X	DOT-E 7943	Georgia Pacific Corp., Montebello, CA	49 CFR 173.263(a)(15), 173.272(c), 173.272(i)(12), 173.277(a)(1).	To authorize shipment of corrosive liquids in fiberboard boxes complying with DOT Specification 12B except for handholes in top flaps. (Mode 1.)
7951-X	DOT-E 7951	Avoset Food Corp., Oakland, CA	49 CFR 173.306(b)(1), 175.3, 178.33	To authorize transport of an aerosol foodstuff in a nonrefillable metal container, complying with DOT Specification 2P with certain exception. (Modes 1, 2, 3, 4, 5.)
8002-X	DOT-E 8002	GCS Container Service SA, Chiasso, Switzerland.	49 CFR 173.119, 173.141(a)(10), 173.245(a)(30), 173.346, 173.620, 173.630, 46 CFR 90.05-35.	To authorize use of non-DOT specification portable tanks for shipment of certain flammable, corrosive, Class B poisons, combustible liquids and ORM-A materials. (Modes 1, 2, 3.)
8013-X	DOT-E 8013	Air Products & Chemicals, Inc., Allentown, PA.	49 CFR 173.302, 173.304, 175.3	To authorize use of DOT Specification 4E cylinders, for transportation of certain nonliquefied flammable and nonflammable gases. (Modes 1, 4, 5.)
8017-X	DOT-E 78017	do	49 CFR 173.301(d)(2), 173.302(a)(3)	To authorize use of DOT Specification 3AX, 3AAX, or 3T cylinders, for transportation of a flammable gas. (Mode 1.)
8059-X	DOT-E 8059	Acurex Corp., Mountain View, CA	49 CFR 173.302(a)(1), 173.304(a), 175.3	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic full composite cylinders, for transportation of certain flammable and nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
8060-X	DOT-E 8060	SLEMI, Paris, France	49 CFR 173.315(a)	To authorize use of non-DOT specification portable tanks, for transportation of certain nonflammable, liquefied gases. (Modes 1, 2, 3.)
8060-X	DOT-E 8060	Fauvet-Girel, Paris, France	49 CFR 173.315(a)	To authorize use of non-DOT specification portable tanks, for transportation of certain nonflammable, liquefied gases. (Modes 1, 2, 3.)
8091-X	DOT-E 8091	Western Electric Co., Greensboro, NC	49 CFR Parts 100-177	To authorize transport of certain mercury relays exempted from 49 CFR 100-177, in heat sealed glass vials. (Modes 4, 5.)
8110-X	DOT-E 8110	GCS Container Service SA, Chiasso, Switzerland.	49 CFR 173.119, 173.125, 173.128, 173.129, 173.131, 173.132, 173.245, 46 CFR 90.05-35.	To authorize use of non-DOT specification portable tanks with bottom outlet, for transportation of various hazardous materials. (Modes 1, 2, 3.)
8129-P	DOT-E 8129	Chemical Waste Management, Inc., Oak Brook, IL	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	University of Maryland, College Park, MD.	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	Findly Chemical Disposal, Inc., Riverside, 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.)
8156-X	DOT-E 8156	Cryogenic Rare Gas Laboratories, Inc., Newark, NJ.	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To authorize transport of certain flammable or nonflammable compressed gases and carbon bisulfide in a DOT Specification 39 steel cylinder up to 225 cubic inches in volume. (Modes 1, 2.)
8156-X	DOT-E 8156	Scott Environmental Technology, Inc., Plumsteadville, PA.	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To authorize transport of certain flammable or nonflammable compressed gases and carbon bisulfide in a DOT Specification 39 steel cylinder up to 225 cubic inches in volume. (Modes 1, 2.)
8156-P	DOT-E 8156	Synthatron Corp., Parsippany, NJ	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To become a party to Exemption 8156. (Modes 1, 2.)
8248-P	DOT-E 8248	do	49 CFR 173.245, 173.247, 173.271, 178.170.	To become a party to Exemption 8248. (Mode 1.)
8372-X	DOT-E 8372	GCS Container Service SA, Chiasso, Switzerland.	49 CFR 173.245	To authorize transport of certain corrosive materials in non DOT specification portable tanks. (Modes 1, 2, 3.)
8378-X	DOT-E 8378	Worthington Diagnostics Systems, Inc., Freehold, NJ.	49 CFR 173.268, 175.3	To authorize use of DOT Specification 12B fiberboard boxes with inside DOT Specification 2E polyethylene bottles, for transportation of a dilute solution of nitric acid. (Modes 1, 2, 4.)
8396-X	DOT-E 8396	Aztec Chemicals, Elyria, OH	49 CFR 173.119, 173.21, 173.221	To authorize additional organic peroxide, classed as organic peroxide. (Mode 1.)
8407-X	DOT-E 8407	Hooker Industrial & Specialist Chemicals, Niagara Falls, NY.	49 CFR Part 172, 173.245, Subpart C	To authorize transport within plant over public highway, various waste residues, classed as corrosives liquids, n.o.s., without shipping papers, in non-DOT specification portable tanks. (Mode 1.)
8431-X	DOT-E 8431	Dow Chemical Co., Midland, MI	49 CFR Part 173.294(a)(2), 179.202-16	To authorize shipment of monochloroacetic acid solution in DOT Specification 111A100W6 insulated tank cars. (Mode 2.)
8445-P	DOT-E 8445	Atlantic Coast Environmental, Inc., Dover, DE.	49 CFR Part 173, Subpart D, E, F, & H	To become a party to Exemption 8445. (Mode 1.)
8445-P	DOT-E 8447	Resource Technology Services, Inc., Devon, PA.	49 CFR 173, Subpart D, E, F, & H	To become a party to Exemption 8445. (Mode 1.)
8450-X	DOT-E 8450	Vought Corp., Dallas, TX	49 CFR 173.92	To authorize transport of rocket motors without igniters, in non-DOT Specification polyethylene containers. (Mode 1.)
8451-P	DOT-E 8451	Unidynamics Phoenix, Inc., Phoenix, AZ	49 CFR 173.65, 173.86(e), 175.3	To become a party to Exemption 8451. (Modes 1, 2, 4.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8463-X	DOT-E 8463	Ethyl Corp., Baton Rouge, LA	49 CFR 173.262(b)(1), 178.210	To authorize shipment of hydrobromic acid, not more than 62% strength, in glass bottles contained in metal cans overpacked in a DOT Specification 12A fiberboard box. (Mode 1.)
8473-X	DOT-E 8473	Degussa, Frankfurt, Germany	49 CFR 173.122	To authorize use of non-DOT specification IMCO Type 5 portable tanks for shipment of a flammable liquid. (Modes 1, 2, 3.)
8475-X	DOT-E 8475	Chemical & Metal Industries, Inc., Denver, CO	49 CFR 173.245(a)	To authorize use of DOT Specification 106A500X and 110A500W multi-unit tank car tanks for shipment of a corrosive liquid. (Mode 1.)
8478-X	DOT-E 8478	West-Mark, Ceres, CA	49 CFR 173.119 (a), (m), 173.245(a), 177.346(a), 178.340-7, 178.342-5, 178.343-5	To authorize manufacture, marking and sale of non-DOT specification cargo tanks designed and constructed in full compliance with DOT Specification MC-307 or MC-312 with certain exceptions, for transportation of flammable and corrosive liquids. (Mode 1.)
8490-X	DOT-E 8490	Houghton Chemical Corp., Allston, MA	49 CFR 173.245(a)(31)	To authorize use of a fiberglass insulated DOT Specification MC-306 cargo tank, for shipment of certain corrosive materials. (Mode 1.)
8498-X	DOT-E 8498	Hunter Drums Ltd., Burlington, Ontario	49 CFR 173.19, Part 173 Subpart D, Part 173 Subpart F	To authorize manufacture, marking and sale of 55-gallon non-DOT specification reusable, blowmolded, polyethylene containers, for transportation of certain corrosive liquids and oxidizers. (Modes 1, 2, 3.)
8526-P	DOT-E 8526	PPG Industries, Inc., Pittsburgh, PA	49 CFR 177.834(L)(2)(i)	To become a party to Exemption 8526 (Mode 1.)
8685-P	DOT-E 8685	Nitram, Inc., Tampa, FL	49 CFR 173.182(b)(6)(ii)	To become a party to Exemption 8685. (Modes 1, 2, 3.)
8786-X	DOT-E 8786	Gas Spring Corp. Colman, PA	49 CFR 173.306(f)(2)(iii), 173.306(f)(3), 175.3	To amend exemption pertaining to description of device and testing requirements. (Modes 1, 2, 3, 4, 5.)
8792-P	DOT-E 8792	The Texwipe Co., Upper Saddle River, NJ	49 CFR Parts 100-199	To become a party to Exemption 8792. (Modes 1, 3.)
8799-P	DOT-E 8799	Ethyl Corp., Baton Rouge, LA	49 CFR 173.33(d)(1), 173.33(d)(2)	To become a party to Exemption 8799. (Mode 1.)
8820-P	DOT-E 8820	SLEMI, Paris, France	49 CFR 173.315	To become a party to Exemption 8820. (Modes 1, 2, 3.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8733-N	DOT-E 8733	ICI Americas Inc., Wilmington, DE	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.)
8787-N	DOT-E 8787	Motorola Semiconductor Sector, Phoenix, AZ	49 CFR 173.119(a)(7), 173.249(a)(13), 173.272(g), 173.299(a)(1)	To authorize transport of certain flammable and corrosive liquids in DOT Specification 2E polyethylene bottles, packed in a DOT Specification 12B fiberboard box. (Mode 1.)
8792-N	DOT-E 8792	Digital Equipment Corp., Northborough, MA	49 CFR Parts 100-199	To authorize small quantities of isopropyl alcohol in a saturated pad, sealed in a plastic coated foil pack, overpacked not to exceed 250 packs per strong outside box, as essentially non-regulated. (Modes 1, 3.)
8817-N	DOT-E 8817	Allied Corp., Morristown, NJ	49 CFR 173.274(a)(1), Note 1	To authorize shipment of fluosulfonic acid in non-DOT specification acid-resistant screw cap glass bottles, overpacked in metal cans, packed in a DOT Specification 15A, 15B, 15C, 16A, or 19A wooden box. (Modes 1, 2, 3.)
8843-N	DOT-E 8843	Pengo Industries, Inc., Fort Worth, TX	49 CFR 173.246, 175.3	To authorize manufacture, marking and sale of non-DOT specification nonrefillable cylinders, for transportation of bromine trifluoride. (Modes 1, 2, 3, 4.)
8855-N	DOT-E 8855	Ciba-Geigy Corp., Summit, NJ	49 CFR 173.268(c)(1), 178.109	To authorize shipment of nitric acid, classed as an oxidizer, in non-DOT specification aluminum drums similar to DOT Specification 42B except for closure. (Mode 1.)
8861-N	DOT-E 8861	Hoover Universal, Inc., Beatrice, NE	49 CFR 173.119(m), 173.346, 173.349, 173.352	To authorize manufacture, marking and sale of DOT Specification 57 portable tanks for shipment of various flammable liquids which are also corrosive or poison and certain Class B poison liquids. (Modes 1, 2.)
8864-N	DOT-E 8864	Miller Transporters, Inc., Jackson, MS	49 CFR 173.245(a), 178.340-10, 178.340-8, 178.341-3, 178.341-4, 178.341-5, 178.341-7	To authorize use of non-DOT specification cargo tanks complying with DOT Specification MC-306, for transportation of a corrosive liquid. (Mode 1.)
8871-N	DOT-E 8871	Chase Bag Company, Oak Brook, IL	49 CFR 173.154, 173.182, 173.245(b)	To authorize manufacture, marking and sale of large, collapsible polyethylene lined woven polypropylene bulk bags, having a capacity of approximately 2000 pounds each, and top and bottom outlets, for shipment of corrosive solids and nitrates. (Modes 1, 2.)
8872-N	DOT-E 8872	do	49 CFR 173.201	To authorize manufacture, marking and sale of non-DOT specification polyethylene valve-type bags, for transportation of rubber scrap. (Modes 1, 2.)
8874-N	DOT-E 8874	Cylinder Technology Inc., Chanute, KS	49 CFR 173.302, 175.3, 178.46	To authorize manufacture, marking and sale of non-DOT specification aluminum cylinders made in compliance with DOT Specification 3AL with certain exception, for transportation of nonflammable gases. (Modes 1, 2, 3, 4, 5.)
8881-N	DOT-E 8881	Bandini Fertilizer Co., Los Angeles, CA	49 CFR 172.300, 172.400, Part 107, Appendix B	To authorize shipment of an ammonium nitrate mixed fertilizer identified as Super Green in paper bags without marking the proper shipping name and oxidizer label. (Mode 1.)
8882-N	DOT-E 8882	F & A Maintenance, dba TRAVELAIRE, Houston, TX	49 CFR 172.101, 173.27, 175.30(a)(1), 175.320, 175.75, 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.)
8894-N	DOT-E 8894	Process Engineering Inc., Plaistow, NH	49 CFR 173.315(a)	To authorize manufacture, marking and sale of non-DOT specification vacuum insulated cargo tanks, for transportation of nonflammable gases. (Mode 1.)
8900-N	DOT-E 8900	Cylinder Technology, Inc., Chanute, KS	49 CFR 173.302(a), 175.3	To authorize manufacture, marking and sale of welded non-DOT specification stainless steel cylinders complying with DOT Specification 3HT, for transportation of nonflammable gases. (Modes 1, 2, 3, 4, 5.)
8915-N	DOT-E 8915	Union Carbide Corporation, Danbury, CT	49 CFR 173.301(d), 173.302(a)(3)	To authorize shipment of certain flammable and nonflammable compressed gases in DOT Specification 3A, 3AA, 3AX, 3AAX and 3T cylinders. (Mode 1.)
8919-N	DOT-E 8919	Upjohn Company, Kalamazoo, MI	49 CFR Parts 100-199	To authorize transport of small quantities of a medical product containing ethyl alcohol in heat sealed glass ampules, packed in a corrugated outside fiberboard box. (Modes 1, 4, 5.)

NEW EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8920-N	DOT-E 8920	Applied Environments Corporation, Woodland Hills, CA	49 CFR 173.302(a)(4), 175.3	To authorize manufacture, marking and sale of non-DOT specification welded high pressure nonrefillable cylinders, for transportation of nonflammable, liquefied gases (Modes 1, 2, 4).

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 8939-N	DOT-E 8939	Truck Fabrication and Supply, Inc., Odessa, TX	49 CFR 173.119, 173.245	To authorize manufacture, marking and sale of non-DOT specification portable tanks, for transportation of flammable liquids and corrosive liquids. (Mode 1.)

WITHDRAWALS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8895-N	Union Carbide Corp., Danbury, CT	49 CFR 173.353(a)(3)	To authorize shipment of methyl bromide, Class B poison, in DOT Specification 4B, 4BA and 4BW cylinders, equipped with welded-on headbands with protective dome covers in lieu of the required screw-on metal caps. (Modes 1, 2, 3.)

Denials

6614-P Request by F. I. M. Store, Alsip, IL to become a party to exemption authorizing shipment of corrosive liquids in polyethylene bottles packed by polyethylene cases denied October 28, 1982.

6614-P Request by Pleasure Industries Corporation, St. Joseph, MI to become a party to exemption authorizing shipment of corrosive liquids in polyethylene bottles packed in polyethylene cases denied October 27, 1982.

8664-N Request by Spectrix Corporation, Houston, TX to authorize shipment of small quantities of certain liquid oxidizers and liquid corrosive materials in non-DOT specification packaging by motor vehicle and cargo aircraft denied October 21, 1982.

8669-N Request by Blacksburg Aviation, Incorporated, Blacksburg, VA 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 October 8, 1982.

8785-N Request by Coker Aviation, Inc. D.B.A. Coker Airfreight, Inc., Grand Prairie, 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 October 8, 1982.

Issued in Washington, D.C., on November 5, 1982.

J. R. Grothe,
Chief, Exemptions Branch, Office of
Hazardous Materials Regulation, Materials
Transportation Bureau.

Inconsistency Ruling, IR-5; City of New York Administrative Code Governing Definitions of Certain Hazardous Materials

Applicants: Ritter Transportation Inc., National LP-Gas Association, Propane Corporation of America. (IRA 13, 14, & 15).

City Law Affected: City of New York Administrative Code, Hazard Class Definitions, Section C-19.2.0, Subdivision 20; Fire Department Directive, F.P. 5-63, "Specifications for vehicles transporting or delivering compressed gases within the City of New York"; Notice from the Fire Department of the City of New York on the Transportation of Certain Hazardous Materials, September 18, 1980.

Applicable Federal Requirements: Hazardous Materials Transportation Act (HMTA), 49 U.S.C. 1801 *et seq.* and 49 CFR Parts 171-179.

Mode Affected: Highway
Issue Date: Fire Department Directive: December 21, 1979; Notice: September 18, 1980.

Ruling: *Definitions* found inconsistent are the definition of "gas under pressure", "combustible or flammable gas", "combustible mixture", and "inflammable mixture". Notice from Fire Department (September 18, 1980) and Fire Department Directive F.P. 5-63 not decided herein as a decision has been rendered by the U.S. Court of Appeals for the Second Circuit.

Summary: This inconsistency ruling is the opinion of the Materials Transportation Bureau (MTB) concerning whether the City of New York's hazard class definitions are inconsistent with the HMTA or regulations issued thereunder and thus

preempted as set forth in section 112(a) of the HMTA. This ruling was applied for and is issued pursuant to procedures at 49 CFR 107.201-209.

For Further Information Contact: Vita A. Simon, Office of the Chief Counsel, Research and Special Programs Administration, Department of Transportation, Washington, D.C. 20590 (telephone (202) 755-4972).

I. Background

A. Application

On September 26, 1980, Ritter Transportation Company, Inc. filed an application for an inconsistency ruling, in accordance with 49 CFR 107.203, requesting the Materials Transportation Bureau's (MTB) determination as to whether certain requirements relating to the transportation of hazardous materials that had been adopted by the City of New York (the City) are "inconsistent" within the meaning of the Hazardous Materials Transportation Act (HMTA) and, therefore, preempted in accordance with Section 112 of that Act (49 U.S.C. 1811). Similar requests were filed by the National LP-Gas Association on October 10, 1980, and by the Propane Corporation of America on November 3, 1980. The MTB consolidated the three proceedings and published a public notice and request for comment in the *Federal Register* on April 6, 1981 (46 FR 20662). Comments received by May 15, 1981, included those of the applicants, the City, and numerous interested organizations, and contained discussions of the hazard class definitions that are the subject of this ruling.

On October 16, 1980, the National Tank Truck Carriers (NTTC) and Ritter Transportation Company filed actions against the City in Federal District Court seeking both declaratory and injunctive relief. The two cases alleged constitutional violations and conflicts with the HMTA. During pendency of the litigation, the MTB deferred from issuing a ruling in this proceeding, preferring to await the Court's decision. A final decision was rendered by the United States Court of Appeals for the Second Circuit on May 3, 1982. (*National Tank Truck Carriers and Ritter Transportation Company v. City of New York* (677 F2d 270, 2nd Cir., 1982))

All matters that were subjects of the inconsistency determination requests were addressed by the Court, with the exception of the issue of hazard class definitions.

In deferring on the definitional issue, the Court stated:

The City says the record is too scanty on this issue and that the Court should defer to the DOT, before which there is currently pending an inconsistency action. We think remand on this point is appropriate, and leave it to the district court whether to take more evidence or to await DOT action * * *

Subsequently, the MTB received additional comments on the definitional issues from the NTTC and copies were provided the City. No response to the additional NTTC comments was received from the City.

B. General Authority and Preemption under the HMTA

With certain exceptions, the HMTA imposes obligations to act only on the Secretary of Transportation. Obligations are imposed on members of the public only by substantive regulations issued under the HMTA. Known as the Hazardous Materials Regulations (HMR), they are codified at 49 CFR Parts 107-179, and mostly predate the HMTA. The HMR previously were authorized by the Explosives and Other Dangerous Articles Act (18 U.S.C. 831-835), which was repealed in 1979. (Pub. L. 96-129, Nov. 30, 1979). The HMTA was enacted on January 3, 1975 and the HMR were reissued under its authority, effective January 3, 1977 (41 FR 39175, September 9, 1976). Subsequent amendments to the HMR have been issued under the authority of the HMTA and with the preemptive effect granted by that Act.

With regard to highway transportation of hazardous materials, the HMR apply to persons who offer these materials for transportation (shippers), those who transport the materials (carriers) and those who manufacture and retest the packagings and other containers intended for use

with the materials. The scope of transportation activity affected includes the packaging of shipments of hazardous materials; package markings (to show content) and labeling (to show hazard); vehicle placarding (to show hazard); handling procedures such as loading and unloading requirements; care of vehicle and lading during transportation; and the preparation and use of shipping papers to show the identity, hazard class, and amount of each hazardous material being shipped. The HMR also require carriers to report in writing to DOT any unintentional release of a hazardous material during transportation. In some cases, an immediate report must be made in addition to the subsequent written report.

A discussion of the preemptive effects of the HMTA appears in previous inconsistency rulings. The discussions in IR-2 (44 FR 75566) and IR-3 (46 FR 18918) are extracted and summarized here.

The HMTA at section 112(a) (49 U.S.C. 1811(a)) preempts "any requirement of a State or political subdivision thereof, which is inconsistent with any requirement set forth in (the HMTA) or regulations issued under (the HMTA)." This express preemption provision makes it evident that Congress did not intend the HMTA and its regulations to completely occupy the field of transportation so as to preclude any State or local action. The HMTA preempts only those State and local requirements that are "inconsistent."

In 49 CFR Part 107, Subpart C, the MTB has published procedures by which a State or political subdivision thereof having a requirement pertaining to the transportation of hazardous materials, or any person affected by the requirement may obtain an administrative ruling as to whether the requirement is inconsistent with the HMTA or regulations under the HMTA. At the time these procedures were published, the MTB observed that "the determination as to whether a State or local requirement is consistent or inconsistent with the Federal statute or Federal regulations is traditionally judicial in nature." (41 FR 38167, September 9, 1976). There are two principal reasons for providing an administrative forum for such a determination. First, an inconsistency ruling provides an alternative to litigation for a determination of the relationship of Federal and State or local requirements. Second, if a State or political subdivision requirement is found to be inconsistent such a finding provides the basis for an application for a determination by the Secretary of

Transportation as to whether preemption will be waived. (49 U.S.C. 1811(b); 49 CFR 107.215-107.225)

Since the proceeding here is conducted pursuant to the HMTA, the MTB will consider only the question of statutory preemption. A Federal court may find a State requirement not statutorily preempted, but nonetheless preempted by the Commerce Clause of the U.S. Constitution because of an undue burden on interstate commerce. However, the Department of Transportation does not make such determinations. Also, under earlier legislative authority, the applicability of the HMR was statutorily limited to carriers in interstate and foreign commerce and their shippers and did not apply to carriers in wholly intrastate commerce and their shippers. Although the HMTA at section 103(1) (49 U.S.C. 1802(1)) authorizes application of its regulation to intrastate commerce that affects interstate commerce, the MTB has exercised this expanded jurisdiction only on a case-by-case basis (e.g., hazardous wastes and hazardous substances). However, laws and regulations of States and political subdivisions applying to intrastate carriers may be preempted, notwithstanding the fact that the Department of Transportation normally does not regulate such carriers, if the laws and accompanying regulations are found to be inconsistent with the HMTA.

Given the judicial character of the inconsistency ruling proceeding, the MTB has incorporated case law criteria for analyzing preemption issues into the preemption procedures at 49 CFR 107.209(c):

(1) Whether compliance with both the (State or local) requirement and the Act or the regulations issued under the Act is possible; and

(2) The extent to which the (State or local) requirement is an obstacle to the accomplishment and execution of the Act and the regulations issued under the Act.

The first criterion is the dual compliance or direct conflict test and concerns those State or local requirements that are incongruous with Federal requirements; that is, compliance with the State or local requirement causes the Federal requirement to be violated, or vice versa. The second criterion, in a sense, subsumes the first and concerns those State or local laws that, regardless of conflict with a Federal requirement, stands as "an obstacle to the accomplishment and execution of the (HMTA) and the regulations issued

under the (HMTA)." In determining whether a State or local requirement presents such an obstacle, it is necessary to look at the full purposes and objectives of Congress in enacting the HMTA and the manner and extent to which those purposes and objectives have been carried out through the MTB's regulatory program.

In enacting the HMTA, Congress recognized that the Department of Transportation's efforts in hazardous materials transportation regulation lacked coordination by being divided among the various transportation modes, and lacked completeness because of gaps in DOT's authority, most notably in the area of manufacturing and preparation of packagings used to transport these materials. In order to "protect the Nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce" (49 U.S.C. 1802), Congress consolidated and expanded the Department's regulatory and enforcement authority.

Specifically with respect to the preemption provision, the legislative history of this provision indicates that Congress intended it "to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation." (S. Rep. No. 1192, 93rd Cong., 2nd Sess. 37 (1974))

C. Hazard Class Definitions

Petitioners and commenters in this proceeding argue that four hazard class definitions contained in Section C-19.2.0 of the City's Administrative Code are substantially different from the hazard class definitions contained in the HMR, and are therefore inconsistent with the HMR. The City's definitions that are at issue are: "gas under pressure", "combustible gas or flammable gas", "combustible mixture", and "inflammable mixture."

The City defines a "gas under pressure" as "a gas or compound of gases, either in gaseous or liquid form, compressed to pressure greater than six pounds to the square inch gauge at 70°F." The corresponding hazard class under the HMR is "compressed gas", defined at 49 CFR 173.300(a). The principal difference between the two definitions is that when measured at the same temperature (70°F), the City's vapor pressure threshold is six pounds per square inch gauge, whereas the HMR's threshold is 40 pounds per square inch absolute (approximately 25 pounds per square inch gauge). The result is that the City classifies as "gas

under pressure" a number of materials that would be considered as liquids rather than gases under the HMR.

The City defines a "combustible or flammable gas" as "any gas which will form an explosive mixture upon concentration with air or which will ignite in air." The corresponding hazard class under the HMR is "flammable compressed gas" defined at 49 CFR 173.300(b). In addition to the vapor pressure differences discussed above, a major difference between the two definitions is that the HMR definition contains limitations relating to a gas' flammability range in mixtures with air, whereas the City's definition contains no such limitations. The result is that the City's definition applies to a number of materials not covered by the definition in the HMR.

The City defines a "combustible mixture" as "any liquid or solid mixture, or substance, or compound, which emits an inflammable vapor at temperatures between one hundred degrees Fahrenheit and three hundred degrees Fahrenheit, when tested in a Tagliabue open-cup tester." The corresponding hazard class under the HMR is "combustible liquid" defined at 49 CFR 173.115(b). In addition to the testing method difference discussed below, the principal difference between the two definitions is that the HMR definition applies only to materials with flashpoints between 100° and 200°F, while the City's definition applies to materials with flashpoints up to 300°F. The result is that the City classifies as "combustible mixtures" materials that are not considered hazardous under the HMR.

Finally, the City defines an "inflammable mixture" as "any liquid, or any mixture, substance, or compound which will emit an inflammable vapor at a temperature below one hundred degrees Fahrenheit, when tested in a Tagliabue open-cup tester." The corresponding hazard class under the HMR is "flammable liquid" defined at 49 CFR 173.115(a). The principal difference between the two definitions is that, while both cite 100°F as the threshold flashpoint, the City requires use of the "open-cup" test method whereas the HMR requires use of the "closed-cup" method. In fact, in 1972 the HMR were amended to require use of the "closed-cup" method rather than the "open-cup" method because the "closed-cup" method had been determined to be much more reliable (37 FR 1198, June 15, 1972). The effect of the difference is that some materials that are classed as "flammable liquids" under the HMR do not meet the City's definition of "flammable mixture" and are therefore

classed by the City as "combustible mixtures."

II. Ruling

The foundation of the Federal hazardous materials regulatory system is the definition of hazard classes. If a material possesses the characteristics described in the DOT definitions, then persons involved in all phases of the transportation of that material are required to comply with the applicable provisions of the HMR, including requirements for packaging, shipping papers, marking, labeling, placarding, and handling. Furthermore, other persons, most notably emergency response personnel, rely on compliance with the requirements triggered by those definitions.

In establishing the hazard class definitions, DOT has exercised the express statutory authority created by Section 104 of the HMTA:

Upon a finding by the Secretary, in his discretion, that the transportation of a particular quantity and form of material in commerce may pose an unreasonable risk to health and safety or property, he shall designate such quantity and form of material or group or class of such materials as hazardous materials. (49 U.S.C. 1803)

By implication, if a material does not possess the characteristics described in any of the hazard class definitions, then, in view of the DOT, it is not a material that "may pose an unreasonable risk to health and safety or property," and, accordingly, application of the HMR to its transportation is not deemed warranted. By further implication, where the definitions result in a certain material being classified as one type of material (e.g., flammable liquid) rather than another (e.g., flammable gas), then, in the view of MTB it is more appropriate to transport that material in accordance with the regulations applicable to that hazard class. Apart from the fact that the HMTA grants broad discretion to DOT in establishing these definitions, their adequacy is attested by the fact that they have been adopted by a vast majority of the States.

As discussed above, one of the effects of the New York definitions is to broaden the scope of materials that are subject to the City's requirements to materials that are not subject to the HMR. Another effect is to classify some materials differently, for purposes of application of the City's requirements, from their classifications for purposes of application of the HMR. Therefore, the issue addressed in this ruling is whether the City's hazard class definitions, which, because of their differences from the definitions contained in the HMR,

have the effects described above, are "inconsistent" within the meaning of the HMTA. For the reasons set forth below, it is MTB's view that, to the extent they differ from the HMR, the City's definitions and the resulting applications of the City's requirements are inconsistent with the HMTA and the regulations issued thereunder are therefore preempted.

With regard to the "dual compliance" test, there is no information before MTB to indicate that compliance with the City's requirements that are made applicable by the City's definitions necessarily results in violation of the HMR, or vice versa. Therefore, we cannot conclude that the City's definitions are inconsistent under the "dual compliance" test.

With regard to the "obstacle" test, however, we reach the opposite conclusion. Under that test, the issue is "the extent to which the State or political subdivision requirement is an obstacle to the accomplishment and execution of the Act and the regulations issued under the Act." As discussed above, in adopting the HMTA, Congress had two purposes that are relevant to this proceeding. First, as stated in the policy section of the Act, the fundamental purpose is "to protect the Nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce." (49 U.S.C. 1801.) Second, as stated in the legislative history of the preemption provision (49 U.S.C. 1811), Congress' purpose in adopting that provision was "to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation." (S. Rep. No. 1192, 93rd Cong., 2nd Sess. 37 (1977)).

These two purposes are closely interrelated. For example, in previous inconsistency rulings, we have expressed our view that overall public safety demands nationally uniform requirements relating to hazardous material packaging and hazard warning systems. (IR-2; IR-3; IR-4, 47 FR 1231) As we stated in IR-2:

There are certain areas where the need for national uniformity is so crucial and the scope of Federal regulation is so pervasive that it is difficult to envision any situation where State or local regulation would not present an obstacle to the accomplishment and execution of the HMTA and the Hazardous Materials Regulations. (44 FR 75568)

In the present context, we reach the same conclusion with regard to hazard class definitions which, as discussed above, serve as the starting point in

determining the applicability of nationally uniform requirements.

In addition to the fact that the City's differing hazard class definitions present an obstacle to the accomplishment of the general Congressional purpose of promoting uniformity in hazardous materials transportation, those definitions also present an obstacle to the accomplishment of the more specific purpose of achieving the maximum level of compliance with the HMR. The HMR are, in and of themselves, a comprehensive and technical set of regulations which occupy approximately 1000 pages of the Code of Federal Regulations. The complexity of this regulatory scheme is often cited as a significant cause of noncompliance. MTB is aware of this, and a major thrust of our rulemaking activities in recent years has been to simplify the regulations. For the City to impose additional requirements based on differing hazard class definitions adds another level of complexity to this scheme. Thus, shippers and carriers doing business in the City must know not only the classifications of hazardous materials under the HMR and the regulatory significance of those classifications, but also the City's classifications and their significance. Such duplication in a regulatory scheme where the Federal presence is so clearly pervasive can only result in making compliance with the HMR less likely, with an accompanying decrease in overall public safety. Of course, if it were to be determined that differing hazard class definitions are an appropriate field for local regulations by New York City, the same must be conceded for any locality, and the potential for regulatory chaos is obvious.

As a practical matter, the mechanics of a carrier's attempts to comply with the City's requirements that are triggered by its differing hazard class definitions may also result in inconsistencies under the HMTA. For example, the City requires transporters of "gas under pressure" within the City to obtain a permit from the Fire Commissioner. Yet, because of the difference between the City's definitions of "gas under pressure" and the DOT's definition of "compressed gas" the carrier may not be put on notice by a shipping paper required by the HMR that a shipment contains a "gas under pressure" for which the carrier is required to obtain a permit. Therefore, to assure its compliance with the City's requirements, the carrier would have to obtain documentation from the shipper in addition to that provided on the

shipping paper. As discussed above, it is DOT's view that the shipping paper requirements of the HMR are exclusive and that any additional shipping paper requirements are inconsistent under the HMTA. The prospect of a proliferation of local hazard class definitions employing different flashpoints, vapor pressures, and other criteria that result in requiring carriers to obtain information in addition to that required under the HMR would obviously result in widespread confusion which could lead to noncompliance with applicable Federal regulations. To the extent that such confusion and noncompliance among persons subject to the regulations cause deviations from or confusion with DOT's uniform hazard warning systems, differing hazard class definitions would also have a detrimental effect on emergency response capabilities. As we stated in IR-2:

The effectiveness of these systems depends to a large degree on educating the public, especially emergency response personnel * * * Additionally, different requirements imposed by States or localities detract from the DOT systems and may confuse those to whom the DOT systems are meant to impart information. (44 FR 75568)

While, in the present context, we are examining differing hazard class definitions rather than differing hazard warning requirements, the effect of presenting differing, and possibly conflicting, information is the same.

For the foregoing reasons, I find that the definitions of the terms, "combustible mixture", "gas under pressure", "combustible gas or inflammable gas", and "inflammable mixture" contained in Section C-19.2.0 of the Administrative Code of the City of New York, are an obstacle to the accomplishment of the HMTA and its regulations. Accordingly, it is our opinion that, to the extent those definitions differ from those contained in the HMR, and to the extent they are made applicable by other provisions of that Code to transportation of hazardous materials, they are inconsistent with the HMTA and the regulations issued under it, and, in accordance with Section 112(a) of the HMTA, are preempted. Any appeal to this ruling must be filed within 30 days of service in accordance with 49 CFR 107.211.

Issued in Washington, D.C., on November 9, 1982.

Alan I. Roberts,
Associate Director for Hazardous Materials
Regulation, Materials Transportation Bureau.

[FR Doc. 82-31395 Filed 11-17-82; 8:45 am]

BILLING CODE 4910-60-M

Urban Mass Transportation Administration

Scoping Meeting

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of intent to prepare an EIS.

SUMMARY: Pursuant to the National Environmental Policy Act (42 U.S.C. 4321) and the Council on Environmental Quality's (CEQ) implementing regulations (40 CFR Parts 1500-1508), the Urban Mass Transportation Administration (UMTA) gives notice that an Environmental Impact Statement is being prepared for the study of alternative transit improvements in North Seattle/King County, Washington. Notice of Scoping Meetings to address the scope of the North Corridor Alternatives Analysis/Environmental Impact Statement is hereby given.

DATE AND PLACE: December 15, 1982, at 2:00 p.m., in the South Conference Room, Fourth Floor, Federal Building, 915 Second Avenue, Seattle Washington; and December 15, 1982, at 7:30 p.m., in Room RC 1141, North Seattle Community College, 9600 College Way North, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth U. Mowll, Urban Mass Transportation Administration, UGM-22, 400 7th Street, SW., Washington, D.C. 20590, telephone (202) 472-6997 or Mr. Wes Frysztacki, Director of Transportation, Puget Sound Council of Governments, 216 First Avenue South, Seattle, Washington, 98104, telephone (206) 464-7090.

SUPPLEMENTARY INFORMATION: The Puget Sound Council of Governments in cooperation with Municipality of Metropolitan Seattle, proposes to undertake, with Federal capital grant assistance, improvements to increase transit operating capacity and service commensurate with the demand for public travel projected for the year 2000 in the north transit corridor from downtown Seattle to Northgate and Lynnwood. Among the general alternatives to be considered are: 1) A "do nothing" alternative; 2) a Transportation System Management (TSM) alternative; 3) a high technology bus alternative with dual mode (electric/diesel) and fixed guideway capabilities; 4) a light rail alternative; and 5) an automated fixed guideway alternative. Preferred alignments north of downtown are along: 1) I-5 north; 2) Aurora Avenue, and 3) East Lake/15 Avenue. Vehicle operations in downtown Seattle may be on surface

streets or in tunnel in one or more of the alternatives.

UMTA invites the participation of agencies and individuals, with interest in these alternatives or the affected area, to comment on the alternatives, the impacts, and the scope of this environmental impact statement.

Issued on November 12, 1982.

Robert F. Kirkland,
Acting Director, Office of Planning Assistance.

[FR Doc. 82-31697 Filed 11-17-82; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 82-16]

Privacy Act of 1974; Proposed New System of Records

AGENCY: Office of the Comptroller of the Currency, Department of the Treasury.

ACTION: Notice of Proposed New Privacy Act System of Records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), the Comptroller of the Currency gives notice of the following proposed system of records entitled "Treasury/CC 500—Chief Counsel's Management Information System (CCMIS)." The CCMIS will consist of the following four modules: (1) A Work Assignment Control module for the control of all assignments, correspondence, cases, etc.; (2) a Case Tracking module which will provide summary data on all cases and will allow the tracking of the detailed steps of litigation and therefore permit attorneys and managers to better track litigation related activities; (3) a Litigation Support module providing for the management of one or more document collections pertaining to a case; and (4) a Legal Research module designed to capture precedential work products for further research and use. Information in these systems will be able to be accessed by, *inter alia*, work type, bank, author and/or correspondent, organization the author/correspondent belongs to, subject, and the date of the correspondence. The CCMIS will provide for the more efficient use of various types of information received by the law department.

Pursuant to 5 U.S.C. 552a(j)(2) and 5 U.S.C. 552a(k)(2), the CCMIS may contain certain records which are exempt from certain provisions of the Privacy Act of 1974. Such records will consist of investigatory material

compiled for law enforcement purposes, records maintained by a component of the agency whose principal function pertains to the enforcement of criminal law and consists of information compiled for the purposes of identifying individual criminal offenders and alleged offenders, information compiled for criminal investigations, and reports compiled during any stage of the process of enforcement of the criminal laws.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: 12 U.S.C. 1, 12 U.S.C. 9, 12 U.S.C. 481, 5 U.S.C. 301.

DATE: Comments on the proposed system of records must be received on or before December 20, 1982. If no public comments are received, the system of records will become effective December 20, 1982.

ADDRESS: Comments should be sent to Docket No. 82-16, Communications Division, Office of the Comptroller of the Currency, Washington, D.C. 20219, Attn: C. Christine Jones, (202) 447-1800.

Comments will be available for public inspection and photocopying.

FOR FURTHER INFORMATION CONTACT: Francis S. Rath, Attorney, Legal Advisory Services Division, Comptroller of the Currency, Washington, D.C. 20219, (202) 447-1880.

Dated: November 10, 1982.

Cora P. Beebe,

Assistant Secretary (Administration).

TREASURY/CC-500

SYSTEM NAME:

Chief Counsel's Management Information System.

SYSTEM LOCATION:

Office of the Comptroller of the Currency, 490 L'Enfant Plaza, SW., Washington, D.C. 20219. Physical components of this system are also located in regional offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have requested information or action from the Law Department of the Comptroller of the Currency and individuals referenced in documents received by the Law Department in the course of the Agency's bank supervisory functions.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Chief Counsel's Management Information System consists of four primary modules: (1) The Work Assignment Control module; (2) the Case Tracking module; (3) the Litigation Support module; and (4) the Legal Research module. Information contained

in the system includes, *inter alia*, name of the author and/or correspondent and the organization to which the author/correspondent belongs, the date of the correspondence, the city, state and region in which correspondent organization is located, the work type, the bank involved, and the subject.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 1, 12 U.S.C. 9, 12 U.S.C. 481, 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

Routine uses of these records are associated with: (1) The Work Assignment Control module, the efficient tracking of all assignments, correspondence, cases, etc.; (2) the Case Tracking module, the tracking of the detailed steps of litigation and litigation-related activities; (3) the Litigation Support module, the management of one or more document collections pertaining to a case; and (4) the Legal Research module, the capturing and use of precedential work for further research. The system can be used only by authorized employees within the Law Department. For additional routine uses, see Appendix.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in computer data banks, computer tapes and printouts, and in file cabinets.

RETRIEVABILITY:

All records are indexed on a variety of data fields including correspondent name and location, bank name and location, subject, statutory provisions, and date.

SAFEGUARDS:

All records are indexed through computer indices. Only employees within the Law Department with proper user identification and passwords have access to the computer banks. Employees are trained to make authorized disclosures only to those individuals who have a need for the information. Passwords and user IDs are changed frequently.

RETENTION AND DISPOSAL:

Records are generally maintained in the on-line data bank until it is

determined that on-line access is not required. Thereafter the records are archived in an off-line storage system. Records in file cabinets are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Assistant to the Chief Counsel, Comptroller of the Currency, 490 L'Enfant Plaza, SW., Washington, D.C. 20219, (202) 447-1896.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in the system or to gain access to records maintained in the system must submit a request containing the following elements: (1) Identity of the record system; (2) identity of the category type of records sought; (3) the location of the Comptroller of the Currency Office where the record might be stored; and (4) at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). The system contains records which are exempt under 5 U.S.C. 552a(j)(2) or 552a(k)(2).

RECORDS ACCESS PROCEDURES:

Same as notification, above.

CONTESTING RECORD PROCEDURES:

Same as notification, above. Request should be submitted to: Director, Public Affairs, Comptroller of the Currency, 490 L'Enfant Plaza, SW., Washington, D.C. 20219.

RECORD SOURCE CATEGORIES:

Materials received by the law Department from various sources including, *inter alia*, persons involved in sending inquiries to the Law Department and documents received by the Law Department in the course of the Agency's bank supervisory function. The CCMIS contains certain records which have been designated as exempt from certain provisions of the Privacy Act.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This System has been designated as exempt from certain provisions of the Privacy Act.

[FR Doc. 82-31702 Filed 11-17-82; 8:45 am]

BILLING CODE 4810-33-M

UNITED STATES INFORMATION AGENCY

United States Advisory Commission on Public Diplomacy; Meeting

The United States Advisory Commission on Public Diplomacy will meet in Washington, D.C. on Tuesday, November 23 in order to attend to urgent matters. The meeting will be closed to the public because it will involve a discussion of sensitive national security information (5 U.S.C. 552b(c)(1)). The Commission will meet with Deputy Assistant Secretary of State David Schneider and Mr. Charles Courtney, Director of USIA's Office of Near East and South Asian Affairs, to discuss relations between the United States and countries in that area and planned public diplomacy activities of the Agency. The Commission will also meet with Mr. Paul Smith, Editor of *Problems of Communism*, to discuss Soviet propaganda activities. Premature disclosure of this information is likely to significantly frustrate implementation of proposed Agency action (5 U.S.C. 552b(c)(9)(B)) because there will be a discussion of future Agency policy and programs.

Dated: November 10, 1982.

Gilbert A. Robinson,
Acting Director.

Determination to Close Advisory Commission Meeting of November 23, 1982

Based on the information provided to the United States Information Agency by the United States Advisory Commission on Public Diplomacy, I hereby determine that the meeting scheduled by the Commission for November 23, 1982 may be closed to the public.

The meeting will involve a discussion of sensitive national security information (5 U.S.C. 552b(c)(1)). The Commission will meet with Deputy Assistant Secretary of State David Schneider and Mr. Charles Courtney, Director of USIA's Office of Near East and South Asian Affairs, to discuss relations between the United States and countries in that area and planned public diplomacy activities of the Agency. The Commission will also meet with Mr. Paul Smith, Editor of *Problems of Communism*, to discuss Soviet propaganda activities. Premature disclosure of this information is likely to significantly frustrate implementation of proposed Agency action (5 U.S.C. 552b(c)(9)(B)) because there will be a discussion of future Agency policy and programs.

Dated: November 10, 1982.

Gilbert A. Robinson,
Acting Director.

[FR Doc. 82-31595 Filed 11-17-82; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register

Vol. 47, No. 223

Thursday, November 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).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, November 22, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Discussion of differing views on regulatory reporting for savings banks.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: November 15, 1982.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[S-1665-82 Filed 11-15-82; 1:44 pm]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, November 22, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for Federal deposit insurance and for consent to merge and establish three branches:

Edmonton Acquisition Bank, Edmonton, Kentucky, a proposed new bank in organization, for Federal deposit insurance and for consent to merge, under its charter and with the title "Edmonton State Bank," with Edmonton State Bank, Edmonton, Kentucky, and with Bank of Summer Shade, Summer Shade, Kentucky, and to establish the two branches of Edmonton

State Bank and the sole office of Bank of Summer Shade as branches of the resultant bank.

Requests by the Comptroller of the Currency for reports on the competitive factors involved in proposed mergers or consolidations:

The Old National Bank of Martinsburg, Martinsburg, West Virginia, and The Citizens National Bank of Martinsburg, Martinsburg, West Virginia.
North Carolina National Bank, Charlotte, North Carolina, and Bank of North Carolina, National Association, Jacksonville, North Carolina.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,468-L—The Mission State Bank & Trust Company, Mission, Kansas
Case No. 45,483-SR—The Des Plaines Bank, Des Plaines, Illinois
Case No. 45,487-L—The Mission State Bank & Trust Company, Mission, Kansas

Recommendation regarding an Assistance Agreement entered into between the Corporation and an insured bank, pursuant to section 13(e) of the Federal Deposit Insurance Act.

Memorandum and resolution re: Proposed amendments to Part 335 of the Corporation's rules and regulations, entitled "Securities of Nonmember Insured Banks," which would make the provisions of that Part substantially similar to the securities disclosure rules and regulations of the Securities and Exchange Commission, as required by the Securities Exchange Act of 1934.

Discussion Agenda:

Memorandum and resolution re: Final amendments to Parts 303 and 308 of the Corporation's rules and regulations, entitled "Applications, Requests, Submittals, and Notices of Acquisition of Control" and "Rules of Practice and Procedures," respectively, which would (1) delegate to the Corporation's Board of Review and to certain officers of the Corporation the authority to take certain actions with respect to administrative enforcement proceedings brought by the Corporation; (2) delegate to the Executive Secretary the authority to act on certain procedural motions in connection with the conduct of such proceedings; and (3) make certain technical corrections to Part 308.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: November 15, 1982.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[S-1666-82 Filed 11-16-82; 1:45 pm]

BILLING CODE 6714-01-M

3

FEDERAL ELECTION COMMISSION

[Federal Register No. 1637]

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, November 18, 1982 at 10 a.m.

CHANGE IN MEETING: The following matter has been added to the agenda for this date:

Nonfiler procedures for unopposed candidates

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; telephone 202-523-4065.

Marjorie W. Emmons,
Secretary of the Commission.

[S-1668-82 Filed 11-16-82; 3:29 pm]

BILLING CODE 6715-01-M

4

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., November 24, 1982.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portion open to the public:

1. Petition for Exemption of Joint Loading Arrangements Involving Members of the Household Goods Forwarders Association of America, Inc.—Consideration of the Record.

Portions closed to the public:

1. Petitions of Caribbean Coordinated Transport and Delta Steamship Lines Regarding Conditions in the United States-Venezuela Trades—Consideration of the Record.

2. Docket No. 80-61: Chumet Shipping Co., Inc.—Independent Ocean Freight Forwarder License No. 619—Consideration of Petition for Modification of Settlement Agreement.

CONTACT PERSON FOR MORE

INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-1667-82 Filed 11-16-82; 2:14 pm]

BILLING CODE 6730-01-M

5

FEDERAL TRADE COMMISSION

TIME AND DATE: 10 a.m., Monday, November 15, 1982.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Consideration of outer continental shelf lease sales to British Petroleum/Sohio, Exxon, ARCO and Shell in connection with the Outer Continental Shelf Lands Act Amendments of 1978.

CONTACT PERSON FOR MORE

INFORMATION: Susan B. Ticknor, Office of Public Affairs; (202) 523-3830; Recorder Message: (202) 523-3806.

[S-1664-82 Filed 11-16-82; 11:35 pm]

BILLING CODE 6750-01-M

6

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-82-26]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 47513, October 26, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Thursday, November 4, 1982.

CHANGE IN MEETING: A majority of the Board determined by recorded vote that the business of the Board required revising the agenda of this meeting and that no earlier announcement was possible. The following two items were added to the agenda. The first item was discussed in open session and the second item was discussed in closed session under Exemption 10 of the Government in the Sunshine Act.

1. *Letter* to Federal Aviation Administration regarding proposed advisory circular on ground deicing.

2. *Opinion and Order:* Administrator v. Donaldson, Dkt. SE-5352; disposition of respondent's appeal.

CONTACT PERSON FOR MORE

INFORMATION: Sharon Flemming (202) 382-6525.

November 15, 1982.

[S-1663-82 Filed 11-15-82; 5:10 pm]

BILLING CODE 4910-58-M

Register Great Federal Paper

Thursday
November 18, 1982

Part II

Environmental Protection Agency

Pulp, Paper, and Paperboard and the
Builders' Paper and Board Mills Point
Source Categories Effluent Limitations
Guidelines, Pretreatment Standards, and
New Source Performance Standards

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 430 and 431

[OW-FRL 2224-8]

Pulp, Paper, and Paperboard and the Builders' Paper and Board Mills Point Source Categories Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation limits the discharge of pollutants into navigable waters and into publicly owned treatment works by existing and new sources where pulp, paper, and paperboard are produced. It supersedes all existing regulations for the pulp, paper, and paperboard and the builders' paper and board mills point source categories, except for the best practicable control technology currently available effluent limitations (promulgated May 9, 1974 (39 FR 16578), May 29, 1974 (39 FR 18742), and January 6, 1977 (42 FR 1398)). The Clean Water Act and a Settlement Agreement between EPA and several environmental groups require EPA to issue this regulation.

The purpose of this regulation is to specify "best practicable control technology currently available" (BPT) effluent limitations for certain subcategories and "best available technology economically achievable" (BAT) effluent limitations, "new source performance standards" (NSPS), and pretreatment standards for existing (PSES) and new (PSNS) sources for 24 of the 25 subcategories of the pulp, paper, and paperboard industry.

DATES: In accordance with 40 CFR 100.01 (45 FR 26048), this regulation shall be considered issued for purposes of judicial review at 1:00 P.M. Eastern time on December 2, 1983. These regulations shall become effective January 3, 1983, except for provisions in the following sections which allow facilities not using chlorophenolic biocides or zinc hydrosulfite to certify to that effect instead of monitoring for pentachlorophenol (PCP), trichlorophenol (TCP), and zinc in the effluent. These provisions are contained in the following sections: §§ 430.14-430.17, 430.24-430.27, 430.54-430.57, 430.64-430.67, 430.74-430.77, 430.84-430.87, 430.94-430.97, 430.104-430.107, 430.114-430.117, 430.134-430.137, 430.144-430.147, 430.154-430.157, 430.164-

430.167, 430.174-430.177, 430.184-430.187, 430.194-430.197, 430.204-430.207, 430.214-430.217, 430.224-430.227, 430.234-430.237, 430.244-430.247, 430.254-430.257, 430.264-430.267, 431.14-431.17.

Those provisions will be submitted for review to the Office of Management and Budget; all other provisions in the sections such as the effluent limitations and standards are effective January 3, 1983.

Under section 509(b)(1) of the Clean Water Act, judicial review of this regulation must be filed in the United States Court of Appeals within 90 days after the regulation is considered issued for purposes of judicial review. Under section 509(b)(2) of the Clean Water Act, the regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: Technical information may be obtained by writing to Robert W. Dellinger or Wendy D. Smith, Effluent Guidelines Division (WH-552), EPA, 401 M Street, S.W., Washington, D.C. 20460, or by calling (202) 382-7137. Economic information may be obtained by writing to Renee M. Rico, Office of Analysis and Evaluation (WH-586), U.S. EPA, 401 M Street, S.W., Washington, D.C. 20460, or by calling (202) 382-5386.

FOR FURTHER INFORMATION CONTACT: Robert W. Dellinger or Wendy D. Smith at (202) 382-7137.

SUPPLEMENTARY INFORMATION:

Organization of This Notice

- I. Legal Authority.
 - II. Scope of This Rulemaking and Prior Regulations.
 - III. Summary of Legal Background.
 - IV. Summary of Methodology and Data Gathering Efforts.
 - V. Summary of Promulgated Regulations and Changes From Proposal.
 - VI. Costs, Economic Impacts, Executive Order 12291, and Regulatory Flexibility Analysis.
 - VII. Pollutants and Subcategories Not Regulated.
 - VIII. Non-water Quality Environmental Impacts.
 - IX. Best Management Practices.
 - X. Upset and Bypass Provisions.
 - XI. Variances and Modifications.
 - XII. Relationship to NPDES Permits.
 - XIII. Public Participation—Responses to Major Comments.
 - XIV. Small Business Administration (SBA) Financial Assistance.
 - XV. List of Subjects in 40 CFR Parts 430 and 431.
 - XVI. Office of Management and Budget (OMB) Review.
 - XVII. Background Documents.
- Appendix A—Abbreviations, Acronyms, and Other Terms Used in this Notice.

Appendix B—Exclusion of Certain Toxic Pollutants from Regulations Applicable to Indirect Dischargers.

I. Legal Authority

This regulation is promulgated under the authority of sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1251 *et seq.*, as amended by the Clean Water Act of 1977, P.L. 95-217), also called the "Act". It is also 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 and Prior Regulations

This regulation applies to the pulp, paper, and paperboard and the builders' paper and board mills point source categories (hereafter known as the pulp, paper, and paperboard industry) which are included within the U.S. Department of Commerce, Bureau of the Census Standard Industrial Classifications (SIC) 2611 (pulp mills), 2621 (paper mills except building paper mills), 2631 (paperboard mills), and 2661 (building paper and building board mills.).

A. Prior Regulations

EPA promulgated BPT, BAT, NSPS, and PSNS for the builders' paper and roofing felt subcategory of the builders' paper and board mills point source category on May 9, 1974 (39 FR 16578; 40 CFR Part 431). EPA promulgated BPT, BAT, NSPS, and PSNS for the unbleached kraft, sodium-based neutral sulfite semi-chemical, ammonia-based neutral sulfite semi-chemical, unbleached kraft-neutral sulfite semi-chemical (cross recovery), and paperboard from wastepaper subcategories of the pulp, paper, and paperboard point source category on May 29, 1974 (39 FR 18742; 40 CFR Part 430). EPA promulgated BPT for the dissolving kraft, market bleached kraft, BCT (board, coarse, and tissue) bleached kraft, fine bleached kraft, papergrade sulfite (blow pit wash), dissolving sulfite pulp, groundwood-thermo-mechanical, groundwood-CMN papers, groundwood-fine papers, soda, deink, nonintegrated-fine papers, nonintegrated-tissue papers, tissue from wastepaper, and papergrade sulfite (drum wash) subcategories of the pulp, paper, and paperboard point source category on January 6, 1977 (42 FR 1398; 40 CFR Part 430).

Several industry members challenged the regulations promulgated on May 29, 1974, and on January 6, 1977. These

challenges were heard in the District of Columbia Circuit Court of Appeals. The promulgated regulations were upheld in their entirety with one exception. The Agency was ordered to reconsider the BPT BOD5 limitation for acetate grade pulp production in the dissolving sulfite pulp subcategory (*Weyerhaeuser Company, et al. v. Costle*, 590 F.2d 1011; D.C. Circuit 1978). In response to this remand, the Agency proposed BPT regulations for acetate grade pulp production in the dissolving sulfite pulp subcategory on March 12, 1980 (45 FR 15952). The Agency is currently assessing the costs and economic impacts associated with attainment of the proposed BPT limitation. Promulgation of this rule will occur at a later date.

EPA published proposed effluent limitations guidelines for BAT, BCT, NSPS, PSES, and PSNS for the pulp, paper, and paperboard and the builders' paper and board mills point source categories in the *Federal Register* on January 6, 1981 (46 FR 1430). At the time of proposal, the subcategorization scheme was modified to include 25 subcategories in the pulp, paper, and paperboard industry.

With the few exceptions discussed below, the Agency is not modifying the previously promulgated BPT limitations for Subparts A through U. However, in order to publish a complete set of all applicable requirements, the BPT limitations already in effect are reprinted in today's rule. The only change is that a new format is being used. Because this is not a substantive change, existing BPT limitations for Subparts A through U are not subject to legal challenge.

The 25 subcategories of the pulp, paper, and paperboard industry (40 CFR Parts 430 and 431) are as follows:

40 CFR Part 430

- Subpart F—dissolving kraft,
- Subpart G—market bleached kraft,
- Subpart H—board, coarse, and tissue (BCT) bleached kraft,
- Subpart I—fine bleached kraft,
- Subpart P—soda,
- Subpart A—unbleached kraft,
- Subpart B—semi-chemical,
- Subpart V—unbleached kraft and semi-chemical (BPT limitations for some mills in this subcategory are included in subpart D—unbleached kraft—neutral sulfite semi-chemical (cross recovery)),
- Subpart K—dissolving sulfite pulp,
- Subpart J—papergrade sulfite (blow pit wash),
- Subpart U—papergrade sulfite (drum wash),
- Subpart L—groundwood-chemi-mechanical,
- Subpart M—groundwood-thermo-mechanical,

- Subpart N—groundwood-coarse, molded, and news (CMN) papers,
- Subpart O—groundwood-fine papers,
- Subpart Q—deink,
- Subpart E—paperboard from wastepaper,
- Subpart T—tissue from wastepaper,
- Subpart W—wastepaper-molded products,
- Subpart R—nonintegrated-fine papers,
- Subpart S—nonintegrated-tissue papers,
- Subpart X—nonintegrated-lightweight papers,
- Subpart Y—nonintegrated-filter and nonwoven papers, and,
- Subpart Z—nonintegrated-paperboard.

40 CFR Part 431

- Subpart A—builders' paper and roofing felt.

B. Scope of This Rulemaking

BPT effluent limitations are established for four new subcategories of 40 CFR Part 430:

- Subpart W—wastepaper-molded products,
- Subpart X—nonintegrated-lightweight papers,
- Subpart Y—nonintegrated-filter and nonwoven papers, and
- Subpart Z—nonintegrated-paperboard

and for new subdivisions of the following subcategories of 40 CFR Part 430:

- Subpart E—paperboard from wastepaper
- Subpart R—nonintegrated-fine papers.

These limitations control three conventional pollutants (biochemical oxygen demand (BOD5), TSS, and pH). The technology basis of BPT is biological treatment for the wastepaper-molded products, nonintegrated-fine papers, and paperboard from wastepaper subcategories and primary treatment for the remaining subcategories.

BAT limitations are established for 24 of the 25 subcategories. Toxic pollutants controlled are pentachlorophenol (PCP) and trichlorophenol (TCP) in all subcategories, and zinc, additionally, in the three groundwood subcategories. The technology basis for control of these pollutants is chemical substitution (PCP and TCP) and lime precipitation (zinc).

NSPS are established for all subcategories and control the toxics regulated under BAT (PCP, TCP, and zinc) and the conventional pollutants BOD5, total suspended solids (TSS), and pH. NSPS are based on chemical substitution for removal of toxic pollutants and the application of commonly employed production process controls and either biological or primary treatment.

Pretreatment standards for existing and new sources are being promulgated for PCP, TCP, and zinc based on chemical substitution. Existing indirect discharging mills must be in compliance with PSES on or before July 1, 1984.

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 limitations guidelines, pretreatment standards, and new source performance standards for industrial 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, new source performance standards, and pretreatment standards for 65 "priority" or toxic 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)). The 65 toxic pollutants and classes of pollutants potentially include thousands of specific pollutants. EPA selected 129 specific toxic pollutants for study in this rulemaking and other industry rulemakings. Since initiation of this rulemaking effort, three toxic pollutants have been removed from the list of 129 toxic pollutants: dichlorodifluoromethane, trichlorofluoromethane, and bis-chloromethyl ether (46 FR 2266 and 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 the 65 classes of toxic 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 or treatment process.

Under the Act, the EPA program is to set a number of different kinds of effluent limitations and standards. These are discussed in detail in the proposed regulation and Development Document. The following is a brief summary:

1. Best Practicable Control Technology Currently Available (BPT). BPT limitations are generally based on the average of the best existing performance at plants of various sizes, ages, and unit processes within the industry or subcategory. In establishing BPT limitations, the Agency 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 the control technologies, process changes, and non-water quality environmental impacts (including energy requirements). We balance the total cost of applying the technology against the effluent reduction.

2. Best Available Technology Economically Achievable (BAT). BAT limitations, in general, represent the best existing performance 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 the 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 discharges of conventional pollutants from existing industrial point sources. Conventional pollutants are those defined in Section 304(a)(4) [biological oxygen demanding pollutants (BOD5) 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 additional limitation but replaces BAT for the control of conventional pollutants. In addition to other factors specified in section 304(b)(4)(B), the Act requires that BCT limitations be assessed in light of a two part "cost-reasonableness" test. *American Paper Institute v. EPA*, 660 F.2d 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 (POTWs) 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.) EPA has recently proposed a revised BCT methodology in response to the *American Paper Institute v. EPA* decision mentioned earlier. This included a reproposal of BCT limitations for the pulp, paper, and paperboard industry.

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.

5. Pretreatment Standards for Existing Sources (PSES). PSES are designed to control the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of a publicly owned treatment works (POTWs). The Act requires that PSES shall specify a time for compliance not to exceed three years from the date 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. 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 control the discharge of pollutants which pass through, interfere with, or are otherwise incompatible with the operation of POTWs. PSNS are 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. Summary of Methodology and Data Gathering Efforts

The methodology and data gathering efforts used in developing the proposed regulation were discussed in the preamble to the proposal (46 FR 1430, January 6, 1981). In summary, before publishing the proposed regulation in 1981, the Agency conducted a data collection, analytical screening, and analytical verification program for the pulp, paper, and paperboard industry. This program stressed the acquisition of data on the presence and treatability of the 129 toxic pollutants and classes of toxic pollutants discussed previously.

Based on the results of that program, EPA identified several distinct control and treatment technologies, including both in-plant and end-of-pipe technologies that are in use or are capable of being used to treat pulp, paper, and paperboard industry wastewaters. For each of these technologies, the Agency (i) compiled and analyzed historical and newly-generated data on effluent quality, (ii) identified the reliability and constraints, (iii) considered the non-water quality environmental impacts (including impacts on air quality, solid waste generation, and energy requirements), and (iv) estimated the costs and economic impacts of applying the technology as a treatment and control system. Costs and economic impacts of the technology options considered are discussed in detail in *Economic Impact Analysis of Effluent Limitations Guidelines and New Source Performance Standards for the Pulp, Paper, and Paperboard and Builders' Paper and Board Mills Point Source Categories* (U.S. EPA, October 1982). A more complete description of the Agency's study methodology, data gathering efforts and analytical procedures supporting the regulation can be found in *Final Development Document for Effluent Limitations Guidelines, New Source Performance Standards, and Pretreatment Standards for the Pulp, Paper, and Paperboard and Builders' Paper and Board Mills Point Source Categories* (U.S. EPA, October 1982).

To allow the Agency to respond fully to comments on the proposed rules, the Agency engaged in additional data gathering activities since January of 1981. EPA obtained additional data on the presence and variability of toxic

pollutants in raw wastes and treated effluents by conducting a long-term (23 week) sampling and analysis program at a deink and a fine bleached kraft mill. Data for the deink mill are being used to support the PCB effluent limitations and NSPS being proposed today. The data for the fine bleached kraft mill were gathered to investigate further the variability of biological treatment in removing chloroform; however, as described herein, EPA decided to withdraw the proposed chloroform limitations.

EPA also obtained (1) discharge monitoring reports (DMR) from Regional and State permitting authorities to update its records to include the most recent available data and (2) additional conventional pollutant data under the authority of Section 308 to broaden and update our existing data base on the variability associated with wastewater treatment systems. These data, as well as data on PCP and TCP that became available during the PCB/chloroform sampling, were used to verify the accuracy of the analyses done prior to proposal. Accordingly, EPA concluded that it was unnecessary to provide notice and seek comment on the additional data.

Industry, in some cases, provided comments on our proposed regulations that included effluent data on the discharge of toxic pollutants. In many cases, data were provided in a format that did not allow for proper analysis by the Agency. In those instances, we requested additional information in a format that would allow us to include the data when developing the final regulations.

Detailed discussions of the results of these additional data gathering efforts can be found below and in the final Development Document.

V. Summary of Promulgated Regulation and Changes From Proposal

The final regulations issued today differ from the proposed regulations. The changes are the result of the Agency's review of comments on the proposal and our analysis of additional information obtained to respond to comments. The following includes a review of the proposed regulation, a summary of the changes from proposal to promulgation, and an explanation of the changes.

EPA is promulgating BPT effluent limitations and new source performance standards controlling the discharge of three conventional pollutants: BOD₅, TSS, and pH. We are also establishing BAT effluent limitations, NSPS, PSES and PSNS for control of three toxic

pollutants: trichlorophenol (TCP), pentachlorophenol (PCP), and zinc.

A. Subcategorization

As discussed previously, on January 6, 1981, the Agency proposed effluent limitations and standards for 24 subcategories of the pulp, paper, and paperboard industry (46 FR 1430). With a few exceptions (discussed below and in Section XIII: Public Participation—Responses to Major Comments), comments received on the proposal were supportive of the proposed subcategorization scheme. With the two exceptions discussed below, the final subcategorization scheme is identical to the proposed subcategorization scheme.

Comments were received on the proposed NSPS that suggested that the paperboard from wastepaper subcategory should be segmented to account for differences in raw waste loads resulting from the production of wastepaper board from recycled corrugating medium versus other types of wastepapers. Industry commenters provided data that confirmed that paperboard from wastepaper mills where corrugated furnish is processed have experienced higher BOD₅ raw waste loads today than when BPT was promulgated for the entire subcategory. At that time, the average raw waste load BOD₅ for mills processing 100 percent corrugating furnish was 22.4 lb/ton. However, representatives of two mills where 100 percent corrugating furnish is processed submitted data indicating that the average BOD₅ raw waste load has increased from about 20 lb/ton in 1976 to 46.0 lb/ton. They provided additional supportive data on the quantity of extractable BOD₅ now present in waste corrugating medium.

Based on these data, the Agency concluded that segmentation of the paperboard from wastepaper subcategory is justified not only for NSPS but for all regulations and standards. We are modifying the existing BPT regulation and are establishing BAT effluent limitations, NSPS, PSES, and PSNS to account for the use of corrugating medium in this subcategory. This means that less stringent BPT effluent limitations than are currently in effect will apply to existing direct discharging mills in the paperboard from wastepaper subcategory where recycled corrugating medium is processed.

Comments were also received on the proposed BCT limitations and NSPS that suggested that the nonintegrated-fine papers subcategory should be segmented to account for the higher raw waste loadings typical of small nonintegrated-fine paper mills (less than

100 tons per day of product) or mills where cotton fibers are used as furnish. Other commenters complained that the proposal was unclear as to whether nonintegrated mills where fine papers are produced from both wood pulp and cotton fibers were included in the nonintegrated-fine papers subcategory. Some requested that EPA establish limitations for these cotton fiber mills on a case-by-case basis and exclude them from the nonintegrated-fine papers subcategory.

In response to these comments, the Agency reexamined the subcategorization scheme for the nonintegrated segment of this industry and evaluated all available data for nonintegrated mills where fine papers are produced. We found that mills where a significant quantity of cotton fibers are contained in the product (equal to or greater than four percent of the total product) had an average raw waste flow of 33.6 kgal/ton and an average BOD₅ raw waste load of 39.3 lb/ton. Mills where a cotton fiber furnish is not used had an average raw waste flow of 9.1 kgal/ton and an average BOD₅ raw waste load of 21.6 lb/ton. Therefore, we concluded that mills using a significant quantity of cotton fibers in their total furnish are substantially different from other mills where only wood pulp is processed and are establishing a separate cotton fibers subdivision of the nonintegrated-fine papers subcategory.

We are modifying the existing BPT regulation applicable to the nonintegrated-fine papers subcategory and are establishing BAT effluent limitations, NSPS, PSES, and PSNS to account for the use of cotton fibers in the production of fine papers at nonintegrated paper mills. This means that less stringent effluent limitations and standards will apply to mills in the nonintegrated-fine papers subcategory where a significant quantity of cotton fibers are used in the raw material furnish than will apply to mills where cotton fibers are not used in the raw material furnish. Because we have sufficient data to establish uniform national standards and limitations for this subcategory subdivision, we rejected the suggestion to rely on case-by-case limitations.

The Agency investigated industry's other comment that small mills have higher raw waste characteristics than the other mills in the subcategory. We removed those nonintegrated fine paper mills where cotton fibers constitute a significant portion of the total product from the data base since they are now a separate subdivision of this subcategory

and are subject to different effluent limitations. (All of the cotton fiber mills produce less than 100 tons of fine papers per day.) The remaining mills were separated into two groups: (a) mills where more than 100 tons of paper per day are produced, and (b) mills where less than 100 tons of paper per day are produced. We found that raw waste loads for both groups are substantially the same. Therefore, no further subcategorization based on size is warranted.

EPA has determined that there is good cause not to propose these subcategorization changes since they were made in response to public comments on the January 1981 proposal concerning raw waste load characteristics at mills in the new subdivisions. Further, were EPA not to make these changes, the new regulations would result in BPT limitations that are more stringent than NSPS.

B. BPT Effluent Limitations and NSPS for Control of Conventional Pollutants

1. *BPT Effluent Limitations.* BPT effluent limitations controlling BOD₅, TSS, and pH were proposed for four new subcategories: the wastepaper-molded products, nonintegrated-lightweight papers, nonintegrated-filter and nonwoven papers, and nonintegrated-paperboard subcategories (46 FR 1430, January 6, 1981). The proposed BPT technology basis was identified as biological treatment for the wastepaper-molded products subcategory and as primary clarification for the three nonintegrated subcategories. Comments supported the proposed BPT limitations for the four new subcategories; therefore, final BPT limitations are the same as proposed. EPA estimates that attainment of BPT effluent limitations will result in the removal of 37.5 million pounds per year of conventional pollutants from raw waste discharges in these four subcategories at a total annual cost of \$2.6 million per year (1982 dollars). No plant closures or other adverse economic impacts are expected. Thus, EPA concluded that the effluent reduction benefits justify these costs.

As discussed previously, EPA is establishing new subdivisions of the paperboard from wastepaper and nonintegrated-fine papers subcategories. We are, therefore, modifying the existing BPT regulations for these two subcategories to account for the use of corrugating medium in the production of paperboard from wastepaper and the use of cotton fibers in the production of fine papers at nonintegrated paper mills. The Agency anticipates that there will be no costs associated with the modified

BPT effluent limitations for these two subcategories. As discussed previously, we are relaxing the BPT effluent limitations that previously applied to mills in the paperboard from wastepaper subcategory where recycled corrugating medium is processed. Additionally, existing permits at the two direct discharging mills in the cotton fiber subdivision of the nonintegrated-fine papers subcategory are more stringent than the BPT effluent limitations promulgated today.

2. *NSPS.* NSPS were proposed for control of the conventional pollutants BOD₅, TSS, and pH. The technology basis of the proposed NSPS was commonly employed in-plant production process control technologies plus the application of end-of-pipe treatment of the type that formed the basis of BPT effluent limitations (i.e., biological treatment or primary clarification). The proposed limitations were generally determined by multiplying (a) typical wastewater flows for new sources in each subcategory and (b) effluent concentrations determined from analysis of control technology performance data. (A detailed discussion of the proposed methodology is included in the preamble to the proposed regulation and in the development document supporting the proposed rules.)

Some commenters stated that NSPS were too lenient and should be based on in-plant controls, biological treatment, and chemically assisted clarification (CAC). Other commenters challenged the proposed NSPS methodology. They asserted that combining effluent concentrations from one set of mills with flows from a different set results in limitations that cannot be achieved at existing mills in many subcategories, particularly in the integrated mills segment. A major concern was that EPA ignored the increase in BOD₅ raw waste concentration that occurs in some subcategories when raw waste flow is reduced, thereby underestimating the final effluent concentrations that can be attained through the application of end-of-pipe treatment. They felt that the Agency should establish NSPS equal to the average of final effluent levels attained by at least two of the "best performers" in each subcategory.

The Agency has rejected the option of basing NSPS on CAC. The application of in-plant production process controls and primary or biological treatment (the technology basis of the proposed and final NSPS) is very effective in controlling conventional pollutant discharges in this industry. The application of chemically assisted

clarification would further increase the removal of conventional pollutants by about 3 percent. However, because of the relatively high concentrations of aluminum sulfate required to obtain effective coagulation, chemically assisted clarification generates over 20 percent more wastewater solids compared to wastewater solids generated in attaining final NSPS. It is likely that this increment of wastewater solids will have to be landfilled because the solids will contain substantial quantities of aluminum sulfate that will minimize alternative sludge uses. Even if incinerated, significant quantities of solids will remain in the form of ash that must be disposed. The Agency does not believe that the incremental removal of conventional pollutants is justified in light of the non-water quality implications of chemically assisted clarification.

With respect to the second set of comments, the Agency recognizes that final NSPS are not now attained at existing mills in every subcategory of the integrated mills segment. However, final NSPS have already been attained at existing integrated mills where each of the major pulping processes are employed. As discussed below, EPA believes that all new sources can meet the final NSPS and that the technology basis of final NSPS is demonstrated.

Final NSPS, like proposed NSPS, are based on commonly employed production process controls and end-of-pipe treatment of the type that forms the basis of BPT effluent limitations (either primary or biological treatment). However, the Agency has modified the methodology used at proposal to determine the conventional pollutant final effluent loadings that result from application of these technologies.

EPA has now considered a broader set of mills in determining the raw waste flow and BOD₅ reductions that will result from application of in-plant production process controls. The raw waste flows that form the basis of final NSPS have been demonstrated at mills in every subcategory of the pulp, paper, and paperboard industry. The BOD₅ raw waste loads that form the basis of final NSPS have been attained in 23 of the 24 regulated subcategories. We have also adjusted our method of calculating attainable effluent concentrations of BOD₅ and TSS to account for those situations where BOD₅ raw waste concentrations increase after the application of in-plant production process controls. These modifications result in final NSPS that are less stringent than if the proposed methodology were used. (This revised

methodology is discussed in detail in Section VIII of the Development Document.)

The end-of-pipe treatment systems that form the basis of final NSPS are the same type as those commonly employed to comply with BPT effluent limitations but are considerably larger, especially in the integrated segment. Therefore, they are more efficient in controlling conventional pollutants. (For example, the detention time for biological treatment is 12 rather than 8 hours.) These larger systems are now employed at mills in many subcategories of this industry. Although these larger systems are not employed at mills in all subcategories, the technology is readily available. These systems can be designed, constructed, and operated at new sources in every subcategory of the pulp, paper, and paperboard industry and, in combination with commonly employed production process controls, are capable of meeting the final NSPS.

The combination of reduced raw waste loads (attainable through the application of commonly employed in-plant production process controls) and more efficient end-of-pipe treatment systems (that can be designed and employed in this industry) form the basis of NSPS. This combination of technologies results in conventional pollutant limitations that have not been achieved at existing mills in every subcategory. This is because the more efficient treatment systems have not been employed at mills in every subcategory where raw waste loads have been reduced to the levels on which NSPS are based. There is no reason why the NSPS end-of-pipe treatment systems would be less efficient in controlling the conventional pollutant raw waste concentrations that result from implementation of in-plant controls than if these controls were not employed. Therefore, the fact that in some subcategories there is no mill that currently meets final NSPS does not mean that the technologies which form the basis of NSPS are not demonstrated. In fact, final NSPS have been attained at mills where every major pulping and bleaching process (bleached kraft, unbleached kraft, groundwood, semi-chemical, sulfite, deink, and other secondary fiber) and papermaking process are employed.

The technologies that form the basis of final NSPS either are now employed or are available for application in every subcategory of the pulp, paper, and paperboard industry and represent the best demonstrated control technology for conventional pollutants. Because we have determined that the technology

bases of final NSPS are fully demonstrated and that NSPS are attainable, we have rejected the commenter's alternative that NSPS be based on the average of the final effluent levels actually attained by at least two of the "best performers" in each subcategory. This alternative is clearly feasible, but does not reflect the best demonstrated technology available to new sources.

C. BAT Limitations and NSPS for Chloroform

Chloroform limits were proposed for those subcategories where chlorine or chlorine-containing compounds are used to bleach pulp. The technology basis of the proposed limitations was biological treatment capable of attaining BPT effluent limitations. Proposed limits were based on the highest concentrations found in biological systems at mills where BPT limitations are being achieved. Commenters provided additional chloroform data and identified nine mills with closed biological systems (either oxygen-activated sludge or deep tank aeration systems) where chloroform volatilization is inhibited. The commenters asserted that these mills would exceed the proposed chloroform limit even if BPT were attained.

Based on our analysis of all available chloroform data, we agree that the nine mills with closed systems are likely to exceed the proposed chloroform limit even when BPT effluent limitations are attained. However, at other pulp, paper, and paperboard facilities where BPT, BOD₅, and TSS limits are attained, chloroform is effectively controlled. The Agency has decided to withdraw the proposed BAT limitations for chloroform since (a) installation of biological treatment assures adequate treatment of chloroform for all but nine mills and (b) the proposed BAT chloroform limitations cannot be achieved at the nine mills without major modification of the existing closed biological treatment systems. Further, the incremental removal of chloroform that would occur at these nine mills is not justified by the non-water quality impacts that would result from the application of chloroform removal technology. We have estimated that compliance with proposed chloroform limitations would increase the energy used to operate wastewater treatment systems by over 70 percent at these nine mills. Attainment of proposed BAT chloroform limitations would result in capital and total annual costs of \$26.9 million and \$12.5 million (1982 dollars), respectively.

The Agency has also decided to withdraw the proposed NSPS for

chloroform. We anticipate that chloroform will be effectively controlled at new sources through the application of open biological treatment systems; closed biological treatment systems are now employed at only about 4.7 percent of the existing direct discharging mills.

D. BAT Effluent Limitations, NSPS, PSES, and PSNS for PCP and TCP

In January of 1981, EPA proposed BAT effluent limitations and NSPS for control of PCP and TCP. Pretreatment standards for new and existing sources were also proposed because both toxic pollutants were found to pass through the POTWs. The proposed limitations and standards were based on chemical substitution. Industry commenters supported the technology basis for proposed BAT, NSPS, PSES, and PSNS regulations, but felt that PCP limits should be adjusted upward to account for contamination of raw materials at secondary fiber mills (mills where wastepaper is processed). Commenters also stated that since substitution is the technology basis for proposed regulation of TCP and PCP, monitoring should not be required for these pollutants if they are not used at individual mills. Additionally, commenters explained that the proposed concentration-based pretreatment standards would penalize those facilities where significant water conservation measures are practiced.

EPA agrees with the commenters that if these pollutants are not used, dischargers should not be required to monitor for PCP and TCP. In deciding how to address the issue, EPA concluded that the approach EPA followed in establishing the 1977 zinc BPT limitations was preferable to the approach EPA proposed for PCP, TCP, and zinc. In 1977, EPA simply drafted the effluent limitations to apply only to those dischargers using zinc compounds in the manufacturing process. Therefore, mills not using zinc compounds were not subject to the limitations and were not required by the regulation to monitor for zinc. EPA believes it makes sense to promulgate the final limitations and standards along these lines, rather than making them apply to all facilities. However, the regulations will require facilities not using chlorophenolic-containing biocides to certify to that effect. Permit-issuing authorities may find it necessary to require that specific monitoring programs be instituted at individual mills if PCP/TCP contamination is suspected or to confirm that significant quantities of PCP and TCP are not being discharged.

The Agency also agrees that the proposed concentration-based limits

might discourage the implementation of water conservation technologies at some mills. Therefore, final pretreatment standards include a mathematical formula that accounts for flow differences to assure that low-flow mills are not penalized.

Our analysis of additional data received with the comments indicates that it is appropriate to adjust PCP limits at secondary fiber mills to account for contamination. Therefore, final NSPS, PSES, PSNS, and BAT limits controlling PCP at secondary fiber mills are being established at higher levels than at proposal.

The Agency has also determined that trace levels of TCP are formed in the bleaching process at mills where chlorine or chlorine-containing compounds are used to bleach pulp. To account for this factor, final NSPS, PSES, PSNS, and BAT limits controlling TCP at these mills are being established at higher levels than at proposal.

A survey of chemical manufacturers shows that the use of biocides that do not contain chlorophenolics will result in no measurable increases in production costs at existing or new mills in the pulp, paper, and paperboard industry. Implementation of these regulations will result in significant reductions in the discharge of PCP and TCP. We estimate that 30,200 pounds per year of trichlorophenol and 21,100 pounds per year of pentachlorophenol will be removed from industry wastewaters that are discharged directly to navigable waters. PCP and TCP discharges to POTWs will be reduced by about 4,510 and 7,460 pounds per year, respectively.

E. BAT Effluent Limitations, NSPS, PSES, and PSNS for Zinc

In January of 1981, EPA proposed BAT effluent limitations and NSPS for control of zinc at mills in the groundwood subcategories where zinc hydrosulfite has historically been used to bleach pulp. Pretreatment standards for new and existing sources were also proposed because zinc was found to pass through the POTWs. The technology basis of proposed BAT limitations was hydroxide precipitation and was identical to the technology basis of BPT limitations for these subcategories. The Agency determined that these zinc limitations were being achieved at all existing direct discharging groundwood mills by implementation of chemical substitution (sodium hydrosulfite in place of zinc hydrosulfite). Therefore, proposed NSPS, PSES, and PSNS were based on chemical substitution.

Comments supported the proposed zinc limitations; therefore, final BAT,

NSPS, PSES, and PSNS are the same as proposed except that, for the reasons discussed above, pretreatment standards will include a mathematical formula to account for flow differences so that low-flow mills are not penalized. Also, to eliminate unnecessary monitoring requirements, the final regulations for zinc apply only at mills where zinc hydrosulfite is used. As in the case of PCP and TCP, permittees must certify that zinc hydrosulfite is not used to bleach pulp in order to demonstrate that the limitations and standards should not apply to their specific facility.

All affected direct discharging mills are now attaining the zinc BAT limitations through chemical substitution. We have estimated that implementation of PSES will reduce the discharge of zinc to POTWs by 44,000 pounds per year at a cost of \$28,000 per year (1982 dollars). No adverse economic impacts are expected.

F. BAT Effluent Limitations and NSPS for Control of Polychlorinated Biphenyls (PCBs) in the Deink Subcategory

Some wastepapers are contaminated with PCBs which were once used in the manufacture of carbonless copy paper. However, at proposal, only limited data were available on the discharge and treatability of PCBs in the pulp, paper, and paperboard industry. Thus, PCB effluent limitations were not proposed for those subcategories where wastepaper is processed. Instead, we sought comments and additional data on the discharge of PCBs and explained that EPA would evaluate all available data between proposal and promulgation to determine whether BAT limitations for control of PCBs are appropriate.

Since proposal, the Agency has obtained all available information on the discharge of PCBs in the pulp, paper, and paperboard industry. We have determined that PCB-1242 is a pollutant of concern in discharges from mills in the deink subcategory where fine or tissue paper are produced. Therefore, concurrent with this final regulation, EPA is proposing BAT effluent limitations and NSPS for control of PCB-1242 in the deink subcategory.

VI. Costs, Economic Impact, Executive Order 12291, and Regulatory Flexibility Analysis

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. The Agency does not consider this to be a

major rule because it will not result in annual costs of 100 million dollars, significant price increases, or significant economic impact.

The Regulatory Flexibility Act requires EPA to consider the effects of rules on small entities and, if they are significant and affect a substantial number of small entities, to prepare a Regulatory Flexibility Analysis. As required by the Act, EPA conducted a small business analysis in conjunction with the economic analysis. EPA classified small businesses in this industry as those with less than \$10 million in annual revenues. Based on this designation, EPA determined that this regulation will not have a significant impact on a substantial number of small entities in the pulp, paper, and paperboard industry. Therefore, a Regulatory Flexibility Analysis is not required.

The Agency's economic impact assessment of this regulation is presented in *Economic Impact Analysis of Effluent Limitations and Standards for the Pulp, Paper, and Paperboard Industry* (U.S. EPA, October 1982). The analysis details the costs incurred by the industry as a result of this regulation, and the impact of these costs in terms of profitability, ability to raise capital, reductions in production, price increases, plant closures, employment and regional effects, and balance of trade effects.

EPA evaluated the impact of new and revised BPT effluent limitations, BAT effluent limitations, PSES, NSPS, and PSNS. The analysis examined the incremental costs beyond present requirements (i.e., BPT for direct dischargers), except in those cases where the existing BPT regulation was modified. BCT compliance costs were not included in the economic impact analysis. In summary, EPA concludes that the economic impacts of the additional water pollution controls likely to be incurred upon implementation of these regulations are justified by the benefits associated with compliance with the effluent limitations and standards.

A. BPT Effluent Limitations

Only one of the six subcategories for which new or revised BPT limitations are being established (the wastepaper-molded products subcategory) will incur compliance costs. Four mills in the wastepaper-molded products subcategory are expected to invest a total of \$8.4 million and incur total annual costs of \$2.6 million (1982 dollars). EPA anticipates that compliance with BPT effluent limitations

may increase production costs by about 6.9 percent. As discussed at proposal, if only half of this cost increase is passed through to users of molded pulp products, no mill closures are expected in the wastepaper-molded products subcategory.

B. BAT Effluent Limitations

No incremental impacts are expected as a result of BAT control of PCP, TCP, and zinc. As explained previously, the technology basis for control of PCP and TCP is chemical substitution. A survey of chemical suppliers shows that no measurable increase in production costs can be expected as a result of using biocides that do not contain chlorophenolics. Therefore, the only incremental costs that might be incurred at these mills as a result of implementation of the BAT effluent limitations are associated with monitoring for PCP and TCP. However, since monitoring is not required where facilities certify that substitute chemicals are being used to control PCP and TCP and substitution is the technology basis of BAT limitations, we anticipate that monitoring will rarely be required. We have also determined that all of the affected mills are now attaining the BAT zinc limits by using bleaching chemicals that do not contain zinc. Thus, no incremental costs are anticipated to result from implementation of BAT. Therefore, BAT effluent limitations for PCP, TCP, and zinc are not expected to cause significant price increases, mill closures, or unemployment.

C. PSES

PSES limitations are expected to result in compliance costs for only one indirect discharging mill. One groundwood mill has been identified where zinc hydrosulfite is currently used to bleach pulp. Chemical substitution to comply with the zinc pretreatment standard is expected to result in an annual compliance cost of \$28,000 (1982 dollars), which will not affect the viability of the mill. Any additional costs will be as a result of monitoring for the specific pollutants regulated by PSES. However, since monitoring is not required where facilities certify that substitute chemicals are being used to control PCP, TCP, and zinc and substitution is the technology basis of PSES, we anticipate that monitoring will rarely be required. Thus, PSES are not expected to cause significant price increases, mill closures, or unemployment.

D. NSPS

Assuming average growth rates for each product sector, EPA estimates that compliance with NSPS will result in incremental capital costs of \$27.7 million and total annual costs of \$9.6 million (1982 dollars) for the entire pulp, paper, and paperboard industry for a one year period. Seven of 14 integrated mill subcategories might incur \$24.0 million in capital investment costs and \$8.3 million in total annual costs. Three of nine secondary fibers subcategories might incur costs of \$2.4 million in capital investment and \$1.0 million in total annual costs. One of eight nonintegrated subcategories might incur \$0.5 million in capital investment and \$0.3 million in total annual costs.

These predicted costs are expected to cause an average price increase of 1.18 percent, with individual product price increases ranging from 0 to 3.2 percent. Based upon the forecasted price increases, EPA estimated the reduction in demand for pulp and paper products and translated this reduction into reductions in the baseline growth rate for new sources.

EPA estimates that baseline (BAT compliance) growth rates for the entire industry would average 3.0 percent annually over the 1985 to 1990 period. Upon attainment of NSPS, the growth rate is expected to drop marginally to an annual growth rate of 2.9 percent. While EPA expects one subcategory, builders' paper and roofing felt, to experience a somewhat larger new source capacity reduction of 51 percent, the projected reduction in the annual growth rate is small, from 1.0 percent to 0.5 percent. Therefore, EPA believes that this impact would not be major.

These reductions in capacity expansion are expected to result in small decreases in future incremental employment forecast for the industry. EPA forecasts that baseline new source expansion would create 36,000 jobs; as a result of NSPS, 2200 of these jobs may not be created (i.e., a potential exists for a 6 percent reduction in new employment.)

At the time that proposed regulations were published, EPA did not anticipate any effect on new growth in the pulp, paper, and paperboard industry. While we now predict that there will be some effect, the projected reductions in new source capacity resulting from implementation of this regulation are small (from 3.0 to 2.9 percent annual growth). Thus, EPA believes that the costs associated with compliance with NSPS are reasonable and economically achievable by the pulp, paper, and paperboard industry.

E. PSNS

The technology basis for PSNS limitations is identical to the technology basis of PSES—chemical substitution to limit the discharge of PCP, TCP, and zinc. Therefore, there is no incremental cost or economic impact attributable to PSNS.

VII. Pollutants and Subcategories Not Regulated

A. Toxic Pollutants

Paragraph 8 of the modified Settlement Agreement, approved by the District Court for the District of Columbia on March 9, 1979 (12 ERC 1833), contains provisions authorizing the exclusion from regulation, in certain instances, of toxic pollutants and industry categories and subcategories.

1. *Exclusion of Pollutants.* On January 28, 1981, EPA submitted an affidavit explaining that, for the pulp, paper, and paperboard industry, the Agency, under the authority of Paragraph 8(a)(iii) of the Settlement Agreement, decided not to regulate 125 of the 129 toxic pollutants. Based on additional information collected by the Agency or received in comments, the Agency is proposing to remove PCB-1242 from the list of excluded pollutants for direct dischargers in the deink subcategory. As explained previously, concurrent with this regulation, the Agency is proposing regulations for the control of PCB-1242 at direct discharging mills in the deink subcategory where fine and tissue papers are produced.

In addition, as discussed previously, the Agency is withdrawing the proposed BAT limitations for chloroform (see Summary of Promulgated Regulation and Changes from Proposal).

Finally, the 1981 affidavit excluded pollutants discharged from both direct and indirect sources. EPA has since reexamined the data pertaining to pollutants discharged from indirect sources and determined that different rationales under Paragraph 8 of the Settlement Agreement are appropriate for some of the pollutants. Accordingly Appendix B to this notice lists those toxic pollutants for which EPA is providing a different rationale and explains our reasons for not establishing pretreatment standards for those pollutants.

2. *Subcategories Excluded.* As explained in the preamble to the proposed rules, the converted paper industry (SIC 2641, 2642, 2643, 2645, 2646, 2647, 2648, 2649, 2651, 2652, 2653, 2654, 2655, and 2682) and the groundwood-chemi-mechanical subcategory have been excluded from

regulation under the authority of Paragraph 8(a)(iv) of the Settlement Agreement. (See 46 FR 1430, January 6, 1981.)

B. Nonconventional Pollutants

Nonconventional pollutants associated with the production of pulp, paper, and paperboard are color, ammonia, and resin and fatty acids and their derivatives. No nonconventional pollutants will be regulated through establishment of BAT, NSPS, PSES, or PSNS.

1. *Color.* BAT limitations were established to control the discharge of color from mills in the unbleached kraft, semi-chemical, and unbleached kraft and semi-chemical subcategories (39 FR 18742, May 29, 1974). BAT limitations were also proposed but never promulgated to control color in discharges from the dissolving kraft, market bleached kraft, BCT bleached kraft, fine bleached kraft, and soda subcategories (41 FR 7685, February 19, 1976). Additional subcategories where highly-colored effluents are discharged include both papergrade sulfite subcategories and the dissolving sulfite pulp subcategory.

As a result of further investigations conducted since 1976, the Agency explained at proposal that it had concluded that the discharge of color in pulp, paper, and paperboard industry effluents is not of uniform national concern and that color would be controlled on a case-by-case basis as dictated by water quality considerations. Many comments were received on the proposal supporting the Agency's position. Other comments were received encouraging EPA to establish uniform national color limitations because highly-colored effluents are discharged from mills in 11 subcategories and because earlier Agency documents and proposed and final regulations support establishment of color limitations.

The Agency is withdrawing the existing effluent limitations and standards for color and we are not establishing any new ones based on our evaluation that color is not a pollutant of national significance in this industry. In some cases, it has been shown that color can interfere with light transmission and the process of photosynthesis in the aquatic environment. However, in most instances, color is simply an aesthetic pollutant. Thus, EPA no longer believes that color is a pollutant of uniform national concern in this industry.

2. *Ammonia.* The Agency did not propose establishment of ammonia limitations because there were very

limited data available on ammonia discharges from the pulp, paper, and paperboard industry. EPA sought additional data and requested comments on the necessity for establishment of uniform national standards for control of ammonia in the paper industry.

Some commenters stated that ammonia should not be regulated on a uniform national basis because of the absence of wide-spread receiving water quality problems from routine industrial discharges of ammonia. They stated that ammonia occurs naturally in the environment, is readily metabolized to nitrite and nitrate, and, therefore, is best regulated on a case-by-case basis. Other commenters urged the Agency to collect additional data on the level of ammonia discharges and applicable treatment technologies to determine whether effluent limitations were necessary.

After reviewing the comments and all available ammonia data, we decided not to establish ammonia limitations. In reaching that decision, we found that there are only eight mills in three subcategories where ammonia-based cooking chemicals are used in the pulping process. Resulting ammonia raw waste concentrations range from 20 to 340 mg/l. After application of BPT, about 12 to 32 mg/l of ammonia remain, depending on the subcategory considered. When BPT effluent limits are met, about eight million pounds per year of ammonia are removed from industry raw wastes.

We have identified two technologies capable of removing additional ammonia from pulp, paper, and paperboard industry wastewaters: (a) conversion of existing biological treatment systems to operate in a nitrification mode and (b) conversion to the use of a new chemical base (i.e., sodium or magnesium). These technologies are discussed in detail in Sections VII and VIII and Appendix A of the Development Document.

The Agency investigated the ammonia removal capability of these technologies. We also estimated the economic impact that would result from establishing ammonia limitations. Uncertainties exist in the modifications required to convert existing pulp, paper, and paperboard biological treatment systems to operate in a nitrification mode (i.e., proper detention time; sludge age, and operating temperature). Therefore, the Agency has assumed that ammonia limitations, if established, would be attained through conversion to a different (non-ammonia) chemical base.

The Agency estimates that an additional 4.45 million pounds per year

of ammonia could be removed from wastewater discharges from the eight mills where ammonia-based cooking chemicals are used. Capital and total annual costs at the eight mills would be \$167 million and \$50.4 million, respectively. These costs would result in production cost increases ranging from 2.9 to 15.4 percent and might cause the closure of four of the eight mills.

Because of these projected severe economic impacts, the Agency has determined that establishment of uniform national standards for control of ammonia is unwarranted. If required to protect water quality, ammonia limitations are best established on a case-by-case basis.

3. *Resin Acids, Fatty Acids, and Bleach Plant Derivatives.* At proposal, the Agency announced that we would not establish BAT effluent limitations and NSPS to control resin acids, fatty acids, and bleach plant derivatives present in pulp, paper, and paperboard industry discharges. EPA explained that the sparsity of data available on the discharge of these nonconventional pollutants in this industry made it impossible to propose uniform national standards. In comments received in response to the proposal, some commenters agreed that, because these compounds are effectively controlled by the biological treatment process, limitations and standards are unnecessary. Other commenters encouraged the Agency to establish limitations because of the toxicity of these compounds and their resistance to biological treatment.

No new data were submitted with comments. Data available to the Agency show that biological treatment (the technology basis of BPT in those subcategories where high levels of resin acids, fatty acids, and bleach plant derivatives are generated) is very effective in reducing raw waste loadings of resin acids, fatty acids, and bleach plant derivatives. Almost no data are available for potential BAT treatment technologies such as foam separation, chemically assisted clarification, ion exchange, or activated carbon. In addition, analytical methods have not been developed for measuring these nonconventional pollutants. For the above reasons, EPA cannot establish BAT effluent limitations guidelines and NSPS for control of resin acids, fatty acids, and bleach plant derivatives on a national basis.

VIII. Non-Water Quality Environmental Impacts

Sections 304(b) and 306 of the Act require EPA to consider the non-water

quality environmental impacts (including air pollution, solid waste generation, and energy requirements) of certain regulations. In conformance with these provisions, we considered the effect of this regulation on air pollution, solid waste generation, and energy consumption. This regulation was reviewed by EPA personnel responsible for non-water quality related programs. While it is difficult to balance pollution problems against each other and against energy use, we believe this regulation will best serve often competing national goals. The Administrator has determined that the non-water quality impacts identified below are justified by the benefits associated with compliance with the regulation.

Implementation of these regulations will not substantially increase air pollution, energy use, or solid waste generation because the technologies that form the bases of BAT effluent limitations and pretreatment standards do not require additional energy or generate solid wastes and air emissions.

The Agency projects that attainment of NSPS will result in an insignificant incremental increase in solid waste and about a 2 percent increase in energy use compared to attainment of BPT effluent limitations.

We estimate that attainment of new BPT effluent limitations will require the use of the equivalent of 3800 barrels per year of residual fuel oil, an increase of 0.0017 percent of current industry energy usage. Further, we estimate that an additional 110 tons of solid waste per year will be generated. This is equal to 0.0042 percent of current wastewater solids generated in the industry.

Implementation of these regulations will not substantially increase air pollution. Information on which these estimates are based are contained in Sections IX, X, XII, XIII, XIV, and Appendix A of the Development Document.

IX. Best Management Practices

Section 304(e) of the Clean Water Act gives the Administrator authority to prescribe "best management practices" (BMPs). EPA is not now considering promulgating BMPs specific to the pulp, paper, and paperboard industry.

Upset and Bypass Provisions

A recurring issue is 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 in EPA's effluent

limitations guidelines is necessary 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); *FMC Corp. v. Train*, 539 F.2d 973 (4th Cir. 1976).

An upset is an unintentional episode during which effluent limits are exceeded; a bypass, however, is an act of intentional noncompliance during which waste treatment facilities are circumvented in emergency situations. We have, in the past, included bypass provisions in NPDES permits.

We determined that both upset and bypass provisions should be included in NPDES permits and have promulgated Consolidated Permit Regulations that include upset and bypass provisions. (See 45 FR 33290, May 19, 1980; 40 CFR 122.60.) 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 permittees in the pulp, paper, and paperboard industry will be entitled to upset and bypass provisions in NPDES permits, these final regulations do not address these issues.

XI. Variances and Modifications

Upon the promulgation of this regulation, the effluent limitations for the appropriate subcategory must be applied in all Federal and State NPDES permits thereafter issued to direct discharges in the pulp, paper, and paperboard industry. In addition, on promulgation, the pretreatment limitations are directly applicable to indirect dischargers.

For the BPT effluent limitations, the only exception to the binding limitations is EPA's "fundamentally different factors" variance (see *E. I. duPont de Nemours and 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 will not be included in the specific pulp, paper, and paperboard industry regulations (see the NPDES regulations at 40 CFR Part 125, Subpart D). The BAT limitations in these regulations are also subject to EPA's "fundamentally different factors" variance.

Pretreatment standards for existing sources are subject to the "fundamentally different factors" variance and credits for pollutants removed by POTWs (see 40 CFR 403.7 and 403.13). 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 *duPont v. Train*, *supra*).

XII. Relationship to NPDES Permits

The BPT and BAT limitations and NSPS in this regulation will be applied to individual pulp, paper, and paperboard mills 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 the extent that variances and modifications are expressly authorized. Other aspects of the interaction of these regulations and NPDES permits are discussed below.

One issue which warrants consideration is the effect of these regulations on the powers of NPDES permit-issuing authorities. The promulgation of these regulations 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 a 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 these regulations (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 these regulations. We emphasize that, although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary. We have exercised and intend to exercise that discretion in a manner that recognizes and promotes good faith compliance efforts.

XIII. Public Participation-Responses to Major Comments

Numerous agencies and groups have participated in this study of the pulp, paper, and paperboard industry. The Agency solicited comments on the proposed rules and on the Development Document and economic analysis supporting the proposal.

The comment period (except for BCT) ended on June 9, 1981. (The BCT comment period will end 60 days after proposal of a new BCT methodology and the new BCT limitations for this category). Sixty-one persons or groups submitted comments on non-BCT issues. Comments were submitted by four trade associations, 34 individual companies, nine private citizens, eight environmental groups, four state agencies, and two engineering consultants representing industrial clients.

The Agency held a public hearing on the proposal on March 6, 1981 in Washington, D.C. Technical Workshops were held on February 24, 1981 in Seattle, Washington, on February 26, 1981 in Chicago, Illinois, and on March 5, 1981 in Washington, D.C.

Individual public comments received on the proposed regulation and our responses are presented in a report "Responses to Public Comments, Proposed Pulp, Paper, and Paperboard Industry Effluent Guidelines and Standards," October 1982, which is part of the public record of this rulemaking. A summary of the major comments that are not discussed elsewhere in this preamble and the Agency's responses follows.

1. *Comment:* In calculating the end-of-pipe concentrations for NSP, EPA inaccurately calculated the final effluent concentrations representative of the "best performers." EPA calculated the concentrations achievable at best performers by dividing long-term average mass discharge levels by the flow on which BPT effluent limitations are based, rather than the average flow of the best performing mills. Dividing the mass levels by the higher BPT flow overstates the performance of the end-of-pipe treatment systems used at the best performing mills. The actual effluent concentration achieved at these

mills (actual average mass discharge divided by actual average flow) is a much more valid representation of the treatment performance capability of the end-of-pipe treatment systems employed at best performing mills.

As a substitute, the commenter proposed two alternatives: (1) setting NSPS equal to the average of final effluent levels actually attained by two or more of the best performers in each subcategory, or (2) basing NSPS on the performance of external treatment systems from one set of best performers with the performance of internal controls from another group of mills.

Response: As stated previously, the technology basis of the proposed NSPS was commonly employed in-plant production process control technologies plus the application of end-of-pipe treatment of the type that formed the basis of BPT effluent limitations (i.e., biological treatment or primary clarification). The proposed limitations were generally determined by multiplying (a) typical wastewater flows for new sources in each subcategory after implementation of in-plant controls and (b) effluent concentrations determined from analysis of control technology performance data for end-of-pipe treatment systems.

The commenter apparently misunderstood how EPA determined the effluent concentrations determined from analysis of control technology performance data. In determining achievable effluent concentrations, EPA relied on the removal capabilities of end-of-pipe treatment systems exclusively. EPA did not include added production process controls as part of its technology option for defining effluent concentrations. (Some limited in-plant controls were included in the technology basis of final BPT limitations). However, the commenter's description of the option assumes that EPA based the final effluent concentrations corresponding to this technology option on a smaller end-of-pipe treatment system and added internal production process controls.

In developing its option, EPA relied on the performance of the best performing mills to determine what end-of-pipe effluent loads to establish. EPA took the final average discharge loads of BOD5 and TSS achieved by the best performers and divided these by the flow that formed the basis of the BPT limitations to determine what effluent concentrations had to be achieved to meet the discharge loads of the best performers if only end-of-pipe treatment were employed. EPA found that the necessary concentrations could be achieved by using the BPT end-of-pipe

treatment system (biological treatment or primary clarification) and expanding it. Because the expanded BPT end-of-pipe treatment system is fully capable of meeting the discharge loads of the best performers without added reduction in flow or raw waste load, EPA used the BPT flows and did not design or cost in-process controls (to reduce flow or raw waste load) in determining the effluent concentration component of the NSPS proposed treatment option. Therefore, EPA neither failed to address the impact of a reduction in flow on the final effluent concentration nor overstated the performance of the end-of-pipe treatment systems for its technology option. (See Chapter VIII of the Development Document for a more complete explanation.)

In stating that EPA incorrectly calculated effluent concentrations, the commenter actually defined another technology option. The commenter's option includes internal process controls and a smaller BPT end-of-pipe treatment system to meet the discharge loads of the best performers. We agree with the commenter that the effluent concentrations could be higher under this option since the flow would be lower. Either technology option results in attainment of the discharge levels achieved by the best performers; however, the higher effluent concentrations attained in the commenter's option would mean that NSPS using those concentrations would be less stringent than those in EPA's option.

EPA did not adopt the option identified by the commenter because the effluent concentrations on which EPA's technology option is based better reflect the effluent concentrations that new sources can achieve and many existing sources are achieving. The commenter's technology option discusses another technology option for achieving the average final effluent loads attained by the "best performers," but it does not reflect the capability of new sources to build larger end-of-pipe treatment systems to attain lower effluent concentrations. In fact, these larger systems are already used by many of the best performers and are achieving the effluent concentrations EPA has selected.

EPA also rejected the two alternatives offered by the commenter. As explained in Section V of this preamble (Summary of Promulgated Regulation and Changes From Proposal), the first alternative is feasible but does not reflect the best technology available to new sources. While our NSPS option incorporates some aspects of the second alternative,

the latter alternative results in generally less stringent standards than either our alternative or the commenter's first alternative. Since we rejected the final standards attained by the first alternative as not representative of the best available demonstrated technology, we determined that the second alternative was similarly deficient. Nevertheless, in meeting the final standards we have established, dischargers may use any combination of technology options they choose.

2. Comment: Tertiary treatment (i.e., chemically assisted clarification or CAC) should form the technology basis of the BAT/NSPS/PSES/PSNS regulations for the toxic pollutants pentachlorophenol (PCP), trichlorophenol (TCP), and zinc.

Response: Chemically assisted clarification (CAC) is an end-of-pipe treatment technology primarily employed to effect a further reduction in suspended solids than can be attained through application of biological treatment only. No data were submitted with comments, nor are we aware of any data, that would allow the Agency to establish a relationship between removal of suspended solids and removal of the three toxic pollutants (PCP, TCP, and zinc). Therefore, the Agency is unable to establish regulations for control of PCP, TCP, and zinc based on CAC. Further, based on available data, the Agency determined that PCP, TCP, and zinc can be effectively controlled through chemical substitution. Limitations based on chemical substitution will lead to significant removals of regulated toxics. (Total removal is not achieved because some wastepapers are contaminated with low levels of pentachlorophenol and because low levels of trichlorophenol are formed when pulp is bleached with chlorine or chlorine-containing compounds.) Thus, EPA is basing final regulations controlling PCP, TCP, and zinc on chemical substitution.

3. Comment: Analytical techniques for trichlorophenol and pentachlorophenol should be specified. If analytical techniques used at pulp, paper, and paperboard mills are different from those specified by EPA, it would be the discharger's responsibility to prove the relationship between the techniques.

Response: In the Development Document, EPA has identified all of the analytical procedures used to generate the data on which final effluent limitations and standards are based. Pentachlorophenol and trichlorophenol were analyzed by the standard method number 625 specified in 44 FR 69464 (December 3, 1979) and by the use of the quality assurance/quality control (QA/

QC) procedures specified in:

"Procedures for Analysis of Pulp, Paper, and Paperboard Effluents for Toxic and Nonconventional Pollutants," U.S. EPA, Washington, D.C., December 1980.

4. Comment: Commenters stated that use of the 99th percentile in determining daily maximum variability factors would result in three to four violations of maximum day limitations per year, even at mills complying with the guidelines. Therefore, a 99.7 or a 99.9 confidence interval should be selected, the 99.7 percentile corresponding to about one violation per year and the 99.9 percentile to about one violation every five years (the life of the average permit).

Response: The 99th percentile was used when establishing BPT effluent limitations for the pulp and paper industry in 1974 and 1977. In our January 6 proposal, we again chose the 99th percentile to account for effluent variability. With this confidence level, it is expected that 99 percent of the daily values will fall below the limitation for a properly designed and operated treatment plant. This would correspond to three to four violations of daily maximum limitations every year if daily monitoring is required. The use of 99th percentile is an acceptable and commonly used method to set limits, balances the need to allow for the variability expected of a well operated plant, and insures the proper operation of that plant. The use of the 99th percentile does not adversely affect industry or subject industry to the real possibility of unnecessary enforcement actions. Although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary. We have exercised and intend to exercise that discretion in a manner that recognizes and promotes good faith compliance efforts.

5. Comment: The Agency's decision to use all currently available performance data in setting BOD₅ limitations is proper. However, permit writers and the Enforcement Division should be made aware of whether guidelines were developed using refrigerated BOD₅ data. Sample refrigeration may mask seasonal effects on final effluent BOD₅ and subsequently affect variability.

Response: A cooperative effort to study the effects of refrigerated/unrefrigerated samples was undertaken by the Agency and representatives of the industry. Results of this study have been published in *An Evaluation of the Effects of Sample Storage Conditions on the Measurement of BOD₅*, E. C. Jordan Co., Portland, Maine, September, 1982.

This study included an assessment of industry sampling and analysis

techniques, a literature review, a laboratory study, and an evaluation of parallel BOD₅ (refrigerated and unrefrigerated sample storage) data. Several statistical procedures were used to evaluate paired refrigerated and unrefrigerated data sets. Nonlinear regression analyses, multiple regression analyses, and log 10 transform relationships were tested, but none were successful in providing a model to adequately characterize the relationship between refrigerated and unrefrigerated BOD₅ data. Investigations showed that the effects of sample storage conditions on measured final effluent BOD₅ values were small in magnitude. The effects were variable on a mill-to-mill, day-to-day, and season-to-season basis. Therefore, all data regardless of refrigeration status have been considered in establishing BOD₅ effluent limitations. Standard collection procedures, including refrigerated sample collection techniques, shall be followed when collecting samples to determine compliance with conventional pollutant limitations.

6. Comment: A distinction should be made between papergrade sulfite mills where fine and tissue papers are produced.

Response: Raw waste load data relating to fine paper and tissue production were examined. No significant differences in raw waste load flow, BOD₅, or TSS exist between fine and tissue mills and there is no justification for distinguishing between production of fine and tissue papers. We found that the percentage of sulfite pulp produced on-site is a much more significant factor affecting raw waste loads than the type of product manufactured. A flow model has been developed to account for the effect of varying degrees of sulfite pulping on raw waste generation. This flow model is a major element in the development of limitations and standards applicable to the two papergrade sulfite subcategories.

7. Comment: The definition of the BCT (board, coarse, and tissue) bleached kraft subcategory should be changed to include fine paper mills where ash content in the final product is less than 12 percent.

Response: The commenters provided no additional data to support their claims. Available data on all fine bleached kraft mills with less than 12 percent filler were reevaluated. The regression analyses performed on the data from both subcategories did not show a statistically significant relationship between percent filler and raw waste generation. In fact, we found

that raw waste loads at fine paper mills with less than 12 percent filler more closely resemble fine rather than BCT bleached kraft mill characteristics. (See Section IV of Development Document). Thus, a change in the definition of the BCT bleached kraft subcategory is not warranted.

8. *Comment:* A detailed discussion of the factors (such as mill size, age, raw materials, products, and treatment costs) used in determining subcategories should be provided. Special circumstances which exist at some mills should be recognized and mills should be resubcategorized accordingly. Industry commenters have also requested a definition and formal recognition of mills in the miscellaneous mill groupings. Permit writers should be provided guidance in establishing effluent limits for these mills, and permits should be negotiated on a case-by-case basis.

Response: The Development Document (Section IV) provides a detailed discussion of all factors considered in subcategorization. During the comment period, representatives of some mills provided process information relating to subcategorization. As appropriate, certain mills are considered a part of different subcategories now than at the time of proposal. These changes, some of which were discussed previously, are shown in the Development Document.

When a mill does not fit the specific definition of an individual subcategory, we consider this to be a "miscellaneous" mill. Permits for miscellaneous mills must be developed on a case-by-case basis. We encourage permit writers to consider establishing allowable discharge levels by proration when the entire production at a miscellaneous mill can be allocated to existing subcategories. Therefore, when more than one production process is employed, the total allowable discharge could be determined by multiplying the production associated with operations representative of each subcategory by the appropriate discharge allowance for each subcategory. We do not establish a separate subcategory for such mills because we cannot develop uniform national standards applicable to these "miscellaneous" mills.

9. *Comment:* Specific subcategory definitions published in the Development Document are inconsistent with definitions in the Federal Register. Errors exist in the Development Document supporting proposed rules; data presented for individual mills are not correct.

Response: The final Development Document and regulations contain

consistent definitions. All data in the Development Document, including tables and figures, were reviewed for accuracy. Incorrect data and calculations were revised as appropriate. Final limitations and standards reflect these changes.

10. *Comment:* Limitations for the papergrade sulfitemarket pulp subcategory codified at Subpart V of the *Code of Federal Regulations* (40 CFR 430) were promulgated in February, 1976, but subsequently withdrawn in January 1977. However, Subpart V was never removed from the *Code of Federal Regulations*.

Response: As part of Interim Final Rulemaking, (see 41 FR 7662, February 19, 1976), effluent limitations were promulgated for a papergrade sulfite-market pulp subcategory. These effluent limitations were codified at Subpart V, 40 CFR Part 430. Subsequently in the preamble to the final rules (see 42 FR 1399, January 6, 1977), the Agency announced that effluent limitations for the papergrade sulfite-market pulp subcategory would be withdrawn and those mills originally included in the papergrade sulfite-market pulp subcategory would be included in the papergrade sulfite subcategory. By mistake, the withdrawn Subpart V was never removed from the *Code of Federal Regulations*. The new *Code of Federal Regulations* for this category will indicate that Subpart V covers the unbleached kraft and semi-chemical subcategory.

11. *Comment:* Industry commenters expressed concern that those paperboard from wastepaper mills where recycled corrugating medium is processed would face economic hardship if required to meet the proposed NSPS regulations.

Response: During a review of its subcategorization scheme, EPA reviewed data on the raw waste loads of paperboard from wastepaper facilities. As discussed previously, data show that higher waste loads occur at mills where recycled corrugating medium is processed than when other types of wastepaper are processed. For this reason, NSPS limitations have been established that account for the higher raw waste loads characteristic of mills where wastepaper board is produced from recycled corrugating medium. Our analysis indicates that these revised standards will not result in adverse economic impacts.

XIV. 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 only open 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 program authorizes the SBA to guarantee the payments on qualified contracts entered into by eligible small businesses to acquire needed pollution control facilities when the financing is provided through pollution control bonds, bank loans, and debentures. Financing with SBA's guarantee of payment makes available long-term financing comparable with market rates. The program applies to projects that cost from \$150,000 to \$200,000.

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 SBA 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.

XV. List of Subjects in 40 CFR Parts 430 and 431

Paper and paper products industry, Water pollution control, Waste treatment and disposal, Reporting and recordkeeping requirements.

XVI. OMB Review

The regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

In accordance with the Paperwork Reduction Act of 1980 (P.L. 96-511), the provisions concerning certification, which would eliminate certain

monitoring requirements, that are included in this regulation will be submitted for approval to OMB. They are not effective until OMB approval has been obtained and the public is notified to that effect through a technical amendment to this regulation.

XVII. Background Documents

These regulations are explained in two major documents. EPA's technical conclusions are detailed in the *Development Document for Effluent Limitations Guidelines, New Source Performance Standards, and Pretreatment Standards for the Pulp, Paper, and Paperboard and the Builders' Paper and Board Mills Point Source Categories*. The Agency's economic analysis is found in *Economic Impact Analysis of Effluent Limitations and Standards for the Pulp, Paper, and Paperboard Industry*. A summary of the public comments received on the proposal and EPA's responses is presented in "Summary of Comments and Responses on the January 1981 Proposed Regulations for the Pulp, Paper, and Paperboard Industry," which is part of the public record for this regulation.

On December 9, 1982, copies of the development document and the economic analysis will be available for public review in EPA's Public Information Reference Unit, Room 2404 (Rear) (EPA Library), 401 M Street, S.W., Washington, D.C. On January 22, 1983, the complete Record, including the Agency's responses to comments on the proposed regulation (46 FR 1430, January 6, 1981), will be available for review at the Public Information Reference Unit. The EPA information regulation (40 CFR Part 2) allows the Agency to charge a reasonable fee for copying. Copies of the development document and the economic analysis may also be obtained from the National Technical Information Service, Springfield, Virginia 22161 (703/487-6000). A notice will be published in the *Federal Register* announcing the availability of these documents from NTIS. (This should occur within 60 days of publication.)

Dated: October 29, 1982.

Anne M. Gorsuch,
Administrator.

Appendix A—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 301(b)(2)(A) of the Act

BCT—The best conventional pollutant control technology, under section 301(b)(2)(E) of the Act

BMPs—Best management practices, under section 304(e) of the Act

BPT—The best practicable control technology currently available, under section 301(b)(1)(A) of the Act

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 (Public Law 95-217)

Direct discharger—A facility where wastewaters are discharged or may be discharged into waters of the United States

Indirect discharger—A facility where wastewaters are discharged or may be discharged into a publicly owned treatment works

NPDES permit—A National Pollutant Discharge Elimination System permit issued under section 402 of the Act

NSPS—New source performance standards under section 306 of the Act

POTW or POTWs—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 indirect discharges, under section 307(c) of the Act

RCRA—Resource Conservation and Recovery Act (PL 94-580) of 1976, Amendments to Solid Waste Disposal Act

Appendix B—Exclusion of Certain Toxic Pollutants From Regulations Applicable to Indirect Dischargers

For the following reasons, EPA is not establishing pretreatment standards for the toxic pollutants listed below:

The pollutant is detectable in the effluent from only a small number of sources and the pollutant is uniquely related to those sources:

benzene	PCB-1248
1,1,1-trichloroethane	PCB-1254
1-chlorophenol	PCB-1260
2,4-dichlorophenol	naphthalene
ethylbenzene	di-n-butyl phthalate
trichloroethylene	tetrachloroethylene
lead	

The pollutant is susceptible to treatment in publicly owned treatment works (POTWs) and does not interfere with, does not pass through, or is not otherwise incompatible with POTWs:

butyl benzyl phthalate	toluene
diethyl phthalate	cyanide
PCB-1242	chloroform
phenol	

Part 430 of Title 40 is revised to read as follows:

PART 430—THE PULP, PAPER, AND PAPERBOARD POINT SOURCE CATEGORY

General Provisions

Sec.
430.00 Applicability.
430.01 General definitions.
430.02 Monitoring requirements. [Reserved]

Subpart A—Unbleached Kraft Subcategory

Sec.
430.10 Applicability; description of the unbleached kraft subcategory.
430.11 Specialized definitions.
430.12 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
430.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
430.14 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
430.15 New source performance standards (NSPS).
430.16 Pretreatment standards for existing sources (PSES).
430.17 Pretreatment standards for new sources (PSNS).

Subpart B—Semi-Chemical Subcategory

Sec.
430.20 Applicability, description of the semi-chemical subcategory.
430.21 Specialized definitions.
430.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
430.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
430.24 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
430.25 New source performance standards (NSPS).
430.26 Pretreatment standards for existing sources (PSES).
430.27 Pretreatment standards for new sources (PSNS).

Subpart C—[Reserved]

Subpart D—Unbleached Kraft—Neutral Sulfite Semi-Chemical (Cross Recovery) Subcategory

Sec.
430.40 Applicability; description of the unbleached kraft—neutral sulfite semi-chemical (cross recovery) subcategory.
430.41 Specialized definitions.

430.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

430.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

430.44 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

430.45 New source performance standards (NSPS).

430.46 Pretreatment standards for existing sources (PSES).

430.47 Pretreatment standards for new sources (PSNS).

Subpart E—Paperboard From Wastepaper Subcategory

Sec.

430.50 Applicability; description of the paperboard from wastepaper subcategory.

430.51 Specialized definitions.

430.52 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

430.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

430.54 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

430.55 New source performance standards (NSPS).

430.56 Pretreatment standards for existing sources (PSES).

430.57 Pretreatment standards for new sources (PSNS).

Subpart F—Dissolving Kraft Subcategory

Sec.

430.60 Applicability; description of the dissolving kraft subcategory.

430.61 Specialized definitions.

430.62 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

430.63 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

430.64 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

430.65 New source performance standards (NSPS).

430.66 Pretreatment standards for existing sources (PSES).

430.67 Pretreatment standards for new sources (PSNS).

Subpart G—Market Bleached Kraft Subcategory

Sec.

430.70 Applicability; description of the market bleached kraft subcategory.

430.71 Specialized definitions.

430.72 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

430.73 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

430.74 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

430.75 New source performance standards (NSPS).

430.76 Pretreatment standards for existing sources (PSES).

430.77 Pretreatment standards for new sources (PSNS).

Subpart H—BCT Bleached Kraft Subcategory

Sec.

430.80 Applicability; description of the BCT bleached kraft subcategory.

430.81 Specialized definitions.

430.82 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

430.83 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

430.84 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

430.85 New source performance standards (NSPS).

430.86 Pretreatment standards for existing sources (PSES).

430.87 Pretreatment standards for new sources (PSNS).

Subpart I—Fine Bleached Kraft Subcategory

Sec.

430.90 Applicability; description of the fine bleached kraft subcategory.

430.91 Specialized definitions.

430.92 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

430.93 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

430.94 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available

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technology economically achievable (BAT).

430.95 New source performance standards (NSPS).

430.96 Pretreatment standards for existing sources (PSES).

430.97 Pretreatment standards for new sources (PSNS).

Subpart J—Papergrade Sulfite (Blow Pit Wash) Subcategory

Sec.

430.100 Applicability; description of the papergrade sulfite (blow pit wash) subcategory.

430.101 Specialized definitions.

430.102 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

430.103 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

430.104 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

430.105 New source performance standards (NSPS).

430.106 Pretreatment standards for existing sources (PSES).

430.107 Pretreatment standards for new sources (PSNS).

Subpart K—Dissolving Sulfite Pulp Subcategory

Sec.

430.110 Applicability; description of the dissolving sulfite pulp subcategory.

430.111 Specialized definitions.

430.112 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

430.113 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

430.114 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

430.115 New source performance standards (NSPS).

430.116 Pretreatment standards for existing sources (PSES).

430.117 Pretreatment standards for new sources (PSNS).

Subpart L—Groundwood-Chemi-Mechanical Subcategory

Sec.

430.120 Applicability; description of the groundwood-chemi-mechanical subcategory.

430.121 Specialized definitions.

430.122 Effluent limitations representing the degree of effluent reduction attainable by

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the application of the best practicable control technology currently available (BPT).
- 430.123 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
- 430.124 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]
- 430.125 New source performance standards (NSPS). [Reserved]
- 430.126 Pretreatment standards for existing sources (PSES). [Reserved]
- 430.127 Pretreatment standards for new sources (PSNS). [Reserved]

Subpart M—Groundwood-Thermo-Mechanical Subcategory

- Sec.
430.130 Applicability; description of the groundwood-thermo-mechanical subcategory.
- 430.131 Specialized definitions.
- 430.132 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
- 430.133 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
- 430.134 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
- 430.135 New source performance standards (NSPS).
- 430.136 Pretreatment standards for existing sources (PSES).
- 430.137 Pretreatment standards for new sources (PSNS).

Subpart N—Groundwood-CMN Papers Subcategory

- Sec.
430.140 Applicability; description of the groundwood-CMN papers subcategory.
- 430.141 Specialized definitions.
- 430.142 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
- 430.143 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
- 430.144 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
- 430.145 New source performance standards (NSPS).
- 430.146 Pretreatment standards for existing sources (PSES).
- 430.147 Pretreatment standards for new sources (PSNS).

Subpart O—Groundwood-Fine Papers Subcategory

- Sec.
430.150 Applicability; description of the groundwood-fine papers subcategory.
- 430.151 Specialized definitions.
- 430.152 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
- 430.153 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
- 430.154 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
- 430.155 New source performance standards (NSPS).
- 430.156 Pretreatment standards for existing sources (PSES).
- 430.157 Pretreatment standards for new sources (PSNS).

Subpart P—Soda Subcategory

- Sec.
430.160 Applicability; description of the soda subcategory.
- 430.161 Specialized definitions.
- 430.162 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
- 430.163 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
- 430.164 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
- 430.165 New source performance standards (NSPS).
- 430.166 Pretreatment standards for existing sources (PSES).
- 430.167 Pretreatment standards for new sources (PSNS).

Subpart Q—Deink Subcategory

- Sec.
430.170 Applicability; description of the deink subcategory.
- 430.171 Specialized definitions.
- 430.172 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
- 430.173 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
- 430.174 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

- Sec.
430.175 New source performance standards (NSPS).
- 430.176 Pretreatment standards for existing sources (PSES).
- 430.177 Pretreatment standards for new sources (PSNS).

Subpart R—Nonintegrated-Fine Papers Subcategory

- Sec.
430.180 Applicability; description of the nonintegrated-fine papers subcategory.
- 430.181 Specialized definitions.
- 430.182 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
- 430.183 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
- 430.184 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
- 430.185 New source performance standards (NSPS).
- 430.186 Pretreatment standards for existing sources (PSES).
- 430.187 Pretreatment standards for new sources (PSNS).

Subpart S—Nonintegrated-Tissue Papers Subcategory

- Sec.
430.190 Applicability; description of the nonintegrated-tissue papers subcategory.
- 430.191 Specialized definitions.
- 430.192 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
- 430.193 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
- 430.194 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
- 430.195 New source performance standards (NSPS).
- 430.196 Pretreatment standards for existing sources (PSES).
- 430.197 Pretreatment standards for new sources (PSNS).

Subpart T—Tissue From Wastepaper Subcategory

- Sec.
430.200 Applicability; description of the tissue from wastepaper subcategory.
- 430.201 Specialized definitions.
- 430.202 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

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- 430.203 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
- 430.204 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
- 430.205 New source performance standards (NSPS).
- 430.206 Pretreatment standards for existing sources (PSES).
- 430.207 Pretreatment standards for new sources (PSNS).

Subpart U—Papergrade Sulfite (Drum Wash) Subcategory

Sec.

- 430.210 Applicability; description of the papergrade sulfite (drum wash) subcategory.
- 430.211 Specialized definitions.
- 430.212 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
- 430.213 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
- 430.214 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
- 430.215 New source performance standards (NSPS).
- 430.217 Pretreatment standards for existing sources (PSES).
- 430.216 Pretreatment standards for new sources (PSNS).

Subpart V—Unbleached Kraft and Semi-Chemical Subcategory

Sec.

- 430.220 Applicability; description of the unbleached kraft and semi-chemical subcategory.
- 430.221 Specialized definitions.
- 430.222 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT). [Reserved]
- 430.223 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
- 430.224 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
- 430.225 New source performance standards (NSPS).
- 430.226 Pretreatment standards for existing sources (PSES).
- 430.227 Pretreatment standards for new sources (PSNS).

Subpart W—Wastepaper-Molded Products Subcategory

Sec.

- 430.230 Applicability; description of the wastepaper-molded products subcategory.
- 430.231 Specialized definitions.
- 430.232 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
- 430.233 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
- 430.234 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
- 430.235 New source performance standards (NSPS).
- 430.236 Pretreatment standards for existing sources (PSES).
- 430.237 Pretreatment standards for new sources (PSNS).

Subpart X—Nonintegrated-Lightweight Papers Subcategory

Sec.

- 430.240 Applicability; description of the nonintegrated-lightweight papers subcategory.
- 430.241 Specialized definitions.
- 430.242 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
- 430.243 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
- 430.244 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
- 430.245 New source performance standards (NSP).
- 430.246 Pretreatment standards for existing sources (PSES).
- 430.247 Pretreatment standards for new sources (PSNS).

Subpart Y—Nonintegrated-Filter and Nonwoven Papers Subcategory

Sec.

- 430.250 Applicability; description of the nonintegrated-filter and nonwoven papers subcategory.
- 430.251 Specialized definitions.
- 430.252 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
- 430.253 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Sec.

- 430.254 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
- 430.255 New source performance standards (NSPS).
- 430.256 Pretreatment standards for existing sources (PSES).
- 430.257 Pretreatment standards for new sources (PSNS).

Subpart Z—Nonintegrated-Paperboard Subcategory

Sec.

- 430.260 Applicability; description of the nonintegrated-paperboard subcategory.
- 430.261 Specialized definitions.
- 430.262 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
- 430.263 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
- 430.264 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
- 430.265 New source performance standards (NSPS).
- 430.266 Pretreatment standards for existing sources (PSES).
- 430.267 Pretreatment standards for new sources (PSNS).
- Authority:** Sections 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.

General Provisions**§ 430.00 Applicability.**

This part applies to any pulp, paper, or paperboard mill which discharges or may discharge process wastewater pollutants to the waters of the United States, or which introduces or may introduce process wastewater pollutants into a publicly owned treatment works.

§ 430.01 General definitions.

In addition to the definitions set forth in 40 CFR Part 401, the following definitions apply to this part:

(a) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Paper and paperboard production shall be measured at the off-the-machine moisture content whereas market pulp shall be measured in air-dry-tons (10%

moisture). Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(b) Wet barking operations shall be defined to include hydraulic barking operations and wet drum barking operations which are those drum barking operations that use substantial quantities of water in either water sprays in the barking drums or in a partial submersion of the drums in a "tub" of water.

(c) A non-continuous discharger is a mill which is prohibited by the NPDES authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of the application of the best practicable control technology currently available, the best conventional pollutant control technology, or new source performance standards in lieu of the maximum day and average of 30 consecutive days effluent limitations for conventional pollutants set forth in each subpart.

§ 430.02 Monitoring requirements. [Reserved]

Subpart A—Unbleached Kraft Subcategory

§ 430.10 Applicability; description of the unbleached kraft subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper at unbleached kraft mills.

§ 430.11 Specialized definitions.

For the purpose of this subpart, the

general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.12 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, 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).

SUBPART A

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	5.6	2.8
TSS.....	12.0	6.0
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 430.14 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart where chlorophenolic-containing biocides are used must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). Non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kg (lb/1000 lb), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART A

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Maximum for any 1 day
	Kg/kg (lb/1000 lb) of product	
	Milligrams/liter	
Pentachlorophenol.....	0.00058	(0.0011)(12.6)/y
Trichlorophenol.....	0.00053	(0.010)(12.6)/y

Y = wastewater discharged in kgal per ton of product.

§ 430.15 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD₅ and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.91 and TSS by 1.90. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers. Only facilities where chlorophenolic-containing biocides are used shall be subject to pentachlorophenol and trichlorophenol limitations. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART A

[Facilities where linerboard is produced]

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	3.4	1.8
TSS.....	5.8	3.0
pH.....	(¹)	(¹)
	Maximum for any 1 day	
	Kg/kg (lb/1000 lb) of product	
	Milligrams/liter	
Pentachlorophenol.....	0.00058	(0.015)(9.4)/y
Trichlorophenol.....	0.00053	(0.013)(9.4)/y

Y = wastewater discharged in kgal per ton of product.

¹ Within the range of 5.0 to 9.0 at all times.

SUBPART A

[Facilities where bag paper and other mixed products are produced]

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	5.0	2.7
TSS.....	9.1	4.8
pH.....	(¹)	(¹)

Pollutant or pollutant property	Maximum for any 1 day	
	Kg/kg (or pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.00058	(0.012)(11.4)/y
Trichlorophenol.....	0.00053	(0.011)(11.4)/y

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.16 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for existing sources (PSES) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using those biocides. PSES must be attained on or before July 1, 1984.

SUBPART A

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.011)(12.6)/y
Trichlorophenol.....	(0.010)(12.6)/y

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART A

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.00058
Trichlorophenol.....	0.00053

§ 430.17 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for new sources (PSNS) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART A

[Facilities where linerboard is produced]

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.015)(9.4)/y
Trichlorophenol.....	(0.013)(9.4)/y

y = wastewater discharge in kgal per ton of product.

[Facilities where bag paper and other mixed products are produced]

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.012)(11.4)/y
Trichlorophenol.....	(0.011)(11.4)/y

y = wastewater discharge in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART A

[Facilities where linerboard is produced]

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.00058
Trichlorophenol.....	0.00053

SUBPART A

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	kg/kg (or pounds per 1,000) of product
Pentachlorophenol.....	0.00058
Trichlorophenol.....	0.00053

Subpart B—Semi-Chemical Subcategory

§ 430.20 Applicability; description of the semi-chemical subcategory.

The provisions of this subpart are applicable to discharges resulting from the integrated production of pulp and paper at semi-chemical mills.

§ 430.21 Specialized definitions.

For the purpose of this subpart, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, 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).

SUBPART B

[Ammonia base mills]

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	8.0	4.0
TSS.....	10.0	5.0
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

SUBPART B

[Sodium base mills]

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD ₅	8.7	4.35
TSS.....	11.0	5.5
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 430.24 Effluent limitations representing the degree of effluent reduction attainable by the application of the best technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart where chlorophenolic-containing biocides are used must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). Non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lb/1000 lb), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART B

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Milligrams/liter
	kg/kkg (pounds per 1,000 lb) of product	
Pentachlorophenol.....	0.0012	(0.029) (10.3)/y
Trichlorophenol.....	0.00043	(0.010) (10.3)/y
y=wastewater discharged in kgal per ton of product.		

§ 430.25 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days

effluent limitations for BOD₅ and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.91 and TSS by 1.90. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers. Only facilities where chlorophenolic-containing biocides are used shall be subject to pentachlorophenol and trichlorophenol limitations. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART B

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD ₅	3.0	1.6
TSS.....	5.8	3.0
pH.....	(¹)	(¹)

Pollutant or pollutant property	Maximum for any 1 day	Milligrams/liter
	Kg/kkg (pounds per 1,000 lb) of product	
Pentachlorophenol.....	0.0012	(0.041) (7.3)/y
Trichlorophenol.....	0.00043	(0.014) (7.3)/y
y=wastewater discharged in kgal per ton of product.		

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.26 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for existing sources (PSES) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. PSES must be attained on or before July 1, 1984.

SUBPART B

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.032) (10.3)/y
Trichlorophenol.....	(0.010) (10.3)/y
y=wastewater discharged in kgal per ton of product.	

(b) In cases when POTW's find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART B

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Kg/kkg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.0014
Trichlorophenol.....	0.00043

§ 430.27 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for new sources (PSNS) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART B

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.045) (7.3)/y
Trichlorophenol.....	(0.014) (7.3)/y
y=wastewater discharged in kgal per ton of product.	

(b) In cases when POTW's find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART B

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Kg/kkg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.0014
Trichlorophenol.....	0.00043

Subpart C—[Reserved]**Subpart D—Unbleached Kraft—Neutral Sulfite Semi-Chemical (Cross Recovery) Subcategory**

§ 430.40 **Applicability; description of the unbleached kraft-neutral sulfite semi-chemical (cross recovery) subcategory.**

The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper at unbleached kraft-neutral sulfite semi-chemical (cross recovery) mills.

§ 430.41 **Specialized definitions.**

For the purpose of this subpart, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.42 **Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).**

Except as provided in 40 CFR 125.30–125.32, 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).

SUBPART D

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kg (or pounds per 1,000 lb of product)	
BOD ₅	8.0	4.0
TSS.....	12.5	6.25
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.43 **Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).**
[Reserved]

§ 430.44 **Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).**

BAT effluent limitations for unbleached kraft-neutral sulfite semi-

chemical (cross recovery) mills are presented in Subpart V.

§ 430.45 **New source performance standards (NSPS).**

NSPS for unbleached kraft-neutral sulfite semi-chemical (cross recovery) mills are presented in Subpart V.

§ 430.46 **Pretreatment standards for existing sources (PSES).**

PSES for unbleached kraft-neutral sulfite semi-chemical (cross recovery) mills are presented in Subpart V.

§ 430.47 **Pretreatment standards for new sources (PSNS).**

PSNS for unbleached kraft-neutral sulfite semi-chemical (cross recovery) mills are presented in Subpart V.

Subpart E—Paperboard From Wastepaper Subcategory

§ 430.50 **Applicability; description of the paperboard from wastepaper subcategory.**

The provisions of this subpart are applicable to discharges resulting from the production of paperboard from wastepaper.

§ 430.51 **Specialized definitions.**

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

(b) Noncorrugating medium furnish subdivision mills are mills where recycled corrugating medium is not used in the production of paperboard.

(c) Corrugating medium furnish subdivision mills are mills where only recycled corrugating medium is used in the production of paperboard.

§ 430.52 **Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).**

Except as provided in 40 CFR 125.30–125.32, 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).

SUBPART E

[Noncorrugating medium furnish subdivision]

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	3.0	1.5
TSS.....	5.0	2.5
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

SUBPART E

[Corrugating medium furnish subdivision]

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	5.5	2.8
TSS.....	7.1	4.6
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.53 **Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).**
[Reserved]

§ 430.54 **Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).**

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart where chlorophenolic-containing biocides are used must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). Non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kg (lb./1000 lb), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART E

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kkg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.00087	(0.029)(7.2)/y
Trichlorophenol.....	0.00030	(0.010)(7.2)/y

y = wastewater discharged in kgal per ton of product.

§ 430.55 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD₅ and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.91 and TSS by 1.90. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers. Only facilities where chlorophenolic-containing biocides are used shall be subject to pentachlorophenol and trichlorophenol limitations. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART E

[Noncorrugating medium furnished subdivision]

Pollutant or pollutant property	NSPS	Maximum for any 1 day	
		Average of daily values for 30 consecutive days	
		Kg/kkg (or pounds per 1,000 lb) of product	
BOD ₅	2.6	1.4	
TSS.....	3.5	1.8	
pH.....	(¹)	(¹)	

Pollutant or pollutant property	Maximum for any 1 day	
	Kg/kkg (pounds per 1,000 lb) of product	milligrams/liter
Pentachlorophenol.....	0.00087	(0.065)(3.2)/y
Trichlorophenol.....	0.00030	(0.023)(3.2)/y

y = wastewater discharged in kgal per ton of product.

¹ Within the range of 5.0 to 9.0 at all times.

SUBPART E

[Corrugating medium furnish subdivision]

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg or pounds per 1,000 lb of product	
BOD ₅	3.9	2.1
TSS.....	4.4	2.3
pH.....	(¹)	(¹)

y = wastewater discharged in kgal per ton of product.

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.56 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for existing sources (PSES) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. PSES must be attained on or before July 1, 1984.

SUBPART E

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	
	Milligrams per liter (mg/l)	
Pentachlorophenol.....	(0.032)(7.2)/y	
Trichlorophenol.....	(0.010)(7.2)/y	

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART E

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	
Pentachlorophenol.....	0.00096	
Trichlorophenol.....	0.00030	

§ 430.57 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for new sources (PSNS) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART E

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	
	Milligrams per liter (mg/l)	
Pentachlorophenol.....	(0.072)(3.2)/y	
Trichlorophenol.....	(0.023)(3.2)/y	

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART E

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	
	Kg/kkg (or pounds per 1,000 lb) of product	
Pentachlorophenol.....	0.00096	
Trichlorophenol.....	0.00030	

Subpart F—Dissolving Kraft Subcategory

§ 430.60 Applicability; description of the dissolving kraft subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of dissolving pulp at kraft mills.

§ 430.61 Specialized definitions.

For the purpose of this subpart, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.62 Effluent limitations 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 125.30–125.32, 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), except that noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.78 and TSS by 1.82.

SUBPART F

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Kg/kg (or pounds per 1,000 lb) of product		
BOD ₅	23.6	12.25
TSS	37.3	20.05
pH	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of wet barking operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.79 and TSS by 1.88.

SUBPART F

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Kg/kg (or pounds per 1,000 lb) of product		
BOD ₅	3.2	1.7
TSS	6.9	3.75
pH	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(c) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of log washing or chip washing operations, which may be discharged by a point

source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs and/or chips which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 2.00 and TSS by 2.00.

SUBPART F

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Kg/kg (or pounds per 1,000 lb) of product		
BOD ₅	0.35	0.2
TSS	0.70	0.4
pH	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of log flumes or log ponds, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.75 and TSS by 2.00.

SUBPART F

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Kg/kg (or pounds per 1,000 lb) of product		
BOD ₅	0.6	0.35
TSS	1.45	0.8
pH	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.63 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 430.64 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart where chlorophenolic-containing biocides are used must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). Non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kg (lb/1000 lb), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART F

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol	0.0025	(0.011)(55.1)/y
Trichlorophenol	0.016	(0.068)(55.1)/y

y = wastewater discharged in kgal per ton of product.

§ 430.65 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD₅ and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.91 and TSS by 1.90. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers. Only facilities where chlorophenolic-containing biocides are used shall be subject to pentachlorophenol and

trichlorophenol limitations. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART F

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	15.6	8.4
TSS.....	27.3	14.3
pH.....	(¹)	(¹)

Pollutant or pollutant property	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligram/liter
Pentachlorophenol.....	0.0025	(0.012)(50.7)/y
Trichlorophenol.....	0.018	(0.074)(50.7)/y

y = wastewater discharged in kgal per ton of product.

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.66 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for existing sources (PSES) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. PSES must be attained on or before July 1, 1984.

SUBPART F

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.011)(55.1)/y
Trichlorophenol.....	(0.082)(55.1)/y

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART F

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.0025
Trichlorophenol.....	0.019

§ 430.67 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for new sources (PSNS) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART F

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.012)(50.7)/y
Trichlorophenol.....	(0.089)(50.7)/y

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART F

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.0025
Trichlorophenol.....	0.019

Subpart G—Market Bleached Kraft Subcategory

§ 430.70 Applicability; description of the market bleached kraft subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of market pulp at bleached kraft mills.

§ 430.71 Specialized definitions.

For the purpose of this subpart, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.72 Effluent limitations 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 § 125.30–125.32, 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), except that noncontinuous discharges shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.78 and TSS by 1.82.

SUBPART G

Pollutant or pollutant property	BPT effluent limitation	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	15.45	8.05
TSS.....	30.4	16.4
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of wet barking operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.71 and TSS by 1.84.

SUBPART G

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	2.3	1.2

SUBPART G—Continued

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
TSS.....	5.3	2.85
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(c) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of log washing or chip washing operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs and/or chips which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.00 and TSS by 2.00.

SUBPART G

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Kg/kg (or pounds per 1,000 lb) of product		
BOD ₅	0.2	0.1
TSS.....	0.6	0.3
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of log flumes or log ponds, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.33 and TSS by 1.71.

SUBPART G

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for 1 day	Average of daily values for 30 consecutive days
Kg/kg (or pounds per 1,000 lb) of product		
BOD ₅	0.4	0.2
TSS.....	1.15	0.6
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.73 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 430.74 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart where chlorophenolic-containing biocides are used must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). Non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kg (lb/1,000 lb), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART G

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.0019	(0.011)(41.6)/y
Trichlorophenol.....	0.012	(0.068)(41.6)/y

y = wastewater discharged in kgal per ton of product.

§ 430.75 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD₅ and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive

days limitations for BOD₅ by 1.91 and TSS by 1.90. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers. Only facilities where chlorophenolic-containing biocides are used shall be subject to pentachlorophenol and trichlorophenol limitations. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART G

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Kg/kg (or pounds per 1,000 lb) of product		
BOD ₅	10.3	5.5
TSS.....	18.2	9.5
pH.....	(¹)	(¹)

Pollutant or pollutant property	Maximum for any 1 day	
	Kg/kg (or pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.0019	(0.013)(36.6)/y
Trichlorophenol.....	0.012	(0.077)(36.6)/y

y = wastewater discharged in kgal per ton of product.

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.76 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for existing sources (PSES) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. PSES must be attained on or before July 1, 1984.

SUBPART G

Pollutant or pollutant property	PSES
	Maximum for any 1 day
Milligrams per liter (mg/l)	
Pentachlorophenol.....	(0.011)(41.6)/y
Trichlorophenol.....	(0.082)(41.6)/y

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART G

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.0019
Trichlorophenol.....	0.014

§ 430.77 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for new sources (PSNS) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART G

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.013)(36.6)/y
Trichlorophenol.....	(0.093)(36.6)/y

y=wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART G

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.0019
Trichlorophenol.....	0.014

Subpart H—BCT Bleached Kraft Subcategory

§ 430.80 Applicability; description of the BCT bleached kraft subcategory.

The provisions of this subpart are

applicable to discharges resulting from the integrated production of paperboard, coarse paper, and tissue paper at bleached kraft mills.

§ 430.81 Specialized definitions.

For the purpose of this subpart, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.82 Effluent limitations 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 125.30–125.32, 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), except that noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.78 and TSS by 1.82.

SUBPART H

BPT effluent limitations	Pollutant or pollutant property	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	13.65	7/1
TSS.....	24.00	12.9
pH.....		

Within the range of 5.0 to 9.0 at all times.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of wet barking operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30

consecutive days limitations for BOD₅ by 1.85 and TSS by 1.82.

SUBPART H

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	2.25	1.2
TSS.....	5.75	3.1
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(c) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of log washing or chip washing operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs and/or chips which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 3.00 and TSS by 1.75.

SUBPART H

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	0.25	0.15
TSS.....	0.65	0.35
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of log flumes or log ponds, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations.

Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 2.50 and TSS by 2.00.

SUBPART H

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD ₅	0.45	0.25
TSS.....	1.25	0.7
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.83 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
[Reserved]

§ 430.84 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart where chlorophenolic-containing biocides are used must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). Non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lb/1000 lb), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART H

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kkg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.0016	(0.011)(35.4)/y
Trichlorophenol.....	0.010	(0.068)(35.4)/y

y = wastewater discharged in kgal per ton of product.

§ 430.85 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new

source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD₅ and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.91 and TSS by 1.90. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers. Only facilities where chlorophenolic-containing biocides are used shall be subject to pentachlorophenol and trichlorophenol limitations. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART H

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD ₅	8.5	4.6
TSS.....	14.6	7.6
pH.....	(¹)	(¹)

Pollutant or pollutant property	Maximum for any one day	
	Kg/kkg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.0016	(0.012)(31.7)/y
Trichlorophenol.....	0.010	(0.076)(31.7)/y

y = wastewater discharged in kgal per ton of product.

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.86 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for existing sources (PSES) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. PSES must be attained on or before July 1, 1984.

SUBPART H

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.011)(35.4)/y
Trichlorophenol.....	(0.082)(35.4)/y

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART H

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	kg/kkg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.0016
Trichlorophenol.....	0.012

§ 430.87 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for new sources (PSNS) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

Subpart H

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.012)(31.7)/y
Trichlorophenol.....	(0.092)(31.7)/y

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

Subpart H

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	kg/kkg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.0016
Trichlorophenol.....	0.012

Subpart I—Fine Bleached Kraft Subcategory

§ 430.90 Applicability; description of the fine bleached kraft subcategory.

The provisions of this subpart are applicable to discharges resulting from the integrated production of pulp and fine papers at bleached kraft mills.

§ 430.91 Specialized definitions.

For the purpose of this subpart, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.92 Effluent limitations 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 125.30–125.32, 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), except that noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.78 and TSS by 1.82.

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	10.6	5.5
TSS.....	22.15	11.9
pH.....	(¹)	(¹)

¹Within the range of 5.0 to 9.0 at all times.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of wet barking operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to

annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.82 and TSS by 1.84.

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	1.95	1.0
TSS.....	5.3	2.85
pH.....	(¹)	(¹)

¹Within the range of 5.0 to 9.0 at all times.

(c) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of log washing or chip washing operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs and/or chips which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 2.00 and TSS by 2.00.

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	0.2	0.1
TSS.....	0.55	0.3
pH.....	(¹)	(¹)

¹Within the range of 5.0 to 9.0 at all times.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of log flumes or log ponds, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and

average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 2.00 and TSS by 2.00.

SUBPART I

Pollutant or pollutant property	BPT Effluent Limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product.	
BOD ₅	0.35	0.2
TSS.....	1.15	0.6
pH.....	(¹)	(¹)

¹Within the range of 5.0 to 9.0 at all times.

§ 430.93 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 430.94 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart where chlorophenolic-containing biocides are used must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). Non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kg (lb/1000 lb), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kg (or pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.0014	(0.011)(30.9)/y
Trichlorophenol.....	0.0088	(0.068)(30.9)/y

y = wastewater discharged in kgal per ton of product.

§ 430.95 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS).

except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD₅ and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.91 and TSS by 1.90. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers. Only facilities where chlorophenolic-containing biocides are used shall be subject to pentachlorophenol and trichlorophenol limitations. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not these biocides.

SUBPART I

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	5.7	3.1
TSS.....	9.1	4.8
pH.....	(¹)	(¹)

	Maximum for any 1 day	
	kg/kg (pounds per 1,000 lb) of product	milligrams/liter
Pentachlorophenol.....	0.0014	(0.014)(25.1)/y
Trichlorophenol.....	0.0088	(0.084)(25.1)/y

y = wastewater discharged in kgal per ton of product.

¹ Within the range of 5.0 to 9.0 at all times.

430.96 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for existing sources (PSES) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. PSES must be attained on or before July 1, 1984.

SUBPART I

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.011)(30.9)/y
Trichlorophenol.....	(0.082)(30.9)/y

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART I

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.0014
Trichlorophenol.....	0.011

§ 430.97 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for new sources (PSNS) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART I

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.014)(25.1)/y
Trichlorophenol.....	(0.101)(25.1)/y

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART I

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.0014
Trichlorophenol.....	0.011

Subpart J—Papergrade Sulfite (Blow Pit Wash) Subcategory

§ 430.100 Applicability; description of the papergrade sulfite (blow pit wash) subcategory.

The provisions of this subpart are applicable to discharges resulting from the integrated production of pulp and paper at papergrade sulfite mills, where blow pit pulp washing techniques are used.

§ 430.101 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

(b) Sulfite cooking liquor shall be defined as bisulfite cooking liquor when the pH of the liquor is between 3.0 and 6.0 and as acid sulfite cooking liquor when the pH is less than 3.0.

§ 430.102 Effluent limitations 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 1125.30–1125.32, 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), except that noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.78 and TSS by 1.82.

SUBPART J

[Bisulfite liquor/surface condensers]

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	31.8	16.55
TSS.....	43.95	23.65
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

SUBPART J

[Bisulfite liquor/barometric condensers]

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD ₅	34.7	18.05
TSS.....	52.2	28.1
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

SUBPART J

[Acid sulfite liquor/surface condensers]

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD ₅	32.3	16.8
TSS.....	43.95	23.65
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

SUBPART J

[Acid sulfite liquor/barometric condensers]

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD ₅	35.5	18.5
TSS.....	52.2	28.1
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of wet barking operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.81 and TSS by 1.80.

SUBPART J

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD ₅	2.7	1.45
TSS.....	7.5	3.95
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(c) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of log washing or chip washing operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs and/or chips which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 2.00 and TSS by 1.80.

SUBPART J

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD ₅	0.15	0.1
TSS.....	2.55	1.35
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of log flumes or log ponds, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the

limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 2.00 and TSS by 1.80.

SUBPART J

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD ₅	0.35	0.2
TSS.....	1.7	0.9
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.103 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 430.104 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart where chlorophenolic-containing biocides are used must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). Non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lb/1,000 lb), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART J

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kkg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.00058exp(0.017x)	((0.011)(12.67)exp(0.017x))/y
Trichlorophenol.....	0.0036exp(0.017x)	((0.068)(12.67)exp(0.017x))/y

x = percent sulfite pulp in final product.

y = wastewater discharged in kgal per ton of product.

§ 430.105 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD₅ and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.91 and

TSS by 1.90. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers. Only facilities where chlorophenolic-containing biocides are used shall be subject to pentachlorophenol and trichlorophenol limitations. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

Subpart J	NSPS Pollutant or pollutant property	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb.) of product	
BOD ₅	4.38exp(0.017x)	2.36exp(0.017x)
TSS.....	3.03exp(0.017x)	5.81exp(0.017x)
pH.....	(¹)	(¹)
x = percent sulfite pulp in final product.		
	Maximum for any 1 day	Kg/kg (pounds per 1,000 lb) of product
		Milligrams/liter
Pentachlorophenol.....	0.00058exp(0.017x)	((0.015)(9.12)exp(0.017x))/y
Trichlorophenol.....	0.0036exp(0.017x)	((0.094)(9.12)exp(0.017x))/y
x = percent sulfite pulp in final product. y = wastewater discharged in kgal per ton of product.		

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.106 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for existing sources (PSES) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. PSES must be attained on or before July 1, 1984.

SUBPART J	
Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	((0.011)(12.67)exp(0.017x))/y
Trichlorophenol.....	((0.082)(12.67)exp(0.017x))/y
x = percent sulfite pulp in final product. y = wastewater discharged in kgal per ton of product.	

(b) In cases when POTWs find it necessary to impose mass effluent

limitations, the following equivalent mass limitations are provided as guidance:

SUBPART J	
Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.00058exp(0.017x)
Trichlorophenol.....	0.0043exp(0.017x)
x = percent sulfite pulp in final product.	

§ 430.107 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for new sources (PSNS) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART J

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	((0.015)(9.12)exp(0.017x))/y
Trichlorophenol.....	((0.114)(9.12)exp(0.017x))/y
x = percent sulfite pulp in final product. y = wastewater discharged in kgal per ton of product.	

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART J

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.00058exp(0.017x)
Trichlorophenol.....	0.0043exp(0.017x)
x = percent sulfite pulp in final product.	

Subpart K—Dissolving Sulfite Pulp Subcategory**§ 430.110 Applicability; description of the dissolving sulfite pulp subcategory.**

The provisions of this subpart are applicable to discharges resulting from the production of pulp at dissolving sulfite mills.

§ 430.111 Specialized definitions.

For the purpose of this subpart, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.112 Effluent limitations 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 § 125.30–125.32, 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), except that noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.78 and TSS by 1.82.

SUBPART K

[Facilities where nitration grade pulp is produced]

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Kg/kkg (or pounds per 1,000 lb) of product		
BOD ₅	41.4	21.55
TSS.....	70.65	38.05
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

SUBPART K

[Facilities where viscose grade pulp is produced]

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Kg/kkg (or pounds per 1,000 lb) of product		
BOD ₅	44.3	23.0
TSS.....	70.65	38.05
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

SUBPART K

[Facilities where cellophane grade pulp is produced]

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Kg/kkg (or pounds per 1,000 lb) of product		
BOD ₅	48.05	25.0
TSS.....	70.65	38.05
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

SUBPART K

[Facilities where acetate grade pulp is produced]

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Kg/kkg (or pounds per 1,000 lb) of product		
BOD ₅	50.80	26.40
TSS.....	70.65	38.05
pH.....	(¹)	(¹)

¹ BOD₅ effluent limitations were remanded (*Weyerhaeuser Company, et al. v. Costle*, 590 F.2nd 1011; D.C. Circuit 1978).² Within the range of 5.0 to 9.0 at all times.

(c) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of wet barking operations, which may be discharged by a point source subject to

the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.75 and TSS by 2.00.

SUBPART K

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Kg/kkg (or pounds per 1,000 lb) of product		
BOD ₅	0.7	0.35
TSS.....	0.15	0.1
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(c) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of log washing or chip washing operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs and/or chips which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 2.00 and TSS by 2.00.

SUBPART K

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Kg/kkg (or pounds per 1,000 lb) of product		
BOD ₅	0.15	0.1
TSS.....	0.15	0.1
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(d) The following limitations establish the quantity or quality of pollutants or

pollutant properties, controlled by this section, resulting from the use of log flumes or log ponds, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 2.00 and TSS by 2.00.

SUBPART K

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Kg/kkg (or pounds per 1,000 lb) of product		
BOD ₅	0.15	0.1
TSS.....	0.15	0.1
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.113 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 430.114 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart where chlorophenolic-containing biocides are used must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). Non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lb/1000 lb), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART K

[Facilities where nitration, viscose, or cellophane grade pulps are produced]

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	milligrams/liter
Pentachlorophenol.....	0.0030	(0.011)(66.0)/y
Trichlorophenol.....	0.019	(0.068)(66.0)/y
y=wastewater discharged in kgal per ton of production.		

SUBPART K

[Facilities where acetate grade pulp is produced]

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.0033	(0.011)(72.7)/y
Trichlorophenol.....	0.021	(0.068)(72.7)/y
y=wastewater discharged in kgal per ton of production.		

§ 430.115 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD₅ and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.91 and TSS by 1.90. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers. Only facilities where chlorophenolic-containing biocides are used shall be subject to pentachlorophenol and trichlorophenol limitations. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART K

[Facilities where nitration grade pulp is produced]

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 days
	Kg/kg (pounds per 1,000 lb) of product	
BOD ₅	26.9	14.5
TSS.....	40.8	21.3
pH.....	(¹)	(¹)

Maximum for any 1 day

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.0030	(0.012)(59.7)/y
Trichlorophenol.....	0.019	(0.076)(59.7)/y
y=wastewater discharged in kgal per ton of production.		

¹ Within the range of 5.0 to 9.0 at all times.

SUBPART K

[Facilities where viscose grade pulp is produced]

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
BOD ₅	28.7	15.5
TSS.....	40.8	21.3
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

SUBPART K

[Facilities where cellophane grade pulp is produced]

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.0030	(0.012)(59.7)/y
Trichlorophenol.....	0.019	(0.076)(59.7)/y
y=wastewater discharged in kgal per ton of production.		

¹ Within the range of 5.0 to 9.0 at all times.

SUBPART K

[Facilities where acetate grade pulp is produced]

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	39.6	21.4
TSS.....	41.1	21.5
pH.....	(¹)	(¹)

§ 430.116 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for existing sources (PSES) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. PSES must be attained on or before July 1, 1984.

SUBPART K

[Facilities where acetate grade pulp is produced]

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	$0.0(0.011)(72.7)/y$
Trichlorophenol.....	$0(0.082)(72.7)/y$
y=wastewater discharged in kgal per ton of production	

SUBPART K

[Facilities where acetate grade pulp is produced]

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.011)(72.7)/y
Trichlorophenol.....	(0.082)(72.7)/y
y = wastewater discharged in kgal per ton of production	

(b) In cases when POTWs find it necessary to impose mass effluent

limitations, the following equivalent mass limitations are provided as guidance:

SUBPART K

[Facilities where nitration, viscose, or cellophane grade pulps are produced]

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.0030
Trichlorophenol.....	0.023

SUBPART K

[Facilities where acetate grade pulp is produced]

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.0033
Trichlorophenol.....	0.025

§ 430.117 Pretreatment standards for new sources (PSNS)

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for new sources (PSNS) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART K

[Facilities where nitration, viscose, or cellophane grade pulps are produced]

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.012) (59.0)/y
Trichlorophenol.....	(0.092) (59.0)/y

y = wastewater discharged in kgal per ton of production.

SUBPART K

[Facilities where acetate grade pulp is produced]

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.012) (65.7)/y
Trichlorophenol.....	(0.091) (65.7)/y

y = wastewater discharged in kgal per ton of production.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent

mass limitations are provided as guidance:

SUBPART K

[Facilities where nitration, viscose, or cellophane grade pulps are produced]

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.0030
Trichlorophenol.....	0.023

SUBPART K

[Facilities where acetate grade pulp is produced]

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.0033
Trichlorophenol.....	0.025

Subpart L—Groundwood-Chemi-Mechanical Subcategory

§ 430.120 Applicability; description of the groundwood-chemi-mechanical subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper at groundwood chemi-mechanical mills.

§ 430.121 Specialized definitions.

For the purpose of this subpart, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.122 Effluent limitations 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 125.30–125.32, 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), except that noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.78 and TSS by 1.82.

SUBPART L

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	13.5	7.05
TSS.....	19.75	10.65
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of wet barking operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.80 and TSS by 1.81.

SUBPART L

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	0.9	0.45
TSS.....	2.6	1.45
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(c) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of log washing or chip washing operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs and/or chips which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30

consecutive days limitations for BOD₅ by 1.00 and TSS by 1.50.

SUBPART L

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Kg/kg (or pounds per 1,000 lb) of product		
BOD ₅	0.05	0.05
TSS.....	0.25	0.15
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of log flumes or log ponds, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.00 and TSS by 2.00.

SUBPART L

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Kg/kg (or pounds per 1,000 lb) of product		
BOD ₅	0.15	0.05
TSS.....	0.55	0.3
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(e) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a) of this section. Permittees not using zinc hydrosulfite as a bleaching agent must certify to the permit issuing authority that they are not using this bleaching compound. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive effluent limitations by dividing the average of 30 consecutive days limitations by 1.50.

SUBPART L

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Kg/kg (or pounds per 1,000 lb) of product		
Zinc.....	0.34	0.17

§ 430.123 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 430.124 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]

§ 430.125 New source performance standards (NSPS). [Reserved]

§ 430.126 Pretreatment standards for existing sources (PSES). [Reserved]

§ 430.127 Pretreatment standards for new sources (PSNS). [Reserved]

Subpart M—Groundwood—Thermo—Mechanical Subcategory

§ 430.130 Applicability; description of the groundwood-thermo-mechanical subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper at groundwood mills through the application of the thermo-mechanical process.

§ 430.131 Specialized definitions.

For the purpose of this subpart, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.132 Effluent limitations 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 125.30–125.32, 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), except that noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30

consecutive days limitations for BOD₅ by 1.78 and TSS by 1.82.

SUBPART M

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Kg/kg (or pounds per 1,000 lb) of product		
BOD ₅	10.6	5.55
TSS.....	15.55	8.35
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of wet barking operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.50 and TSS by 1.93.

SUBPART M

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Kg/kg (or pounds per 1,000 lb) of product		
BOD ₅	0.9	0.45
TSS.....	2.7	1.45
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(c) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of log washing or chip washing operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs and/or chips which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days

limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.00 and TSS by 3.00.

SUBPART M

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	0.05	0.05
TSS.....	0.30	0.15
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of log flumes or log ponds, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 2.00 and TSS by 2.33.

SUBPART M

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	0.15	0.1
TSS.....	0.90	0.35
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(e) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a) of this section. Permittees not using zinc hydrosulfite as a bleaching agent must certify to the

permit issuing authority that they are not using this bleaching compound. Non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive effluent limitations by dividing the average of 30 consecutive days limitations by 1.50.

SUBPART M

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
Zinc.....	0.26	0.13

§ 430.133 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 430.134 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-125.32, 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), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kg (lb/1000 lb), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers. Pentachlorophenol and trichlorophenol limitations are only applicable at facilities where chlorophenolic-containing biocides are used. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. Zinc limitations are only applicable at facilities where zinc hydrosulfite is used as a bleaching agent. Permittees not using zinc hydrosulfite as a bleaching agent must certify to the permit issuing authority that they are not using this bleaching compound.

SUBPART M

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.00097	(0.011)(21.1)/y
Trichlorophenol.....	0.0060	(0.068)(21.1)/y
Zinc.....	0.26	(3.0)(21.1)/y

y = wastewater discharged in kgal per ton of product.

§ 430.135 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD₅ and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.91 and TSS by 1.90. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers. Pentachlorophenol and trichlorophenol limitations are only applicable at facilities where chlorophenolic-containing biocides are used. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. Zinc limitations are only applicable at facilities where zinc hydrosulfite is used as a bleaching agent. Permittees not using zinc hydrosulfite as a bleaching agent must certify to the permit issuing authority that they are not using this bleaching compound.

SUBPART M

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	4.6	2.5
TSS.....	6.8	4.6
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.00097	(0.017)(13.8)/y
Trichlorophenol.....	0.0060	(0.104)(13.8)/y
Zinc.....	0.17	(3.0)(13.8)/y

y=wastewater discharged in kgal per ton of production.

§ 430.136 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that 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). Pentachlorophenol and trichlorophenol limitations are only applicable at facilities where chlorophenolic-containing biocides are used. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. Zinc limitations are only applicable at facilities where zinc hydrosulfite is used as a bleaching agent. Permittees not using zinc hydrosulfite as a bleaching agent must certify to the permit-issuing authority that they are not using this bleaching compound. PSES must be attained on or before July 1, 1984.

SUBPART M

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.011)(21.1)/y
Trichlorophenol.....	(0.082)(21.1)/y
Zinc.....	(3.0)(21.1)/y

y=wastewater discharged in kgal per ton of product

(b) In cases when POTW's find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART M

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.00097
Trichlorophenol.....	0.0072
Zinc.....	0.26

§ 430.137 Pretreatment standards for new sources (PSNS)

(a) Except as provided in 40 CFR 403.7, any new source subject to this

subpart that 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). Pentachlorophenol and trichlorophenol limitations are only applicable at facilities where chlorophenolic-containing biocides are used. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. Zinc limitations are only applicable at facilities where zinc hydrosulfite is used as a bleaching agent. Permittees not using zinc hydrosulfite as a bleaching agent must certify to the permit issuing authority that they are not using this bleaching compound.

SUBPART M

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.017)(13.8)/y
Trichlorophenol.....	(0.125)(13.8)/y
Zinc.....	(3.0)(13.8)/y

y=wastewater discharged in kgal per ton of production.

(b) In cases when POTW's find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART M

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.00097
Trichlorophenol.....	0.0072
Zinc.....	0.17

Subpart N—Groundwood-CMN Papers Subcategory

§ 430.140 Applicability; description of the groundwood-CMN papers subcategory.

The provisions of this subpart are applicable to discharges resulting from the integrated production of pulp and coarse paper, molded pulp products, and newsprint at groundwood mills.

§ 430.141 Specialized definitions.

For the purpose of this subpart, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.142 Effluent limitations 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 § 125.30–125.32, 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), except that noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.78 and TSS by 1.82.

SUBPART N

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	7.45	3.9
TSS.....	12.75	6.85
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of wet barking operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.83 and TSS by 1.83.

SUBPART N

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	1.15	0.55

SUBPART N—Continued

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
TSS.....	2.0 (¹)	1.1 (¹)
pH.....		

¹ Within the range of 5.0 to 9.0 at all times.

(c) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of log washing or chip washing operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs and/or chips which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.00 and TSS by 1.50.

SUBPART N

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Kg/kg (or pounds per 1,000 lb) of product		
BOD ₅	0.15	0.05
TSS.....	0.20	0.15
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of log flumes or log ponds, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30

consecutive days limitations for BOD₅ by 2.00 and TSS by 1.67.

SUBPART N

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Kg/kg (or pounds per 1,000 lb) of product		
BOD ₅	0.25	0.1
TSS.....	0.45	0.25
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(e) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a) of this section. Permittees not using zinc hydrosulfite as a bleaching agent must certify to the permit issuing authority that they are not using this bleaching compound. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive effluent limitations by dividing the average of 30 consecutive days limitations by 1.50.

SUBPART N

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Kg/kg (or pounds per 1,000 lb) of product		
Zinc.....	0.30	0.15

§ 430.143 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 430.144 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-125.32, 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), except that non-continuous dischargers shall not be subject to the maximum day mass limitations in Kg/kg (lb/1000 lb), but shall be subject to concentration limitations. Concentration limitations

are only applicable to non-continuous dischargers. Pentachlorophenol and trichlorophenol limitations are only applicable at facilities where chlorophenolic-containing biocides are used. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. Zinc limitations are only applicable at facilities where zinc hydrosulfite is used as a bleaching agent. Permittees not using zinc hydrosulfite as a bleaching agent must certify to the permit issuing authority that they are not using this bleaching compound.

SUBPART N

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams per liter
Pentachlorophenol.....	0.0011	(0.011)(23.8)/y
Trichlorophenol.....	0.0068	(0.068)(23.8)/y
Zinc.....	0.30	(3.0)(23.8)/y

y = wastewater discharged in kgal per ton of production.

§ 430.145 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD₅ and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.91 and TSS by 1.90. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers. Pentachlorophenol and trichlorophenol limitations are only applicable at facilities where chlorophenolic-containing biocides are used. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. Zinc limitations are only applicable at facilities where zinc hydrosulfite is used as a bleaching agent. Permittees not using zinc hydrosulfite as a bleaching agent must certify to the permit issuing authority that they are not using this bleaching compound.

SUBPART N

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	4.6	2.5
TSS.....	7.3	3.8
pH.....	(¹)	(¹)

	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams per liter
Pentachlorophenol.....	0.0011	(0.016)(16.8)/y
Trichlorophenol.....	0.0068	(0.096)(16.8)/y
Zinc.....	0.21	(3.0)(16.8)/y

¹ Within the range of 5.0 to 9.0 at all times.**§ 430.146 Pretreatment standards for existing sources (PSES).**

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that 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). Pentachlorophenol and trichlorophenol limitations are only applicable at facilities where chlorophenolic-containing biocides are used. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. Zinc limitations are only applicable at facilities where zinc hydrosulfite is used as a bleaching agent. Permittees not using zinc hydrosulfite as a bleaching agent must certify to the permit issuing authority that they are not using this bleaching compound. PSES must be attained on or before July 1, 1984.

SUBPART N

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	
	Milligrams per liter (mg/l)	
Pentachlorophenol.....	(0.011)(23.8)/y	
Trichlorophenol.....	(0.082)(23.8)/y	
Zinc.....	(3.0)(23.8)/y	

y = wastewater discharged in kgal per ton of production.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART N

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	
	Kg/kg (or pounds per 1000 lb) of product	
Pentachlorophenol.....	0.0011	
Trichlorophenol.....	0.0081	
Zinc.....	0.30	

§ 430.147 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that 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). Pentachlorophenol and trichlorophenol limitations are only applicable at facilities where chlorophenolic-containing biocides are used. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. Zinc limitations are only applicable at facilities where zinc hydrosulfite is used as a bleaching agent. Permittees not using zinc hydrosulfite as a bleaching agent must certify to the permit issuing authority that they are not using this bleaching compound.

SUBPART N

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	
	Milligrams per liter (mg/l)	
Pentachlorophenol.....	(0.016)(16.8)/y	
Trichlorophenol.....	(0.116)(16.8)/y	
Zinc.....	(3.0)(16.8)/y	

y = wastewater discharged in kgal per ton of production.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART N

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	
	Kg/kg (or pounds per 1000 lb) of product	
Pentachlorophenol.....	0.0011	
Trichlorophenol.....	0.0081	
Zinc.....	0.21	

Subpart O—Groundwood-Fine Papers Subcategory**§ 430.150 Applicability; description of the groundwood-fine papers subcategory.**

The provisions of this subpart are applicable to discharges resulting from the integrated production of pulp and fine paper at groundwood mills.

§ 430.151 Specialized definitions.

For the purpose of this subpart, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.152 Effluent limitations 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 125.30–125.32, 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), except that noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.78 and TSS by 1.82.

SUBPART O

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1000 lb) of product	
BOD ₅	6.85	3.6
TSS.....	11.75	6.3
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of wet barking operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to

annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.57 and TSS by 1.83.

SUBPART O

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	1.1	0.55
TSS.....	1.95	1.1
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(c) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of log washing or chip washing operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs and/or chips which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.00 and TSS by 1.50.

SUBPART O

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	0.15	0.05
TSS.....	0.2	0.15
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(c) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of log flumes or log ponds, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and

average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.00 and TSS by 1.67.

SUBPART O

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	0.2	0.05
TSS.....	0.4	0.25
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(e) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a) of this section. Permittees not using zinc hydrosulfite as a bleaching agent must certify to the permit issuing authority that they are not using this bleaching compound. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive effluent limitations by dividing the average of 30 consecutive days limitations by 1.5).

SUBPART O

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
Zinc.....	0.275	0.135

§ 430.153 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 430.154 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-125.32, 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), except that noncontinuous dischargers shall not be subject to the maximum day mass limitations in kg/kg (lb/1000 lb),

but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers. Pentachlorophenol and trichlorophenol limitations are only applicable at facilities where chlorophenolic-containing biocides are used. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. Zinc limitations are only applicable at facilities where zinc hydrosulfite is used as a bleaching agent. Permittees not using zinc hydrosulfite as a bleaching agent must certify to the permit issuing authority that they are not using this bleaching compound.

SUBPART O

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.0010	(0.011)(21.9)/y
Trichlorophenol.....	0.0062	(0.068)(21.9)/y
Zinc.....	0.27	(3.0)(21.9)/y

y = wastewater discharged in kgal per ton of product.

§ 430.155 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD₅ and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.91 and TSS by 1.90. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers. Pentachlorophenol and trichlorophenol limitations are only applicable at facilities where chlorophenolic-containing biocides are used. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. Zinc limitations are only applicable at facilities where zinc hydrosulfite is used as a bleaching agent. Permittees not using zinc hydrosulfite as a bleaching agent must certify to the permit issuing authority that they are not using this bleaching compound.

SUBPART O

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	3.5	1.9
TSS.....	5.8	3.0
pH.....	(¹)	(¹)

	Maximum for any 1 day	
	Kg/kg (pound per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.0010	(0.016)(15.4)/y
Trichlorophenol.....	0.0062	(0.097)(15.4)/y
Zinc.....	0.19	(3.0)(15.4)/y

y = wastewater discharged in kgal per ton of product.

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.156 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that 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). Pentachlorophenol and trichlorophenol limitations are only applicable at facilities where chlorophenolic-containing biocides are used. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. Zinc limitations are only applicable at facilities where zinc hydrosulfite is used as a bleaching agent. Permittees not using zinc hydrosulfite as a bleaching agent must certify to the permit issuing authority that they are not using this bleaching compound. PSES must be attained on or before July 1, 1984.

SUBPART O

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	
	Milligrams per liter (mg/l)	
Pentachlorophenol.....	(0.011)(21.9)/y	
Trichlorophenol.....	(0.082)(21.9)/y	
Zinc.....	(3.0)(21.9)/y	

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART O

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	
	Kg/kg (or pounds per 1,000 lb) of product	
Pentachlorophenol.....	0.0010	
Trichlorophenol.....	0.0075	
Zinc.....	0.27	

§ 430.157 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that 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). Pentachlorophenol and trichlorophenol limitations are only applicable at facilities where chlorophenolic-containing biocides are used. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. Zinc limitations are only applicable at facilities where zinc hydrosulfite is used as a bleaching agent. Permittees not using zinc hydrosulfite as a bleaching agent must certify to the permit issuing authority that they are not using this bleaching compound.

SUBPART O

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	
	Milligrams per liter (mg/l)	
Pentachlorophenol.....	(0.016)(15.4)/y	
Trichlorophenol.....	(0.117)(15.4)/y	
Zinc.....	(3.0)(15.4)/y	

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART O

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	
	Kg/kg (or pounds per 1,000 lb) of product	
Pentachlorophenol.....	0.0010	
Trichlorophenol.....	0.0075	
Zinc.....	0.19	

Subpart P—Soda Subcategory

§ 430.160 Applicability; description of the soda subcategory.

The provisions of this subpart are applicable to discharges resulting from the integrated production of pulp and paper at soda mills.

§ 430.161 Specialized definitions.

For the purpose of this subpart, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401, and 430.01 shall apply to this subpart.

§ 430.162 Effluent limitations 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 125.30–125.32, 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), except that noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.78 and TSS by 1.82.

SUBPART P

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	13.7	7.1
TSS.....	24.5	13.2
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of wet barking operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations

determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1983 and TSS by 1.81.

SUBPART P

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	2.05	1.1
TSS.....	5.25	2.8
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(c) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of log washing or chip washing operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs and/or chips which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 2.00 and TSS by 1.67.

SUBPART P

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	0.15	0.1
TSS.....	0.5	0.25
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of log flumes or log ponds, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and

average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 2.00 and TSS by 1.57.

SUBPART P

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	0.3	0.2
TSS.....	1.1	0.55
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.163 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
[Reserved]

§ 430.164 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart where chlorophenolic-containing biocides are used must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). Non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kg (lb/1000 lb), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART P

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams per liter
Pentachlorophenol.....	0.0014	(0.011)(30.9)/y
Trichlorophenol.....	0.0088	(0.068)(30.9)/y

y=wastewater discharged in kgal per ton of product.

§ 430.165 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS),

except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD₅ and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.91 and TSS by 1.90. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers. Only facilities where chlorophenolic-containing biocides are used shall be subject to pentachlorophenol and trichlorophenol limitations. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART P

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	5.7	3.1
TSS.....	9.1	4.8
pH.....	(¹)	(¹)

Pollutant or pollutant property	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams per liter
Pentachlorophenol.....	0.0014	(0.014)(25.1)/y
Trichlorophenol.....	0.0088	(0.084)(25.1)/y

y=wastewater discharged in kgal per ton of product.

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.166 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for existing sources (PSES) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. PSES must be attained on or before July 1, 1984.

SUBPART P

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.011)(30.9)/y
Trichlorophenol.....	(0.082)(30.9)/y
y = wastewater discharged in kgal per ton of product.	

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART P

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Kg/kg (or pounds per 1000 lb) of product
Pentachlorophenol.....	0.0014
Trichlorophenol.....	0.011

§ 430.167 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for new sources (PSNS) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit issuing authority that they are not using these biocides.

SUBPART P

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.014)(25.1)/y
Trichlorophenol.....	(0.101)(25.1)/y
y = wastewater discharged in kgal per ton of product.	

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART P

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Kg/kg (or pounds per 1000 lb) of product
Pentachlorophenol.....	0.0014
Trichlorophenol.....	0.011

Subpart Q—Deink Subcategory

§ 430.170 Applicability; description of the deink-subcategory.

The provisions of this subpart are applicable to discharges resulting from the integrated production of pulp and paper at deink mills.

§ 430.171 Specialized definitions.

For the purpose of this subpart, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.172 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, 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), except that noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82.

SUBPART Q

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD5.....	18.1	9.4
TSS.....	24.05	12.95
pH.....	(¹)	(¹)

¹Within the range of 5.0 to 9.0 at all times.

§ 430.173 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 430.174 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart where chlorophenolic-containing biocides are used must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable

(BAT). Non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kg (lb/1,000 lb), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART Q

[Facilities where fine or tissue paper is produced]

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.0030	(0.029)(24.4)/y
Trichlorophenol.....	0.0069	(0.068)(24.4)/y
y = wastewater discharged in kgal per ton of product.		

SUBPART Q

[Facilities where newsprint is produced]

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.0030	(0.029)(24.4)/y
Trichlorophenol.....	0.0010	(0.010)(24.4)/y
y = wastewater discharged in kgal per ton of product.		

§ 430.175 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for DOD5 and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.91 and TSS by 1.90. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers. Only facilities where chlorophenolic-containing biocides are used shall be subject to pentachlorophenol and trichlorophenol limitation. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART Q

[Facilities where fine paper is produced]

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	5.7	3.1
TSS	8.7	4.6
pH	(¹)	(¹)

	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol	0.0030	(0.045)(15.9)/y
Trichlorophenol	0.0069	(0.104)(15.9)/y

y = wastewater discharged in kgal per ton of product.

¹ Within the range of 5.0 to 9.0 at all times.

SUBPART Q

[Facilities where tissue paper is produced]

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	9.6	5.2
TSS	13.1	6.8
pH	(¹)	(¹)

	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	milligrams/liter
Pentachlorophenol	0.0030	0.036(19.5)/y
Trichlorophenol	0.0069	0.085(19.5)/y

y = wastewater discharged in kgal per ton of product.

¹ Within the range of 5.0 to 9.0 at all times.

SUBPART Q

[Facilities where newsprint is produced]

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	6.0	3.2
TSS	12.0	6.3
pH	(¹)	(¹)

Maximum for any 1 day

	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	milligrams/liter
Pentachlorophenol	0.0030	(0.044)(16.2)/y
Trichlorophenol	0.0010	(0.015)(16.2)/y

y = wastewater discharged in kgal per ton of product.

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.176 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for existing sources (PSES) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. PSES must be attained on or before July 1, 1984.

SUBPART Q

[Facilities where fine or tissue paper is produced]

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	
	Milligrams per liter (mg/l)	
Pentachlorophenol	0.032(24.4)/y	
Trichlorophenol	0.082(24.4)/y	

y = wastewater discharged in kgal per ton of product.

SUBPART Q

[Facilities where newsprint is produced]

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	
	Milligrams per liter (mg/l)	
Pentachlorophenol	(0.032)(24.4)/y	
Trichlorophenol	(0.010)(24.4)/y	

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART Q

[Facilities where fine or tissue paper is produced]

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	
	Kg/kg (or pounds per 1,000 lb) of product	
Pentachlorophenol	0.0033	
Trichlorophenol	0.0084	

SUBPART Q

[Facilities where newsprint is produced]

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	
	Kg/kg (or pounds per 1,000 lb) of product	
Pentachlorophenol	0.0033	
Trichlorophenol	0.0010	

§ 430.177 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for new sources (PSNS) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART Q

[Facilities where fine paper is produced]

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	
	Milligrams per liter (mg/l)	
Pentachlorophenol	(0.049)(15.9)/y	
Trichlorophenol	(0.126)(15.9)/y	

y = wastewater discharged in kgal per ton of product.

SUBPART Q

[Facilities where tissue paper is produced]

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	
	Milligrams per liter (mg/l)	
Pentachlorophenol	(0.040)(19.5)/y	
Trichlorophenol	(0.103)(19.5)/y	

y = wastewater discharged in kgal per ton of product.

SUBPART Q

[Facilities where newsprint is produced]

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	
	Milligrams per liter (mg/l)	
Pentachlorophenol	(0.048)(16.2)/y	
Trichlorophenol	(0.015)(16.2)/y	

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART Q

[Facilities where fine or tissue paper is produced]

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Kg/kkg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.0033
Trichlorophenol.....	0.0084

SUBPART Q

[Facilities where newsprint is produced]

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Kg/kkg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.0033
Trichlorophenol.....	0.0010

Subpart R—Nonintegrated-Fine Papers Subcategory

§ 430.180 Applicability; description of the nonintegrated-fine papers subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of fine paper at nonintegrated mills.

§ 430.181 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 403.01 shall apply to this subpart.

(b) Cotton fiber furnish subdivision mills are those mills where significant quantities of cotton fibers (equal to or greater than 4 percent of the total product) are used in the production of fine papers.

(c) Wood fiber furnish subdivision mills are those mills where cotton fibers are not used in the production of fine papers.

§ 430.182 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, 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), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days

limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.78 and TSS by 1.82.

SUBPART R

[Wood fiber furnish subdivision]

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
BOD ₅	8.2	4.25
TSS.....	11.0	5.9
pH.....	(¹)	(¹)

SUBPART R

[Cotton fiber furnish subdivision]

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
BOD ₅	17.4	9.1
TSS.....	24.3	13.1
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.183 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 430.184 Effluent limitations representing the degree of effluent reduction attainable by the application of the best technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart where chlorophenolic-containing biocides are used must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). Non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lb/1,000 lb), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART R

[Wood fiber furnish subdivision]

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kkg (pounds per 1,000 lb) of product	Milligrams per liter
Pentachlorophenol.....	0.0018	(0.029)(15.2)/y
Trichlorophenol.....	0.0084	(0.010)(15.2)/y

y = wastewater discharged in kgal per ton of product.

SUBPART R

[Cotton fiber furnish subdivision]

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kkg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.0051	(0.029)(42.3)/y
Trichlorophenol.....	0.0018	(0.010)(42.3)/y

y = wastewater discharged in kgal per ton of product.

§ 430.185 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD₅ and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.91 and TSS by 1.90. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers. Only facilities where chlorophenolic-containing biocides are used shall be subject to pentachlorophenol and trichlorophenol limitations. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART R

[Wood fiber furnish subdivision]

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD ₅	3.5	1.9
TSS.....	4.4	2.3
pH.....	(¹)	(¹)

	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.0018	(0.047)(9.4)/y
Trichlorophenol.....	0.00064	(0.0116)(9.4)/y

y = wastewater discharged in kgal per ton of product.

¹ Within the range of 5.0 to 9.0 at all times.

SUBPART R

[Cotton fiber furnish subdivision]

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD5.....	7.8	4.2
TSS.....	9.5	4.9
pH.....	(¹)	(¹)

	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.0051	(0.039)(31.1)/y
Trichlorophenol.....	0.0018	(0.014)(31.1)/y

y = wastewater discharged in kgal per ton of product.

¹ Within the range of 5.0 to 9.0 at all times.

430.186 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for existing sources (PSES) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. PSES must be attained on or before July 1, 1984.

SUBPART R

[Wood fiber furnish subdivision]

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	
	Milligrams per liter (mg/l)	
Pentachlorophenol.....	(0.032)(15.2)/y	

SUBPART R—Continued

[Wood fiber furnish subdivision]

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	
Trichlorophenol.....	(0.010)(15.2)/y	

y = wastewater discharged in kgal per ton of product.

SUBPART R

[Cotton fiber furnish subdivision]

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	
	Milligrams per liter (mg/l)	
Pentachlorophenol.....	(0.032)(42.3)/y	
Trichlorophenol.....	(0.010)(42.3)/y	

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART R

[Wood fiber furnish subdivision]

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	
	Kg/kg (or pounds per 1,000 lb) of product	
Pentachlorophenol.....	0.0020	
Trichlorophenol.....	0.00064	

SUBPART R

[Cotton fiber furnish subdivision]

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	
	Kg/kg (or pounds per 1,000 lb) of product	
Pentachlorophenol.....	0.0056	
Trichlorophenol.....	0.0018	

§ 430.187 Pretreatment standards for new sources (PSNS).

(a) Except as provided in CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for new sources (PSNS) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART R

[Wood fiber furnish subdivision]

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	
	Milligrams per liter (mg/l)	
Pentachlorophenol.....	(0.054)(9.0)/y	
Trichlorophenol.....	(0.017)(9.0)/y	

y = wastewater discharged in kgal per ton of product.

SUBPART R

[Cotton fiber furnish subdivision]

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	
	Milligrams per liter (mg/l)	
Pentachlorophenol.....	0.0(0.044)(31.1)/y	
Trichlorophenol.....	(0.014)(31.1)/y	

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART R

[Wood fiber furnish subdivision]

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	
	Kg/kg (or pounds per 1,000 lb) of product	
Pentachlorophenol.....	0.0020	
Trichlorophenol.....	0.00064	

SUBPART R

[Cotton fiber furnish subdivision]

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	
	Kg/kg (or pounds per 1,000 lb) of product	
Pentachlorophenol.....	0.0056	
Trichlorophenol.....	0.0018	

Subpart S—Nonintegrated-Tissue Papers Subcategory

§ 430.190 Applicability; description of the nonintegrated-tissue papers subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of tissue papers at nonintegrated mills.

§ 430.191 Specialized definitions.

For the purpose of this subpart, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§430.192 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30-125.32, 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), except that noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.79 and TSS by 1.76.

SUBPART S

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days.
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	11.4	6.25
TSS.....	10.25	5.0
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.193 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 430.194 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart where chlorophenolic-containing biocides are used must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). Non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kg (lb/1000 lb), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART S

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.0028	(0.029)(22.9)/y
Trichlorophenol.....	0.00096	(0.010)(22.9)/y

y = wastewater discharged in kgal per ton of product.

§ 430.195 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD₅ and TSS but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.48 and TSS by 1.64. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers. Only facilities where chlorophenolic-containing biocides are used shall be subject to pentachlorophenol and trichlorophenol limitations. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART S

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	7.0	3.4
TSS.....	6.0	2.6
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

Pollutant or pollutant property	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.0028	(0.035)(19.1)/y

Pollutant or pollutant property	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Trichlorophenol.....	0.00096	(0.012)(19.1)/y

y = wastewater discharged in kgal per ton of product.

§ 430.196 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for existing sources (PSES) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. PSES must be attained on or before July 1, 1984.

SUBPART S

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	0.032(22.9)/y
Trichlorophenol.....	0.010(22.9)/y

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART S

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.0031
Trichlorophenol.....	0.00095

§ 430.197 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for new sources (PSNS) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART S

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.038)(19.1)/y
Trichlorophenol.....	(0.012)(19.1)/y
y = wastewater discharged in kgal per ton of product.	

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART S

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.0031
Trichlorophenol.....	0.00095

Subpart T—Tissue from Wastepaper Subcategory

§ 430.200 Applicability; description of the tissue from wastepaper subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of tissue paper from wastepaper without deinking at secondary fiber mills.

§ 430.201 Specialized definitions.

For the purpose of this subpart, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.202 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, 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), except that noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.78 and TSS by 1.82

SUBPART T

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kg (or pounds per 1,000 lb) of product	
BOD5.....	13.7	7.1
TSS.....	17.05	9.2
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.203 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 430.204 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart where chlorophenolic-containing biocides are used must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). Non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kg (lb/1000 lb), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART T

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.0030	(0.029)(25.2)/y
Trichlorophenol.....	0.0011	(0.010)(25.2)/y
y = wastewater discharged in kgal per ton of product.		

§ 430.205 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations of BOD5 and TSS, but shall be subject to annual average effluent limitations determined by

dividing the average of 30 consecutive days limitations for BOD5 by 1.91 and TSS by 1.90. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers. Only facilities where chlorophenolic-containing biocides are used shall be subject to pentachlorophenol and trichlorophenol limitations. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART T

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD5.....	4.6	2.5
TSS.....	10.2	5.3
pH.....	(¹)	(¹)

Pollutant or pollutant property	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.0030	(0.045)(16.3)/y
Trichlorophenol.....	0.0011	(0.015)(16.3)/y
y = wastewater discharged in kgal per ton of product.		

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.206 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for existing sources (PSES) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. PSES must be attained on or before July 1, 1984.

SUBPART T

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.032)(25.2)/y

SUBPART T—Continued

Pollutant or pollutant property	PSES
	Maximum for any 1 day
Trichlorophenol.....	(0.010)(25.2)/y
y = wastewater discharge in kgal per ton of product.	

(b) In cases when POTW's find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART T

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.0034
Trichlorophenol.....	0.0011

§ 430.207 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for new sources (PSNS) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART T

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.049)(16.3)/y
Trichlorophenol.....	(0.015)(16.3)/y
y = wastewater discharged in kgal per ton of product.	

(b) In cases when POTW's find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART T

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.0034
Trichlorophenol.....	0.0011

Subpart U—Papergrade Sulfite (Drum Wash) Subcategory

§ 430.210 Applicability; description of the papergrade sulfite (drum wash) subcategory.

The provisions of this subpart are applicable to discharge resulting from the integrated production of pulp and paper at papergrade sulfite mills, where vacuum or pressure drums are used to wash pulp.

§ 430.211 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

(b) Sulfite cooking liquor shall be defined as bisulfite cooking liquor when the pH of the liquor is between 3.0 and 6.0 and as acid sulfite cooking liquor when the pH is less than 3.0.

§ 430.212 Effluent limitations 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 Sections 125.30–125.32, 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), except that noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.78 and TSS by 1.82.

SUBPART U

[Bisulfite liquor/surface condensers]

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	26.7	13.9
TSS.....	43.95	23.65
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

NOTE.—Limitations above do not apply to mills using continuous digesters.

SUBPART U

[Bisulfite liquor/barometric condensers]

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	29.4	15.3
TSS.....	52.2	28.1
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

NOTE.—Limitations above do not apply to mills using continuous digesters.

SUBPART U

[Acid sulfite liquor/surface condensers]

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	29.75	15.5
TSS.....	43.95	23.65
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

NOTE.—Limitations above do not apply to mills using continuous digesters.

SUBPART U

[Acid sulfite liquor/barometric condensers]

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	32.5	16.9
TSS.....	52.2	28.1
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

NOTE.—Limitations above do not apply to mills using continuous digesters.

SUBPART U

[Continuous digesters]

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	38.15	19.85
TSS.....	53.75	28.95
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, resulting from the use of wet barking operations, which may be

discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.78 and TSS by 1.80.

SUBPART U

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	3.05	1.6
TSS.....	7.5	3.95
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(c) The following limitations establish the quantity or quality of pollutants or pollutant parameters, controlled by this section, resulting from the use of log washing or chip washing operations, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs and/or chips which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 2.00 and TSS by 1.80.

SUBPART U

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	0.35	0.2
TSS.....	2.55	1.35
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this

section, resulting from the use of log fumes or log ponds, which may be discharged by a point source subject to the provisions of this subpart. These limitations are in addition to the limitations set forth in paragraph (a) of this section and shall be calculated using the proportion of the mill's total production due to use of logs which are subject to such operations. Noncontinuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.75 and TSS by 1.80.

SUBPART U

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	0.7	0.35
TSS.....	1.7	0.9
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

SUBPART U

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.00058exp(0.017x)	((0.011)(12.67)exp(0.017x))/y
Trichlorophenol.....	0.0036exp(0.017x)	((0.068)(12.67)exp(0.017x))/y

x = percent sulfite pulp in final product.

y = wastewater discharged in kgal per ton of production.

§ 430.215 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD₅ and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.91 and

§ 430.213 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 430.214 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR §§ 125.30-125.32, any existing point source subject to this subpart where chlorophenolic-containing biocides are used must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). Non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kg (lb/1000 lb), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

TSS by 1.90. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers. Only facilities where chlorophenolic-containing biocides are used shall be subject to pentachlorophenol and trichlorophenol limitations. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART U

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	4.38 exp(0.017x)	2.36 exp(0.017x)
TSS.....	3.03 exp(0.017x)	5.81 exp(0.017x)

SUBPART U—Continued

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
pH.....	(1)	(1)

x=percent sulfite pulp in final product.

Pollutant or pollutant property	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.00058 exp(0.017x)	((0.015)(9.12) exp(0.017x))/y
Trichlorophenol.....	0.0036 exp(0.017x)	((0.094)(9.12) exp(0.017x))/y

x=percent sulfite pulp in final product.

y=wastewater discharged in kgal per ton of product.

* Within the range of 5.0 to 9.0 at all times.

§ 430.216 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for existing sources (PSES) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. PSES must be attained on or before July 1, 1984.

SUBPART U

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	((0.011)(12.67) exp(0.017x))/y
Trichlorophenol.....	((0.082)(12.67) exp(0.017x))/y

x=percent sulfite pulp in final product.

y=wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART U

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.00058 exp(0.017x)
Trichlorophenol.....	0.0043 exp(0.017x)

x=percent sulfite pulp in final product.

§ 430.217 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for new sources (PSNS) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART U

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	((0.015)(9.12) exp(0.017x))/y
Trichlorophenol.....	((0.114)(9.12) exp(0.017x))/y

x=percent sulfite pulp in final product.

y=wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART U

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.00058 exp(0.017x)
Trichlorophenol.....	0.0043 exp(0.017x)

x=percent sulfite pulp in final product.

Subpart V—Unbleached Kraft and Semi-Chemical Subcategory

§ 430.220 Applicability; description of the unbleached kraft and semi-chemical subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper at combined unbleached kraft and semi-chemical mills, wherein the spent semi-chemical cooking liquor is burned within the unbleached kraft chemical recovery system.

§ 430.221 Specialized definitions.

For the purpose of this subpart, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.222 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT). [Reserved]

§ 430.223 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 430.224 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart where chlorophenolic-containing biocides are used must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). Non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kg (lb/1000 lb), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART V

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.00064	(0.011)(14.0)/y
Trichlorophenol.....	0.00059	(0.010)(14.0)/y

y = wastewater discharged in kgal per ton of product.

§ 430.225 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD₅ and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.91 and TSS by 1.90. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers. Only facilities where chlorophenolic-containing biocides are used shall be subject to pentachlorophenol and trichlorophenol limitations. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART V

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	3.9	2.1
TSS.....	7.3	3.8
pH.....	(¹)	(¹)

Pollutant or pollutant property	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.00064	(0.013)(11.5)/y
Trichlorophenol.....	0.00059	(0.012)(11.5)/y

y = wastewater discharged in kgal per ton of product.

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.226 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for existing sources (PSES) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. PSES must be attained on or before July 1, 1984.

SUBPART V

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.011)(14.0)/y
Trichlorophenol.....	(0.010)(14.0)/y

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART V

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.00064
Trichlorophenol.....	0.00059

§ 430.227 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for new sources (PSNS) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART V

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.013)(11.5)/y

SUBPART V—Continued

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
Trichlorophenol.....	(0.012)(11.5)/y

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART V

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.00064
Trichlorophenol.....	0.00059

Subpart W—Wastewater-Molded Products Subcategory

§ 430.230 Applicability; description of the wastewater-molded products subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of molded products from wastewater without deinking at secondary fiber mills.

§ 430.231 Specialized definitions.

For the purpose of this subpart, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.232 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30-125.32, 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), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.78 and TSS by 1.82.

SUBPART W

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	4.4	2.3
TSS.....	10.8	5.8
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.233 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
[Reserved]

§ 430.234 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart where chlorophenolic-containing biocides are used must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). Non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kg (lb/1000 lb), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART W

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams per liter
Pentachlorophenol.....	0.0026	(0.029)(21.1)/y
Trichlorophenol.....	0.00088	(0.010)(21.1)/y

y=wastewater discharged in kgal per ton of product.

§ 430.235 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD₅ and TSS, but shall be subject to annual average

effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.91 and TSS by 1.90. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers. Only facilities where chlorophenolic-containing biocides are used shall be subject to pentachlorophenol and trichlorophenol limitations. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART W

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	2.1	1.1
TSS.....	4.4	2.3
pH.....	(¹)	(¹)

Pollutant or pollutant property	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.0026	(0.107)(5.7)/y
Trichlorophenol.....	0.00088	(0.037)(5.7)/y

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.236 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for existing sources (PSES) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. PSES must be attained on or before July 1, 1984.

SUBPART W

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	
	Milligrams per liter (mg/l)	
Pentachlorophenol.....	(0.032)(21.1)/y	

SUBPART W—Continued

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	
	Kg/kg (or pounds per 1,000 lb) of product	
Trichlorophenol.....	(0.010)(21.1)/y	

y=wastewater discharge in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART W

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	
	Kg/kg (or pounds per 1,000 lb) of product	
Pentachlorophenol.....	0.0028	
Trichlorophenol.....	0.00088	

§ 430.237 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for new sources (PSNS) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART W

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	
	Milligrams per liter (mg/l)	
Pentachlorophenol.....	(0.118)(5.7)/y	
Trichlorophenol.....	(0.037)(5.7)/y	

y=wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART W

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	
	Kg/kg (or pounds per 1,000 lb) of product	
Pentachlorophenol.....	0.0028	
Trichlorophenol.....	0.00088	

Subpart X—Nonintegrated-Lightweight Papers Subcategory

§ 430.240 Applicability; description of the nonintegrated-lightweight papers subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of lightweight paper at nonintegrated mills.

§ 430.241 Specialized definitions.

For the purpose of this subpart, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.242 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, 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), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.79 and TSS by 1.76.

SUBPART X

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	24.1	13.2
TSS.....	21.6	10.6
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

SUBPART X

[Facilities where electrical grade papers are produced]

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	38.0	20.9
TSS.....	34.2	16.7
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.243 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 430.244 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart where chlorophenolic-containing biocides are used must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). Non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kg (lb/1000 lb), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART X

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.0059	(0.029)(48.7)/y
Trichlorophenol.....	0.0020	(0.010)(48.7)/y

y = wastewater discharged in kgal per ton of product.

SUBPART X

[Facilities where electrical grade papers are produced]

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.0093	(0.029)(76.9)/y
Trichlorophenol.....	0.0032	(0.010)(76.9)/y

y = wastewater discharged in kgal per ton of product.

§ 430.245 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD₅ and TSS, but shall be subject to annual average effluent limitations determined by

dividing the average of 30 consecutive days limitations for BOD₅ by 1.48 and TSS by 1.64. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers. Only facilities where chlorophenolic-containing biocides are used shall be subject to pentachlorophenol and trichlorophenol limitations. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART X

NSPS	Pollutant or pollutant property	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	13.7	6.7
TSS.....	12.0	5.2
pH.....	(¹)	(¹)

NSPS	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.0059	(0.037)(38.2)/y
Trichlorophenol.....	0.0020	(0.013)(38.2)/y

y = wastewater discharged in kgal per ton of product.

¹ Within the range of 5.0 to 9.0 at all times.

SUBPART X

Facilities where electrical grade papers are produced

NSPS	Pollutant or pollutant property	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	24.1	11.7
TSS.....	21.1	9.2
pH.....	(¹)	(¹)

NSPS	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams/liter
Pentachlorophenol.....	0.0093	(0.033)(66.8)/y
Trichlorophenol.....	0.0032	(0.012)(66.8)/y

y = wastewater discharged in kgal per ton of product.

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.246 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for existing sources (PSES) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. PSES must be attained on or before July 1, 1984.

SUBPART X

Pollutant or pollutant property	PSES
	Maximum for any 1 day
Milligrams per liter (mg/l)	
Pentachlorophenol.....	(0.032)(48.7)/y
Trichlorophenol.....	(0.010)(48.7)/y
y=wastewater discharged in kgal per ton of product.	

SUBPART X

[Facilities where electrical grade papers are produced]

Pollutant or pollutant property	PSES
	Maximum for any 1 day
Milligrams per liter (mg/l)	
Pentachlorophenol.....	(0.032)(76.9)/y
Trichlorophenol.....	(0.010)(76.9)/y
y=wastewater discharged in kgal per ton of product.	

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART X

Pollutant or pollutant property	PSES
	Maximum for any 1 day
Kg/kkg (or pounds per 1,000 lb) of product	
Pentachlorophenol.....	0.0065
Trichlorophenol.....	.0020

SUBPART X

[Facilities where electrical grade papers are produced]

Pollutant or pollutant property	PSES
	Maximum for any 1 day
Kg/kkg (or pounds per 1,000 lb) of product	
Pentachlorophenol.....	0.010
Trichlorophenol.....	.0032

§ 430.247 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this

subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for new sources (PSNS) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART X

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
Milligrams per liter (mg/l)	
Pentachlorophenol.....	(0.041)(38.2)/y
Trichlorophenol.....	(0.013)(38.2)/y
y=wastewater discharged in kgal per ton of product	

SUBPART X

[Facilities where electrical grade papers are produced]

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
Milligrams per liter (mg/l)	
Pentachlorophenol.....	oi(0.037)(66.8)/y
Trichlorophenol.....	oi(0.012)(66.8)/y
y=wastewater discharged in kgal per ton of product	

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART X

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
Kg/kkg (or pounds per 1,000 lb) of product	
Pentachlorophenol.....	0.0065
Trichlorophenol.....	00.0020

SUBPART X

[Facilities where electrical grade papers are produced]

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
Kg/kkg (or pounds per 1,000 lb) of product	
Pentachlorophenol.....	0.010
Trichlorophenol.....	0.0032

Subpart Y—Nonintegrated-Filter and Nonwoven Papers Subcategory**§ 430.250 Applicability; description of the nonintegrated-filter and nonwoven papers subcategory.**

The provisions of this subpart are applicable to discharges resulting from

the production of filter and nonwoven papers at nonintegrated mills.

§ 430.251 Specialized definitions.

For the purpose of this subpart, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.252 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, 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), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD5 by 1.79 and TSS by 1.76.

SUBPART Y

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Kg/kkg (or pounds per 1,000 lb) of product		
BOD5.....	29.6	16.3
TSS.....	26.6	13.0
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.253 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]**§ 430.254 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).**

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart where chlorophenolic-containing biocides are used must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). Non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kkg (lb/1000 lb), but shall be subject to concentration limitations. Concentration limitations

are only applicable to non-continuous dischargers. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART Y

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kkg (pounds per 1,000 lb) of product	Milligrams per liter
Pentachlorophenol.....	0.0072	(0.029) (59.9)/y
Trichlorophenol.....	0.0025	(0.010) (59.9)/y

§ 430.255 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD₅ and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.48 and TSS by 1.64. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers. Only facilities where chlorophenolic-containing biocides are used shall be subject to pentachlorophenol and trichlorophenol limitations. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART Y

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD ₅	17.1	8.3
TSS.....	15.0	6.6
pH.....	(¹)	(¹)

Pollutant or pollutant property	Maximum for any 1 day	
	Kg/kkg (pounds per 1,000 lb) of product	Milligrams per liter
Pentachlorophenol.....	0.0072	(0.037)(47.5)/y
Trichlorophenol.....	0.0025	(0.013)(47.5)/y

Pollutant or pollutant property	Maximum for any 1 day	
	Kg/kkg (pounds per 1,000 lb) of product	Milligrams per liter

y = wastewater discharged in kgal per ton of product.

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.256 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for existing sources (PSES) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. PSES must be attained on or before July 1, 1984.

SUBPART Y

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	
	Milligrams per liter (mg/l)	
Pentachlorophenol.....	(0.032)(59.9)/y	
Trichlorophenol.....	(0.010)(59.9)/y	

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART Y

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	
	Kg/kkg (or pounds per 1,000 lb) of product	
Pentachlorophenol.....	0.0080	
Trichlorophenol.....	0.0025	

§ 430.257 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for new sources (PSNS) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART Y

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	
	Milligrams per liter (mg/l)	
Pentachlorophenol.....	(0.040)(47.5)/y	
Trichlorophenol.....	(0.013)(47.5)/y	

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART Y

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	
	Kg/kkg (or pounds per 1,000 lb) of product	
Pentachlorophenol.....	0.0080	
Trichlorophenol.....	0.0025	

Subpart Z—Nonintegrated-Paperboard Subcategory

§ 430.260 Applicability; description of the nonintegrated-paperboard subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of paperboard at nonintegrated mills. The production of electrical grades of board and matrix board is not included in this subpart.

§ 430.261 Specialized definitions.

For the purpose of this subpart, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

§ 430.262 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, 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), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days limitations, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.79 and TSS by 1.76.

SUBPART Z

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	6.5	3.6
TSS.....	5.8	2.8
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.263 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 430.264 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart where chlorophenolic-containing biocides are used must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). Non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kg (lb/1000 lb), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART Z

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams per liter
Pentachlorophenol.....	0.0016	(0.029)(12.9)/y
Trichlorophenol.....	0.00054	(0.010)(12.9)/y

y = wastewater discharged in kgal per ton of product.

§ 430.265 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD₅ and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.48 and

TSS by 1.64. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers. Only facilities where chlorophenolic-containing biocides are used shall be subject to pentachlorophenol and trichlorophenol limitations. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART Z

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	4.0	1.9
TSS.....	3.5	1.5
pH.....	(¹)	(¹)

Pollutant or pollutant property	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams per liter
Pentachlorophenol.....	0.0016	(0.033)(11.2)/y
Trichlorophenol.....	0.00054	(0.012)(11.2)/y

¹ Within the range of 5.0 to 9.0 at all times.

§ 430.266 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for existing sources (PSES) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides. PSES must be attained on or before July 1, 1984.

SUBPART Z

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	
	Milligrams per liter (mg/l)	
Pentachlorophenol.....	(0.032)(12.9)/y	
Trichlorophenol.....	(0.010)(12.9)/y	

SUBPART Z—Continued

Pollutant or pollutant property	PSES
	Maximum for any 1 day

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART Z

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.0017
Trichlorophenol.....	0.00054

§ 430.267 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for new sources (PSNS) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART Z

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Milligrams per liter (Mg/l)
Pentachlorophenol.....	0.037(11.2)/y
Trichlorophenol.....	0.012(11.2)/y

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART Z

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.0017
Trichlorophenol.....	0.00054

Part 431 of Title 40 is revised to read as follows:

PART 431—THE BUILDERS' PAPER AND BOARD MILLS POINT SOURCE CATEGORY

Subpart A—Builders' Paper and Roofing Felt Subcategory

Sec.

- 431.10 Applicability; description of the builders' paper and roofing felt subcategory.
- 431.11 Specialized definitions.
- 431.12 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
- 431.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
- 431.14 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
- 431.15 New source performance standards (NSPS).
- 431.16 Pretreatment standards for existing sources (PSES).
- 431.17 Pretreatment standards for new sources (PSNS).

Authority: Sections 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—Builders' Paper and Roofing Felt Subcategory

§ 431.10 Applicability; description of the builders' paper and roofing felt subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of builders' paper and roofing felt from wastepaper.

§ 431.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 430.01 shall apply to this subpart.

(b) Production shall be defined as the annual off-the-machine production (including off-the-machine coating where applicable) divided by the number of operating days during that year. Production shall be measured at the off-the-machine moisture content. Production shall be determined for each mill based upon past production practices, present trends, or committed growth.

(c) A non-continuous discharger is a mill which is prohibited by the NPDES

authority from discharging pollutants during specific periods of time for reasons other than treatment plant upset control, such periods being at least 24 hours in duration. A mill shall not be deemed a non-continuous discharger unless its permit, in addition to setting forth the prohibition described above, requires compliance with the effluent limitations established by this subpart for non-continuous dischargers and also requires compliance with maximum day and average of 30 consecutive days effluent limitations. Such maximum day and average of 30 consecutive days effluent limitations for non-continuous dischargers shall be established by the NPDES authority in the form of concentrations which reflect wastewater treatment levels that are representative of the application of the best practicable control technology currently available, the best conventional pollutant control technology, or new source performance standards in lieu of the maximum day and average of 30 consecutive days effluent limitations for conventional pollutants set forth in this subpart.

§ 431.12 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30-125.32, 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).

SUBPART A

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days.
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	5.0	3.0
TSS.....	5.0	3.0
pH.....	(¹)	(¹)

¹ Within the range of 5.0 to 9.0 at all times.

§ 431.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 431.14 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30-125.32, any existing point source subject

to this subpart where chlorophenolic-containing biocides are used must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). Non-continuous dischargers shall not be subject to the maximum day mass limitations in kg/kg (lb/1000 lb), but shall be subject to concentration limitations. Concentration limitations are only applicable to non-continuous dischargers. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART A

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams per liter
Pentachlorophenol.....	0.0017	(0.029)(14.4)/y
Trichlorophenol.....	0.00060	(0.010)(14.4)/y

y = wastewater discharged in kgal per ton of product.

§ 431.15 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS), except that non-continuous dischargers shall not be subject to the maximum day and average of 30 consecutive days effluent limitations for BOD₅ and TSS, but shall be subject to annual average effluent limitations determined by dividing the average of 30 consecutive days limitations for BOD₅ by 1.91 and TSS by 1.90. Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply, where provided. Concentration limitations will only apply to non-continuous dischargers. Only facilities where chlorophenolic-containing biocides are used shall be subject to pentachlorophenol and trichlorophenol limitations. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART A

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kg (or pounds per 1,000 lb) of product	
BOD ₅	1.7	0.94

SUBPART A—Continued

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
TSS.....	2.7	1.40
pH.....	(¹)	(¹)

Pollutant or pollutant property	Maximum for any 1 day	
	Kg/kg (pounds per 1,000 lb) of product	Milligrams per liter
Pentachlorophenol.....	0.0017	(0.155)(2.7)/y
Trichlorophenol.....	0.00060	(0.053)(2.7)/y

y = wastewater discharged in kgal per ton of product.

¹ Within the range of 5.0 to 9.0 at all times.**§ 431.16 Pretreatment standards for existing sources (PSES).**

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2) achieve the following pretreatment standards for existing sources (PSES) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using

these biocides. PSES must be attained on or before July 1, 1984.

SUBPART A

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.032)(14.4)/y
Trichlorophenol.....	(0.010)(14.4)/y

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART A

Pollutant or pollutant property	PSES
	Maximum for any 1 day
	Kg/kg (or pounds per 1,000 lb) of product
Pentachlorophenol.....	0.0019
Trichlorophenol.....	0.00060

§ 431.17 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must (1) comply with 40 CFR Part 403 and (2)

achieve the following pretreatment standards for new sources (PSNS) if it uses chlorophenolic-containing biocides. Permittees not using chlorophenolic-containing biocides must certify to the permit-issuing authority that they are not using these biocides.

SUBPART A

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	Milligrams per liter (mg/l)
Pentachlorophenol.....	(0.171)(2.7)/y
Trichlorophenol.....	(0.053)(2.7)/y

y = wastewater discharged in kgal per ton of product.

(b) In cases when POTWs find it necessary to impose mass effluent limitations, the following equivalent mass limitations are provided as guidance:

SUBPART A

Pollutant or pollutant property	PSNS
	Maximum for any 1 day
	kg/kg (or lb/1,000 lb) of product
Pentachlorophenol.....	0.0019
Trichlorophenol.....	0.00060

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Part III

Environmental Protection Agency

Pulp, Paper, and Paperboard Point
Source Category Effluent Limitations
Guidelines and New Source Performance
Standards; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 430

[OW-FRL 2224-8a]

Pulp, Paper, and Paperboard Point Source Category Effluent Limitations Guidelines and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed regulation.

SUMMARY: This proposed regulation would limit the discharge of polychlorinated biphenyls (PCBs) into waters of the United States from mills in the pulp, paper, and paperboard industry where fine and tissue papers are made from deinked wastepaper. EPA is proposing effluent limitations based on "best available technology" and "new source performance standards" as required by the Clean Water Act. The intended effect of this action is to reduce the discharge of PCBs from mills in the deink subcategory of the pulp, paper, and paperboard point source category.

DATES: Comments on this proposal must be submitted by January 17, 1983.

ADDRESS: Send comments to: Mr. Robert W. Dellinger or Ms. Wendy D. Smith, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, Attention: Pulp, Paper, and Paperboard Rules.

FOR FURTHER INFORMATION CONTACT: Technical information and the technical document may be obtained by writing to Mr. Robert W. Dellinger or Ms. Wendy D. Smith, Effluent Guidelines Division (WH-552), U.S. EPA, 401 M Street SW., Washington, D.C. 20460, or by calling (202) 382-7137. Economic information and the economic impact analysis document may be obtained by writing to Ms. Renee M. Rico, Office of Analysis & Evaluation (WH-586), U.S. EPA, 401 M Street SW., Washington, D.C. 20460, or by calling (202) 382-5386.

SUPPLEMENTARY INFORMATION:

Organization of This Notice

- I. Legal Authority
- II. Background
- III. Best Available Technology Effluent Limitations
- IV. New Source Performance Standards
- V. Pretreatment Standards for New and Existing Sources
- VI. Costs, Economic Impact, Executive Order 12291, and Regulatory Flexibility Analysis
- VII. Subcategories Not Regulated

VIII. Non-Water Quality Environmental Impacts

- IX. Upset and Bypass Provisions
 - X. Variances and Modifications
 - XI. Relationship to NPDES Permits
 - XII. Solicitation of Comments
 - XIII. List of Subjects in 40 CFR Parts 430
 - XIV. Office of Management and Budget (OMB) Review
 - XV. Background documents
- Appendix—Abbreviations, Acronyms, and Other Terms Used in This Notice

I. Legal Authority

EPA is proposing this regulation under the authority of sections 301, 304, 306, 307, 308, 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". This regulation is also proposed 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. Background

On January 6, 1981, EPA proposed best practicable control technology currently available (BBT) limitations, best available technology economically achievable (BAT) limitations, new source performance standards (NSPS), and pretreatment standards for existing sources (PSES) and new sources (PSNS) for the pulp, paper, and paperboard industry, including the deink subcategory (see 46 FR 1430). EPA did not propose PCB effluent limitations at that time because we did not have sufficient information on the levels and treatability of PCBs in pulp, paper, and paperboard industry wastewaters. The Agency sought comments and additional data on the discharge of PCBs and explained the EPA would evaluate all available data between proposal and promulgation to determine whether limitations for control of PCBs were appropriate.

In response to the EPA's request for comments, State agencies, environmental groups, and industry representatives provided information and effluent data on PCB discharges from the pulp, paper, and paperboard industry. Several commenters stated that the Agency should establish BAT effluent limitations controlling PCBs at deink mills; they explained that PCBs are highly toxic and that PCB discharges from deink mills contribute to water quality problems in the Fox River and Green Bay. Other commenters expressed their opinion that uniform national standards for PCBs were not warranted because (a) the discharge level of PCBs is low and (b) the PCB

content of the nation's wastepaper supply is declining.

Subsequent to proposal, we became aware that data were being gathered on PCB discharges from the pulp, paper, and paperboard industry by State permitting authorities. The Agency updated its records by obtaining all available data on PCB discharges, including recent discharge monitoring reports (DMRs) from State and Regional permitting authorities. We also conducted a long-term sampling and analysis program over a period of 23 weeks at a deink mill. (These data gathering efforts and our analysis are detailed in *Development Document for Proposed Effluent Limitations Guidelines and Standards for Control of Polychlorinated Biphenyls in the Deink Subcategory of the Pulp, Paper, and Paperboard Point Source Category*, U.S. EPA, October 1982, hereafter called the Proposed Development Document.)

We found that some wastepapers used in the production of fine and tissue papers at mills in the deink subcategory are contaminated with a specific PCB, PCB-1242. (PCB-1242 was once used in the manufacture of carbonless copy paper; PCB-contaminated papers were recycled and now contaminate a portion of the wastepaper used in the manufacture of fine and tissue papers from deinked wastepaper.) This leads to the discharge of PCB-containing wastewaters from many mills in the deink subcategory. After attainment of BPT effluent limitations discharge levels of PCB-1242 at deink-fine and tissue mills are on the order of 1.2 micrograms per liter (ug/l). We also found that PCB final effluent discharges from deink mills have remained substantially the same since the implementation of the BPT regulation in 1977.

Even at these low concentrations, we have determined that PCB are pollutants of concern for both aquatic life and human health. PCBs are toxic to aquatic life at low concentrations. They are very stable and do not decompose in the aquatic environment. Most PCBs discharged into water are found in bottom sediments and, due to their persistence, can continue to contaminate the aquatic environment and be introduced into the food chain long after the discharge of PCBs has ceased. PCBs bioaccumulate to high concentrations in fish and invertebrate tissues from concentrations in water which are often below the usual detection limits. As a consequence, fish and other foods obtained from PCB-contaminated waters may become important sources of human exposure, even if PCB levels in the waters are low.

PCBs also bioaccumulate in the fatty tissues and skin of man and other mammals.

The Agency determined that, at deink mills where fine and tissue papers are produced, PCBs are present in wastewaters at levels that could cause toxic effects. We also found that an economically-achievable technology is available to reduce discharge levels of PCBs. Therefore, based on our further analysis of all available technical and economic data, we have determined that regulation of PCBs is required by the Clean Water Act and the Settlement Agreement.

There are 20 mills where fine and tissue papers are produced from deinked wastepaper. Fourteen of these mills discharge directly to navigable waters, while six are indirect discharges. As discussed below, the Agency identified three technology options in developing proposed BAT effluent limitations and two technology options in developing proposed NSPS for controlling PCB discharges. EPA also investigated the need for establishing PCB pretreatment standards for new and existing sources in the deink subcategory.

For more information on the Clean Water Act, the Settlement Agreement, the pulp, paper, and paperboard industry, and the deink subcategory, see the preamble to the January 1981 proposed rules (46 FR 1430) and the final regulations promulgated today in a separate section of the Federal Register.

III. Best Available Technology Economically Achievable (BAT) Effluent Limitations

The factors considered in establishing the best available technology economically achievable (BAT) level of control include the age of the equipment and facilities, the processes used, engineering aspects of applying various types of control techniques, non-water quality environmental impacts (including energy requirements), and the costs of applying the control technology (Section 304(b)(2)(B)). At a minimum, the BAT technology level represents the best economically-achievable performance of plants of shared characteristics. Where existing performance is uniformly inadequate, BAT technology may be transferred from a different subcategory or industrial category. BAT may include process changes or internal controls, even when these technologies are not common industry practice.

The statutory assessment of BAT "considers" costs, but does not require a balancing of costs against effluent reduction benefits (see *Weyerhaeuser v. Costle*, 590 F.2d 1011 (D.D. Cir. 1978)). In

developing the proposed BAT, however, EPA has given substantial weight to the reasonableness of costs. The Agency has considered the volume and nature of discharges, the volume and nature of discharges expected after application of BAT, the general environmental effects of the pollutants, and the costs and economic impacts of the required pollution control levels.

Despite this expanded consideration of costs, the primary factor for determining BAT is effluent reduction capability using economically-achievable control technology. The Clean Water Act of 1977 establishes the achievement of BAT as the principal national means of controlling toxic water pollution from direct discharging plants.

EPA has selected three available BAT technology options for control of PCB-1242 discharges from mills in the deink subcategory where fine and tissue papers are produced. Explanation and analyses of these options follow. (For a more detailed description, see Sections VI and VIII of the Proposed Development Document.)

Option A. Base proposed effluent limitations on the performance of the best practicable control technology currently available (BPT). The technologies on which existing BPT regulations for the deink subcategory are based include: screening, primary clarification, and biological treatment. This option corresponds to current discharge levels of PCBs in the deink subcategory; thus, no additional costs are associated with this option and no additional PCBs would be removed.

Option B. Base proposed effluent limitations on the performance of the best biological treatment systems now in-place at deink mills. This level of treatment represents the performance at mills in the deink subcategory where fine and tissue papers are produced and the BPT effluent limitations are attained through the application of biological treatment. It would remove an additional 107 lb/yr (or 47 percent) of PCBs beyond BPT discharge levels. Currently, four of the fourteen direct discharging mills in this subcategory are attaining this level of treatment. We estimate that implementation of Option B will result in capital and total annual costs of about \$29.4 and \$9.7 million, respectively (1982 dollars). These costs might cause price increases ranging from 0 to 3.5 percent. No mill closures are expected.

Option C. Base proposed effluent limitations on the application of chemically assisted clarification (CAC). This option would remove about 169 lb/yr (or 73 percent) of PCBs beyond BPT

discharge levels. Currently no mills in the deink subcategory are attaining this level of control. Implementation of Option C will result in capital and total annual costs of about \$59.7 and \$25.8 million, respectively (1982 dollars). These costs might cause price increases ranging from 1.3 to 5.5 percent and might close three mills.

BAT Selection and Decision Criteria. Option A was rejected because further control of PCBs beyond BPT levels is technically and economically feasible. EPA selected Option B as the basis for proposed BAT effluent limitations. Option B will result in a 47 percent reduction in current discharge levels of PCBs. This level of technology is not anticipated to cause mill closures and has been achieved at four of the fourteen direct discharging mills. Option C was rejected because of its expected severe economic impacts.

The selected BAT option is not based on implementation of in-plant controls. Over half of the direct discharging deink mills were constructed prior to 1920, and in-plant controls to limit PCB discharges could not be implemented to the same extent at all mills due to process configurations and space limitations. This constraint does not exist at new source mills; thus, as discussed below, the Agency included the implementation of in-plant controls in the NSPS technology options.

IV. New Source Performance Standards

The basis for new source performance standards (NSPS) under Section 306 of the Act is the best available demonstrated technology. At new plants, the opportunity exists to design the best and most efficient pulp, paper, and paperboard processing and wastewater treatment technologies. Therefore, Congress directed EPA to consider the best demonstrated process changes, in-plant controls, and end-of-process treatment technologies that reduce pollution to the maximum extent feasible. At new sources, reductions in the use of and/or discharge of both the wastewater and toxic pollutants are encouraged.

To control PCB-1242, EPA considered two options for NSPS. Analyses of these options follow. (For a more detailed description, see Sections VI and IX of the Proposed Development Document.)

Option A. Base control of PCBs at new source direct dischargers on the application of commonly-employed in-plant production process controls plus biological treatment. (This is the same technology option that was selected as the basis of the NSPS promulgated today for control of conventional

pollutants in this subcategory.) Selection of this option results in significant removal of PCBs; PCB reductions of 98.65 and 98.81 percent are attained at new deink-tissue and deink-fine mills, respectively, when compared to anticipated raw waste loads. Two existing mills are currently achieving this level of treatment.

PCB limits would be more stringent than for existing sources because in-plant controls would be implemented. These controls are readily available to all new sources and further reduce effluent discharges to TSS. They result in an additional PCB removal of 0.08 percent when compared to the selected BAT option since PCB removal directly correlates with TSS removal. No incremental costs are associated with this option because the technology basis is the same as NSPS promulgated today for control of conventional pollutants.

Option B. Base control of PCBs at new sources on the application of chemically assisted clarification (CAC) in addition to Option A technology. Selection of this option would result in the removal of an additional 0.45 percent more PCBs than would Option A. It would require the application of additional end-of-pipe treatment. Capital and total annual costs for compliance with Option B standards at a 500 ton per day model mill are estimated to be \$24.4 and \$10.7 million for fine paper, and \$28.5 and \$12.1 million for tissue paper, respectively (1982 dollars). These costs could cause up to a 1.6 percent price increase and a 0.8 percent reduction in new source expansion for the tissue papers segment. No capacity expansion is expected for the fine papers segment, but production price increases of up to 3 percent could occur for the model size mill if it were built. This level of control has not yet been achieved at existing mills in this subcategory.

NSPS Selection and Decision Criteria: EPA selected Option A as the technology basis for proposed NSPS. This level of treatment will result in significant PCB removals at new sources. It is not anticipated to cause adverse economic impacts because implementation will result in no additional costs beyond those which will be incurred to achieve NSPS for conventional pollutants. The Agency believes that the large capital expenditures that would be required to install chemically assisted clarification (Option B) when no other mills in the entire industry would be required to do so are not justified.

V. Pretreatment Standards for New and Existing Sources

Section 307(b) of the Act requires EPA to promulgate pretreatment standards for existing sources (PSES), which must be achieved within three years of promulgation. Section 307(c) of the Act requires EPA to promulgate PSNS at the same time that NSPS are issued. Both PSES and PSNS are designed to control the discharge of pollutants which pass through, interfere with, or are otherwise incompatible with the operation of POTWs. Paragraph 8(b)(i) of the modified Settlement Agreement contains provisions authorizing the exclusion from pretreatment standards of toxic pollutants that are susceptible to treatment in publicly owned treatment works (POTWs) and do not interfere with, do not pass through, or are not otherwise incompatible with such treatment works.

The Clean Water Act of 1977 requires pretreatment for pollutants that would pass through the POTWs in amounts that would violate direct discharger effluent limitations. The legislative history of the 1977 Act indicates that PSES are to be technology-based, analogous to the best available technology. EPA has generally determined that there is pass through of pollutants if the percent of pollutants removed by a POTW achieving secondary treatment is less than the percent removed by the BAT model system. The Agency considers the same factors in promulgating PSNS as it considers in promulgating PSES. The general pretreatment regulations which serve as the framework for categorical pretreatment standards are at 40 CFR Part 403 (43 FR 27736, June 26, 1978 and 46 FR 9462, January 28, 1981).

Deink subcategory wastewaters do not interfere with the operation of POTWs. Further, based on data available from our POTW sampling programs, significant removals of PCBs occur at POTWs. This removal is comparable to that which occurs at direct discharging mills and, therefore, pass through of PCBs does not occur in this subcategory. Thus, under the authority of Paragraph 8(b)(i) of the Settlement Agreement, EPA has decided not to establish pretreatment standards for PCBs.

VI. Costs, Economic Impact, Executive Order 12291, and Regulatory Flexibility Analysis

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. The Agency does not consider this to be a major rule because it will not result in annual costs of 100 million dollars, significant price increases, or significant economic impact.

The Regulatory Flexibility Act requires EPA to consider the effects of rules on small entities and, if they are significant and affect a substantial number of small entities, to prepare a Regulatory Flexibility Analysis. As required by the Act, EPA conducted a small business analysis in conjunction with the economic analysis. EPA classified small businesses in this subcategory as those with less than \$10 million in annual revenues. Based on this designation, EPA determined that this proposed regulation, if finalized, would not have a significant impact on a substantial number of small entities in the deink subcategory of the pulp, paper, and paperboard industry. Therefore, a Regulatory Flexibility Analysis is not required.

The Agency's economic impact assessment of this proposed regulation is presented in *Economic Impact Analysis of Proposed Effluent Limitations and Standards for the Deink Subcategory of the Pulp, Paper, and Paperboard Industry* (U.S. EPA, October 1982). The analysis details the costs incurred by the industry as a result of this regulation and the impact of these costs in terms of profitability, ability to raise capital, reductions in production, price increases, plant closures, employment and regional effects, and balance of trade effects.

As described below, EPA evaluated the impact of proposed BAT effluent limitations and NSPS. In summary, EPA concluded that the economic impacts of the additional water pollution controls likely to be incurred upon implementation of these proposed regulations are justified by the benefits associated with compliance with the proposed limitations and standards.

A. Proposed BAT Effluent Limitations

The proposed BAT limitations would cause 10 of the 14 direct discharging deink mills to incur compliance costs. Capital and total annual costs are estimated at \$29.4 and \$9.7 million, respectively (1982 dollars). EPA expects no mills in the deink subcategory to close as a result of these costs even if all of the compliance costs are absorbed by the mills.

B. Proposed NSPS

The technology basis of proposed NSPS for control of PCBs is the same as the technology basis of NSPS being

promulgated today for control of conventional pollutants. Therefore, no incremental economic impact is anticipated as a result of proposed NSPS.

VII. Pollutants Not Regulated

On January 21, 1981 EPA submitted an affidavit explaining that, under the authority of Paragraph 8(a)(iii) of the Settlement Agreement, EPA was excluding PCB-1242 from regulation. By this action, EPA is proposing to remove PCBs from the list of excluded pollutants for direct discharging mills in the deink subcategory where fine and tissue papers are excluded. However, as explained in Section V, EPA is not establishing pretreatment standards under the authority of Paragraph 8(b)(i) of the Settlement Agreement.

VIII. Non-Water Quality Environmental Impacts

Sections 304(b) and 306 of the Act require EPA to consider the non-water quality environmental impacts (including air pollution, solid waste generation, and energy requirements) of certain regulations. In conformance with these provisions, we considered the effect of this regulation on air pollution, solid waste generation, and energy consumption. This regulation was reviewed by EPA personnel responsible for non-water quality related programs. While it is difficult to balance pollution problems against each other and against energy use, we believe this regulation will best serve often competing national goals. The Administrator has determined that the non-water quality impacts identified below are justified by the benefits associated with compliance with the regulation.

Implementation of these proposed regulations would not substantially increase air pollution, energy use, or solid waste generation. The proposed regulations are not expected to cause any significant air pollution problems. EPA estimates that as a result of attaining the proposed BAT effluent limitations for PCBs at deink mills where fine or tissue papers are produced, total wastewater solids generation will increase by 3.0 percent over current levels, and energy consumption will increase by approximately 3.3 percent over current energy consumption.

IX. Upset and Bypass Provisions

A recurring issue is 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 in EPA's effluent limitations guidelines is necessary 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 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); *FMC Corp. v. Train*, 539 F.2d 973 (4th Cir. 1976).

An upset is an unintentional episode during which effluent limits are exceeded; a bypass, however, is an act of intentional noncompliance during which waste treatment facilities are circumvented in emergency situations. We have, in the past, included bypass provisions in NPDES permits.

We determined that both upset and bypass provisions should be included in NPDES permits and have promulgated Consolidated Permit Regulations that include upset and bypass provisions. (See 45 FR 33290, May 19, 1980; 40 CFR 122.60) 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 permittees in the pulp, paper, and paperboard industry will be entitled to upset and bypass provisions in NPDES permits, these proposed regulations do not address these issues.

X. Variances and Modifications

Upon the promulgation of this regulation, the effluent limitations and new source performance standards must be applied in all Federal and State NPDES permits thereafter issued to direct dischargers in the deink subcategory of the pulp, paper, and paperboard industry.

For the BAT effluent limitations, the only exception to the binding limitations is EPA's "fundamentally different factors" variance (see *E. I. duPont de Nemours and 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 will not be included in the specific pulp, paper, and paperboard industry regulations (see the NPDES regulations at 40 CFR Part 125, Subpart D).

NSPS are not subject to EPA's "fundamentally different factors" variance or any statutory or regulatory modifications (see *duPont v. Train*, *supra*).

XI. Relationship to NPDES Permits

The BAT limitations and NSPS in this regulation will be applied to individual pulp, paper, and paperboard mills 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 the extent that variances and modifications are expressly authorized. Other aspects of the interaction of these regulations and NPDES permits are discussed below.

One issue which warrants consideration is the effect of these regulations on the powers of NPDES permit-issuing authorities. The promulgation of these regulations 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 a 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 these regulations (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 these regulations. We emphasize that, although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary. We have exercised and intend to exercise that discretion in a manner that recognizes and promotes good faith compliance efforts.

XII. Solicitation of Comments

EPA invites and encourages public participation in this rulemaking. The Agency asks that comments address specific deficiencies in the record of this proposal and that suggested revisions or corrections be supported by data. EPA is specifically interested in receiving additional comments and information in connection with the following: (1) EPA requests that mill representatives review all data submitted to the Agency, including data on flow and production, to insure their accuracy.

(2) In order to provide a more extensive data base for this rulemaking, EPA requests that representatives of mills in the deink subcategory where fine and tissue papers are produced voluntarily sample and analyze for PCB-1242. Samples should be taken, at a minimum, from intake water, raw wastewater, and final effluent where treatment is in-place. Voluntary sampling and analyses must be conducted by the same methods used by EPA and, therefore, individuals who intend to participate in this effort should contact Robert W. Dellinger or Wendy D. Smith (see ADDRESS at beginning of preamble) for further assistance.

Sampling and analysis procedures and a list of laboratories capable of performing the analysis will be made available to those wishing to participate in this program.

(3) The consolidation permits regulations require compliance monitoring for toxic pollutants such as PCBs (see 40 CFR Part 122 and 45 FR 33537, May 19, 1980). The Agency realizes that routine monitoring for PCB-1242 can be very expensive; therefore, EPA is interested in receiving information on options that might be available to reduce the costs associated with these monitoring requirements for PCBs.

XIII. List of Subjects in 40 CFR Part 430

Paper and paper products industry, Water pollution control, Waste treatment and disposal, Reporting and recordkeeping requirements.

XIV. Office of Management and Budget (OMB) Review

The regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

XV. Background Documents

The proposed regulation is explained by two major documents: *Development*

Document for Proposed Effluent Limitations Guidelines and Standards for Control of Polychlorinated Biphenyls in the Deink Subcategory of the Pulp, Paper, and Paperboard Point Source Category and Economic Impact Analysis of Proposed Effluent Limitations and Standards for the Deink Subcategory of the Pulp, Paper, and Paperboard Industry. The entire record for this rulemaking, including the technical and economic documents and all comments on this proposal, will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) PM-213 (EPA Library). The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

Dated: October 29, 1982.

Anne M. Gorsuch,
Administrator.

Appendix—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 301(b)(2)(A) of the Act.

BPT—The best practicable control technology currently available, under section 301(b)(1)(A) of the Act.

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 where wastewaters are discharged or may be discharged into waters of the United States.

Indirect discharger—A facility where wastewaters are discharged or may be discharged into a publicly owned treatment works.

NPDES permit—A National Pollutant Discharge Elimination System permit issued under section 402 of the Act.

NSPS—New source performance standards under section 306 of the Act.

POTW or POTWs—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 indirect discharges, under section 307(c) of the Act.

PART 430—[AMENDED]

For the reasons stated above, EPA proposes to amend Title 40, Part 430, Subpart Q as follows:

1. The table in 40 CFR 430.174 is amended by adding the following limitations at the end of the table:

§ 430.174 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

SUBPART Q

[Facilities where fine paper is produced]

Pollutant or pollutant property	BAT effluent limitations (maximum for any 1 day)	
	Kg/kg (lb/1,000 lb) of product	Micrograms per liter
Polychlorinated Biphenyl PCB-1242	0.00014	1.4

SUBPART Q

[Facilities where tissue paper is produced]

Pollutant or pollutant property	BAT effluent limitations (maximum for any 1 day)	
	Kg/kg (lb/1,000 lb) of product	Micrograms per liter
Polychlorinated Biphenyl PCB-1242	0.00018	1.8

2. The table in 40 CFR 430.175 is amended by adding the following limitations:

§ 430.175 New source performance standards (NSPS).

SUBPART Q

[Facilities where fine paper is produced]

Pollutant or pollutant property	NSPS (maximum for any 1 day)	
	kg/kg (lb/1,000 lb) of product	Micrograms per liter
Polychlorinated Biphenyl PCB-1242	0.00011	1.6

SUBPART Q

[Facilities where tissue paper is produced]

Pollutant or pollutant property	NSPS (maximum for any 1 day)	
	kg/kg (lb/1,000 lb) of product	Micrograms per liter
Polychlorinated Biphenyl PCB-1242	0.00014	1.8

Register

Thursday
November 18, 1982

Part IV

Environmental Protection Agency

**Consolidated Permit Regulations;
Revision in Accordance With Settlement;
and Suspension of NPDES Application
Requirements**

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122, 124 and 125

[WH-FRL 2228-6]

Consolidated Permit Regulations; Revision in Accordance With Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: On June 7, 1982, EPA entered into a settlement agreement on Clean Water Act issues with numerous industry petitioners in the consolidated permit regulations litigation (*NRDC v. EPA* and consolidated cases, No. 80-1607 (D.C. Cir. filed June 2, 1980)). This rulemaking proposes to revise certain provisions of the consolidated permit regulations affecting National Pollutant Discharge Elimination System (NPDES) permits in accordance with that settlement. The proposed changes will have the effect of reducing the regulatory burdens imposed on permittees under the NPDES permitting program administered by EPA or approved States, while still achieving the environmental goals the program is intended to achieve.

These proposed changes, and others that we expect to make, are also intended to deal with concerns raised by the President's Task Force on Regulatory Relief. The Task Force has asked that the Agency review the consolidated permit regulations with the objective of enhancing efficiency and eliminating unnecessary regulatory burdens.

DATES: EPA will accept public comments on the proposed amendments until January 17, 1983.

ADDRESSES: Interested persons may participate in the rulemaking by submitting written comments to George E. Young, Office of Water Enforcement and Permits, Permits Division (EN-336), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Karen Wardzinski, Office of General Counsel, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 202-755-0753.

SUPPLEMENTARY INFORMATION:

I. Introduction

On May 19, 1980, EPA published in the *Federal Register* (45 FR 35290) final consolidated permit regulations. These rules are consolidated requirements and procedures for five EPA permit programs, including the National

Pollutant Discharge Elimination System (NPDES) program under the Clean Water Act (CWA), Hazardous Waste Management Program (HWMP) under the Resource Conservation and Recovery Act (RCRA), the Underground Injection Control (UIC) program under the Safe Drinking Water Act (SDWA), State "Dredge or Fill" permit programs under section 404 of the CWA, and the Prevention of Significant Deterioration (PSD) program under the Clean Air Act (CAA). For more information on the development of these regulations, see 47 FR 25546-47 (June 14, 1982).

Petitions to review the final consolidated permit regulations were filed in several United States Courts of Appeals and subsequently consolidated in the District of Columbia Circuit (*NRDC v. EPA*, and consolidated cases (No. 80-1607)). EPA held extensive discussions on all issues raised in these petitions and subsequently signed four separate settlement agreements with industry litigants. The first of these addresses substantive issues affecting only the UIC program, and was signed on July 22, 1981. Final amendments implementing that agreement were published in the *Federal Register* on September 27, 1981 (46 FR 43156), and on February 3, 1982, (47 FR 4992). The second agreement, signed on November 16, 1981, addresses substantive issues affecting only the RCRA program. On April 8, 1982, EPA issued technical amendments and a Regulatory Interpretation Memorandum in partial fulfillment of its obligations under that Agreement, (47 FR 15304 and 47 FR 15307). In addition, EPA has recently proposed one substantive amendment to the RCRA portion of the consolidated permit regulations (47 FR 32038, July 23, 1982) and intends to propose additional amendments implementing the remainder of the settlement agreement before the end of the year.

The third agreement, also signed on November 16, 1981, and filed with the D.C. Circuit, relates to issues raised by the parties which were common to at least two of the three programs involved in the litigation [i.e. RCRA, NPDES, and UIC]. This agreement also resolves three NPDES issues which affect the definition of "new discharger" and its effect on mobile drilling rigs. Proposed regulations under this third agreement (the "Common Issues/New Discharger Agreement") were published on June 14, 1982 (47 F.R. 25546).

This proposal implements the fourth and final settlement agreement, dealing with those NPDES issues not resolved by the Common Issues/New Discharger Agreement. Copies of the settlement agreement are available for inspection

and copying from the EPA Office of General Counsel or Regional Counsels at the following addresses:

Associate General Counsel, for Water and Solid Waste, 401 M Street, S.W., Washington, DC 20460
Regional Counsel, Region I, John F. Kennedy Federal Building, Room 2203, Boston, Massachusetts 02203
Regional Counsel, Region II, 26 Federal Plaza, Room 1009, New York, New York 10007
Regional Counsel, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106
Regional Counsel, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308
Regional Counsel, Region V, 230 South Dearborn Street, Chicago, Illinois 60604
Regional Counsel, Region VI, First International Building, 1201 Elm Street, Dallas, Texas 75270
Regional Counsel, Region VII, 324 East 11th Street, Kansas City, Missouri 64108
Regional Counsel, Region VIII, 1860 Lincoln Street, Denver, Colorado 80203
Regional Counsel, Region IX, 215 Fremont Street, San Francisco, California 94111
Regional Counsel, Region X, 1200 6th Avenue, Seattle, Washington 98101

Under the terms of the NPDES agreement, EPA must propose the rules set forth below. As part of the settlement, EPA also agreed to include, and has included, certain language in this preamble. If EPA issues final rules which are substantially the same as the proposed rules and do not alter their meaning, the parties to the settlement will withdraw their challenges to these regulations.

These proposed regulations were developed in settlement of claims under the Clean Water Act affecting the NPDES program. However, some of the proposed changes (we believe inadvertently) would affect the RCRA, PSD, and UIC programs as well. Although EPA does not believe it is necessarily appropriate to amend the rules governing these programs, we solicit comment on the extent to which the proposed changes should affect RCRA, PSD, and UIC permitting.

Petitioners The Natural Resources Defense Council and Citizens for a Better Environment are not parties to this settlement. Their challenge will not necessarily be withdrawn as a result of final promulgation of new amended regulations. Industry expects to litigate three NPDES issues raised by industry

which are not covered by any of the settlement agreements. In addition, two of the industry parties (Mobil Oil Company and the American Iron and Steel Institute (AISI)) did not join in the settlement of the net/gross issue (40 CFR 122.63(g), (h)), and AISI did not join in the settlement of the total metals issue (40 CFR 122.63(c)). These parties may challenge these provisions in court if they are issued in final form.

Elsewhere in today's *Federal Register*, EPA is proposing to suspend several sections of the regulations pending final Agency rulemaking on this proposal. The proposal suspensions are also identified in this preamble.

EPA solicits, and will consider carefully, public comments on this proposal before issuing final regulations. Comments should include supporting data where necessary to support the commenter's conclusions.

In addition, the President's Task Force on Regulatory Relief has designated the consolidated permit regulations for review by EPA. Settlement of the litigation and implementation of the agreements represents a major portion of the Agency's response to the Task Force. The Agency also expects to propose other changes to the consolidated permit regulations, consistent with those proposed below, in the course of this review. These changes will include reorganization of the consolidated permit regulations to eliminate the consolidated format. Each part of the deconsolidated regulations will pertain solely to one permit program. EPA also expects to propose further substantive changes to portions of the NPDES regulations not addressed in the litigation and substantive changes to the section 404 State program requirements under the Clean Water Act. We expect that these other changes will be proposed later this year.

II. Proposed Changes

A. Storm Water Runoff Discharges (40 CFR 122.57)

1. *Existing Rules.* Section 122.57 describes those storm water discharges which are considered "point source" discharges under the CWA and thus are subject to NPDES permitting requirements. Two types of storm water dischargers are identified. First, a "separate storm sewer" is defined as a conveyance or system of conveyances primarily used for collecting and conveying storm water runoff which is located in an urbanized area as designated by the Bureau of the Census or which is designated by the Director, on a case-by-case basis, as a "separate storm sewer" for any of the reasons

discussed in § 122.57(c). A second type of storm water discharge is a conveyance which discharges process wastewater or storm water runoff contaminated by contact with wastes, raw materials, or pollutant-contaminated soil from areas used for industrial or commercial activities. Such conveyances are not included in the definition of "separate storm sewer," but are nonetheless, considered point sources which must obtain NPDES permits. A conveyance or system of conveyances operated primarily for the purpose of collecting and conveying storm water runoff which does not fit within either of the above described categories is not considered a point source and need not obtain an NPDES permit.

Section 122.57(a) explains that a single NPDES permit can be written for a separate storm sewer system even though there may be several owners or operators of conveyances into the system.

Industry representatives have expressed several concerns with the NPDES requirements for storm water discharges. In particular, they contend that storm water discharges that pose no significant environmental danger should not be considered "point sources" subject to permitting requirements, that the definition of "contaminated" runoff is ambiguous and overbroad, and that the testing requirements for applicants for individual permits for storm water discharges are unduly burdensome.

2. *Proposed Changes.* EPA has carefully considered these and other views and agrees that the NPDES permit program for storm water discharges should be revised. Several changes to the regulations are proposed.

Definitions

The categories of storm water discharges which would be considered "point sources" subject to NPDES permitting would be limited. The term "separate storm sewer" would be eliminated and replaced with the term "storm water discharge." A storm water discharge would be defined as a conveyance or system of conveyances primarily used for collecting and conveying storm water runoff which is either:

(1) Contaminated by contact with process wastes, raw materials, toxic pollutants, hazardous pollutants listed in Table V of Appendix D to Part 122, or oil and grease; or

(2) Designated as a storm water discharge by the Director.

A conveyance or system of conveyances operated primarily for the purpose of collecting and conveying storm water runoff that does not constitute a "storm water discharge" under this definition would not be considered a point source subject to the requirements of the Clean Water Act, (see *NRDC v. Train*, 568 F.2d 1393 (D.C. Cir. 1977), noting EPA's discretion to determine what is a "point source" for purposes of the Clean Water Act). EPA believes that such discharges are generally *de minimis* sources of pollution which Congress did not intend to regulate through the NPDES program.

Conveyances that discharge storm water runoff combined with municipal sewage are not considered "storm water discharges" under the definition in this section, but are point sources subject to NPDES permit requirements. Today's proposed rule changes for storm water have no effect on these municipal discharges.

Application Requirements

EPA also proposes to reduce many of the NPDES application requirements as they apply to storm water discharges. Though the proposed redefinition of point source storm water discharges focuses on "contaminated" discharges, most such discharges are expected to pose far less environmental concern than typical industrial discharges. In many cases, the extensive testing and reporting required by the regulations would not be necessary in order to issue adequate permits. In addition, EPA and the States must reissue large numbers of expired NPDES permits. Since priority is given to the issuance of permits to new sources and new dischargers and to major existing industrial and municipal sources, the issuance of permits to storm water dischargers may not receive immediate attention. Any data supplied now probably would be outdated by the time permit writers acted to issue or reissue permits for storm water discharges. Therefore, we propose to eliminate many of the application requirements for storm water discharges.

The amount of information an applicant will be required to submit would depend upon the particular category of storm water discharge involved. We have divided storm water discharges into two broad groups based upon their potential for significant pollution problems, imposing fewer substantive application requirements on those discharges less likely to include significant sources of pollution. This would substantially lessen the burdens on applicants whose discharges are

minor sources of pollution, yet would provide permit writers with minimum information with which to fashion permit requirements or to determine what further information may be necessary in particular cases.

• Group I

The first group of storm water discharges potentially poses more significant pollution problems than the second group. This first group consists of 3 categories of storm water discharges:

(1) Those which are subject to specific effluent limitations guidelines or toxic pollutant effluent standards;

(2) Those which are designated as significant contributors of pollution by the Director under § 122.57(c); or

(3) Those which are located at industrial facilities in areas immediately adjacent to the industrial plant or in plant associated areas, if there is a potential for a significant discharge of runoff contaminated by contact with process wastes, raw materials, toxic pollutants or hazardous substances. This third category covers conveyances that discharge storm water runoff that has the potential for becoming contaminated from contact with raw materials, intermediate or finished products, wastes, or substances used in production or treatment operations. The term "plant associated areas" includes such areas as industrial plant yards, immediate access roads, drainage ponds, refuse piles, storage piles or areas, and material or product loading and unloading areas. The term excludes commercial areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots, since we do not expect significant contamination from process operations to occur there.

Group I storm water dischargers would be required to submit NPDES applications that comply with all the requirements of §§ 122.4 and 122.53(d), and EPA consolidated permit application Forms 1 and 2c (see 45 FR 33516), with one exception. We propose to delete the requirements in § 122.53(d)(7)(iii) that applicants report quantitative data. Group I dischargers would be required only to indicate in Items V-B and V-C of Form 2c whether they believe any of the listed pollutants are present or absent and briefly describe why. Applicants would not be required to test for pollutants that they believe to be present. Elsewhere in today's *Federal Register* we are proposing to suspend these same provisions pending issuance of final rulemaking on this proposal.

Because many storm water discharges may prove to be minor sources of pollution, EPA does not believe that such dischargers should be required to bear the cost of testing for pollutants listed in Items V-B and V-C of Form 2c. Applicants must still test for those pollutants listed in Item V-A of Form 2c (see § 122.53(d)(7)(i)). This testing is less expensive than the testing required for Items V-B and V-C. The testing data submitted under Item V-A may alert a permit writer to the possible significant pollution problems, and thus prompt a request for testing or additional information. EPA expects to provide guidance to aid permit writers in issuing general permits for many of the discharges within Group I based upon the information they receive through these revised requirements.

• Group II

The second group consists of all point source storm water discharges required to be permitted under § 122.57 that are not included in Group I (for example, point source runoff from office buildings or parking lots physically separate from industrial areas). In general, the storm water discharges included in Group II are less likely than those in Group I to create significant pollution problems. Moreover, the potential numbers of discharges falling into Group II is even greater than those in Group I. Accordingly, EPA proposes to further reduce the information these dischargers must submit to the permitting authority. The proposed rules would require only basic information to identify the type, number, and location of Group II storm water discharges. Testing for pollutants listed in Item V would be eliminated. Group II dischargers would, however, submit all of Form 1 of the NPDES consolidated permit application, except for Item XI (§ 122.4(d)) which requires a topographic map of the permitted area. Since our primary purpose in requesting information from Group II dischargers is to obtain general identification information, the detail provided by a topographic map is not necessary at this time.

In addition, the only requirements of Form 2c that are applicable to Group II dischargers would be Items I and II-B (see §§ 122.53(d)(1), (d)(3), and (d)(4)), indicating the location and flow of each storm water outfall, the name of the receiving water, and any treatment being done. These requirements would enable EPA to identify and locate storm water outfalls and to confirm that such discharges should not be regulated as Group I discharges. Group II permit applicants would also have to complete the requirements of Item IX (see

§ 122.6(d)), certification of the permit application. All other provisions of Form 2c (Items II-A, III, IV, V, VI, VII, and VIII) would be deleted. Thus, for Group II permit applicants, we would delete the requirements of § 122.53(d)(2), (d)(5), (d)(6), (d)(7), (d)(9), (d)(10), (d)(11), and (d)(12). Elsewhere in today's *Federal Register* we are proposing to suspend the same provisions pending final rulemaking on this proposal. Again, permit writers would retain the authority to require additional information.

Flow Information

For the purposes of § 122.53(d)(3), EPA proposes that both Group I and Group II storm water discharges be allowed to estimate the average flow of their discharge based on actual prior experience and to indicate the rainfall event on which the estimate is based. Since storm water generally flows intermittently or seasonally, it would be difficult to report average flows accurately as required by § 122.53(d)(3).

Signatories

Section 122.6(a) and (b) specify who is required to sign permit applications. EPA proposes to amend § 122.6(b) to allow permit applications for Group II storm water dischargers to be signed by a duly authorized representative of the person or position identified in § 122.6(a) as responsible for signing applications. Storm water discharges would thus be treated like Class II UIC wells. Group II storm water dischargers are large in number, yet, as a group, much less complex than most point source discharges. While EPA continues to believe that Group II storm water discharges should continue to be treated as point sources regulated under the NPDES program, we believe that this regulation should be no more burdensome than needed to protect the environment.

Application Deadlines

EPA proposes that existing unpermitted storm water dischargers be given six months from the date new final storm water regulations are issued to submit applications. For a discharged designated by the Director as a "storm water discharge" under § 122.57(c), the application would be due six months from the date of notification of its designation. This will allow storm water dischargers sufficient time to gather and submit any information that final regulations may require, yet avoid the premature collection and submission of information which ultimately may not be required.

Multiple Dischargers

As in the current regulations (§ 122.57(a)), the Director may issue one permit covering any and all storm water discharges which are part of a storm water discharge system. We propose to revise this section to clarify that, where there is more than one owner or operator of such discharges, each must be identified in an application form submitted by the owner or operator of the portion of the system discharging directly into waters of the U.S. Any permit written to cover more than one owner or operator must identify the limitations applicable to each discharge and could not, without the source's consent, impose limitations on a source for discharges from another source.

B. Signatories—Reports (40 CFR 122.6(b)(2))

Section 122.6(b)(2) requires all reports and other information required by an NPDES permit to be signed by a principal executive officer of a corporation or by a duly authorized representative of the executive officer. Such representatives must, however, have responsibility for the overall operations of the regulated facility or activity. EPA proposes additionally to allow an individual or position having overall responsibility for environmental matters for the company to be authorized as a representative. Many companies have environmental managers who are responsible for ensuring compliance with environmental laws. These managers are often in charge of the personnel who do the monitoring and sampling and should best be able to judge the accuracy and completeness of NPDES reports. Such individuals must have overall responsibility for environmental matters for the facility or activity, thus ensuring high level attention to the facility's monitoring and reporting responsibilities.

C. NPDES Application Requirements and Toxic Control Strategy (40 CFR 122.15, 122.53, 122.61, 122.62)

Several sections of the consolidated permit regulations establish EPA's strategy for the control of toxic pollutants through the NPDES permit process. The primary mechanism for the identification of discharges of toxic pollutants is the NPDES application form. The consolidated permit regulations and NPDES Form 2c (specifically, Items V and VI of the form) require that existing industrial dischargers submit, in their applications for renewal, quantitative and qualitative data for certain pollutants discharged,

used or produced at their facilities (40 CFR 122.53(d)(7), (9), and (10)). Section 122.53(d)(7) requires the submission of quantitative data obtained through analysis of the applicant's discharge. Certain mandatory testing is required for process discharges from primary industry categories. In addition, all dischargers are required to test for any pollutant listed in the Appendices to Part 122 which they have reason to believe may be present in their discharges. Section 122.53(d)(9) requires that the applicant list the toxic pollutants it uses or expects to use or manufacture during the next five years. Section 122.53(d)(10) requires the applicant to include descriptive information on pollutants that it has reason to believe will exceed certain values during the next five years.

Section 122.62(e)(1)(ii) requires the Director to set limitations in a permit to control all toxic pollutants which the discharger does or may use or manufacture as an intermediate or final product or by-product. Section 122.61(a) imposes, as a permit condition, a burden on all existing manufacturing, commercial, mining and silvicultural dischargers to notify the Director as soon as they know or have reason to believe that they will be discharging any toxic pollutant not limited in the permit in amounts above specified "notification levels" (generally 100 µg/l or 5 times the maximum value reported in the application, whichever is higher). Permittees must also notify the Director when they have begun or expect to begin to use or manufacture any toxic pollutant not reported in the permit application. (§ 122.61(a)(2)). Based on such new use or manufacture of toxic substances, § 122.15(a)(5)(ix) authorizes EPA to modify an NPDES permit.

EPA is proposing extensive revisions to these sections to eliminate unnecessary and burdensome testing and reporting requirements on NPDES applicants and permittees. As part of the settlement, EPA also agreed to propose changes to portions of the application form instructions corresponding to the sections affected by today's proposal. The Agency is expecting to propose further changes to application requirements in the near future. To minimize confusion, EPA will make revisions to the application form and instructions at one time.

Quantitative Data Requirements

Several of the proposed changes would affect the type and amount of information which must be submitted in the NPDES application Form 2c. The regulations at 40 CFR 122.53(d)(7) will continue to require that all applicants

indicate whether they have reason to believe that toxic pollutants listed in the tables of Appendix D to Part 122 will be or are being discharged. In requesting this quantitative data, however, EPA proposes to establish a threshold level at or above which applicants will be required to test for the presence of such pollutants. Below this level, applicants have the option either to explain why they expect the pollutant to be discharged or to report quantitative data. In establishing this cut-off level for testing purposes, we are minimizing the burden of analytical requirements on permittees, while still providing permit writers with sufficient information to evaluate accurately a discharger's effluent and to impose adequate limitations.

For those pollutants listed in Tables II and III of Appendix D (the toxic pollutants and total phenols) (§ 122.53(d)(7)(iii)(A)), EPA would require permit applicants to report quantitative data for pollutants they expect to be discharged in concentrations of 100 µg/l or parts per billion (ppb) or greater, with the exception of four pollutants for which the threshold is 500 ppb or greater. This cut-off does not apply to process discharges from applicants in the primary industry categories for which applicants must still report quantitative data as specified in § 122.53(d)(7)(ii) and Appendix D to Part 122.

EPA believes that 100 ppb is a reasonable threshold level. Insufficient information is available to set different threshold limits accurately for each toxic pollutant which potentially requires testing. EPA therefore set a level at which discharges may be a concern for at least a substantial number of pollutants. EPA water quality criteria indicate that many of the pollutants required to be analyzed are known to cause significant adverse impact to aquatic organisms and human health at levels of 100 ppb or less. Of course, in imposing water quality based effluent limitations permit writers should consider stream flow, mixing zones, and other site-specific factors, but these factors should be evaluated in connection with the quantitative data for a given discharge. In addition, based on an assessment of Gas Chromatography/Mass Spectrometry (GC/MS) methods 624 and 625, proposed by EPA on December 3, 1979, 44 FR 69464, the Agency has determined that 100 ppb represents a technically achievable level of measurement for most toxic pollutants. For those toxic pollutants in GC/MS methods 624 and 625 with method detection limits of 10

ppb or less, EPA allowed a factor of 10 or more for analytical variability at the lower concentration levels. The Agency finds this factor of 10 to be a conservative estimate of analytical variability based on our experience in using GC/MS to analyze hundreds of wastewater samples during Effluent Guidelines Division industrial surveys. EPA has determined, using these same criteria for evaluating toxic pollutants, that in the case of four pollutants (acrolein, acrylonitrile, 2,4-dinitrophenol, and 2-methyl-4,6-dinitrophenol) a higher threshold level is appropriate. Since these four pollutants have method detection limits of 100-250 ppb (see 44 FR 69464), EPA has raised the threshold level (for application form purposes) for these four pollutants to 500 ppb. A factor of 10 is not used, nor is it appropriate at these higher concentration levels, since there is less analytical variability at 500 ppb.

EPA solicits comments on additional pollutants for which the 100 ppb cut-off level may be either too high or too low, and requests supporting data indicating a more appropriate level for these pollutants.

The 100 ppb level is intended only to be a threshold level for application purposes. It does not mean that permit limitations should necessarily be set for pollutants present at 100 ppb, or that it may never be appropriate to set limitations below this level. The submission of quantitative data, whether under § 122.53(d)(7)(iii), (d)(7)(ii) (for specified GC/MS fractions), or otherwise, does not automatically trigger the establishment of effluent limitations for the pollutants reported. Before setting technology-based limitations on pollutants present in a discharger's effluent at any level, the permit writer must consider whether the appropriate technology can reduce the pollutants in question to that level, and whether the analytical uncertainty and variability that may exist are so significant that the imposition and enforcement of specific limitations at that level may be unreasonable.

For those pollutants listed in Table IV of Appendix D (certain conventional and nonconventional pollutants) (§ 122.53(d)(7)(iii)(B)), EPA proposes that applicants submit quantitative data only for those pollutants which are either directly, or indirectly through means of an indicator, limited in an effluent limitations guideline applicable to the point source category. A different threshold level has been established for this group of pollutants because a numeric threshold level is inappropriate for many of these pollutants (e.g., color,

fecal coliform, radioactivity). Here the effluent limitations guidelines will indicate to permit writers which pollutants are of concern. As with the toxic pollutants, applicants would still be required to indicate any pollutant in this section believed to be discharged on a routine basis and, at a minimum, explain why the pollutant is expected to be discharged.

Section 122.53(d)(7)(i)(B) authorizes the Director, upon the request of the permittee, to waive the reporting requirements for pollutants listed in paragraph (d)(7)(i)(A) of § 122.53. EPA proposes to revise the language of this section to clarify that in order to obtain such a waiver, the applicant must demonstrate that reduced reporting requirements will provide sufficient information to write adequate permits. Waivers from the requirement to test for pollutants listed in Item V-A may be requested from the Director for individual facilities. In addition, EPA will consider requests for eliminating this testing for a particular industry category or subcategory. Any such request, with a justification for the request, should be submitted to the Director of the Office of Water Enforcement and Permits. For primary industry categories or subcategories EPA will continue to reevaluate the mandatory requirement of § 122.53(d)(7)(ii) to test for organic pollutants in the GC/MS fractions listed under Item V-C of Form 2c (Table II, Appendix D to Part 122).

Future Discharges

EPA proposes to delete § 122.53(d)(9) and (10) (Item VI of consolidated permit application Form 2c). These sections require permittees to predict potential future use, manufacture, or discharge of toxic pollutants. EPA initially believed it was appropriate to require applicants to predict potential increases in the discharge of toxic pollutants. This allowed permit writers to set appropriate limitations at the time the permit was issued and helped to ensure the installation of necessary treatment equipment before discharges began. EPA has reevaluated these requirements in light of its desire to minimize regulatory burdens on applicants. Though prediction of future discharges may be useful information, it is not essential to writing adequate permit limitations. Permittees still must notify the Director when they become aware of increases in the discharge of toxic pollutants, see § 122.61(a). Based on this information, permits may be modified to impose adequate controls. Elsewhere in today's *Federal Register* we are proposing to suspend these provisions

pending issuance of final rulemaking on this proposal.

Sampling

In addition to reducing the testing required of applicants, EPA proposes to allow greater flexibility in the type of samples that must be collected. The current regulations, in § 122.53(d)(7), require that grab samples be taken for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, and fecal coliform. For all other pollutants, 24-hour composite samples must be taken. EPA now proposes to allow grab samples in certain circumstances where a representative sample of the effluent being discharged is still assured. EPA also proposes to authorize the Director to waive composite sampling for any outfall for which an applicant can demonstrate that the use of an automatic sampler is infeasible and that the minimum required four grab samples will still yield a representative sample of the discharged effluent.

Grab samples would be allowed for effluents from holding ponds or other impoundments with a retention period greater than 24 hours. In this situation, a minimum of one grab sample will generally be sufficient to ensure a representative sample. The grab samples would be allowed whether the holding ponds were located at the end of a treatment system, or were themselves treatment systems.

Finally, because of the infrequent and unpredictable nature of the discharge, we propose to allow grab samples, in place of composite samples, for storm water discharges. In this case, a minimum of one to four grab samples would be required depending on the duration of the discharge.

Used/Manufactured Pollutants

EPA proposes to delete the requirement of § 122.62(e)(i)(ii) that the Director control, through effluent limitations imposed in a permit, all toxic pollutants used or manufactured by a discharger. The intent of the Clean Water Act is to control the discharge of pollutants. Although facilities often may discharge pollutants that are used in plant processes or that are manufactured as products or by-products, discharge of all such pollutants will not necessarily occur. EPA therefore believes that the requirement of § 122.62(e)(1)(ii) is too broad. The requirement of § 122.62(e)(1)(i) to impose effluent limitations on all toxic pollutants which are or may be discharged at levels greater than levels that can be achieved by applicable technology-based

treatment requirements should provide adequate control of toxic discharges. Elsewhere in today's *Federal Register* we are proposing to suspend this provision pending issuance of final rulemaking on this proposal.

Notification of Toxics

Changes are also proposed to § 122.61(a). Section 122.61(a) requires an existing industrial permittee to notify the Director when some activity has occurred or will occur causing it to discharge toxic pollutants that were not previously limited in the permit. EPA's intent in imposing this requirement was to receive notification of toxic discharges that occur on a relatively frequent basis and which therefore may be appropriately controlled through permit limitations. The proposed change would make this clear. In general, when such a discharge of a toxic pollutant occurs on a routine or frequent basis, the permittee must notify the Director if that discharge exceeds 5 times the level reported in the permit application form, or 100 ppb, whichever is higher. The choice of 100 ppb as a threshold level for notification purposes was explained above in connection with the application testing requirements.

Although EPA's primary concern is with frequent or routine toxic discharges, infrequent discharge may also be of concern and may indicate the need for a closer examination of the facility's operation and maintenance. Therefore, a permittee must also notify the Director when any one occurrence of a discharge exceeds 10 times the reported value or 500 ppb, whichever is greater. This requirement is proposed as new § 122.61(a)(2). The notification requirements of § 122.61(a) are not intended to impose on a permittee a burden of continuous monitoring throughout the term of the permit. Rather, if the permittee discovers through any means available (e.g., routine monitoring required by the permittee, or a professional judgment that a reasonable potential for discharge exists based on a knowledge of changes in the facility or process operations) that it now expects toxic pollutants not limited or reported in the permit application to be discharged, the permittee must notify the Director. In determining whether a discharge is routine or frequent within the level specified, the permittee should examine the circumstances of the discharge and the operations of its facility or activity to determine whether additional self-monitoring is necessary to make an accurate determination of whether it is routine or frequent.

We propose to delete existing § 122.61(a)(2) because its purpose—to determine the potential for discharge of pollutants—is met by § 122.61(a)(1) and proposed new § 122.61(a)(2), and because the added requirement to report all new toxics used or manufactured is unnecessarily burdensome. Finally, we propose to delete § 122.15(a)(5)(ix) to correspond with the deletion of §§ 122.61(a)(2) and 122.62(e)(1)(ii).

D. Deferral of Hearing on New Source Determination (40 CFR 122.53(h)(4))

The existing rules (§ 122.53(h)) allow the Regional Administrator to defer any requested evidentiary hearing on a tentative new source determination until a final permit decision is made. EPA proposes to amend this rule to preclude deferral of the hearing unless all parties agree. An early hearing will resolve issues relating to the performance standards that the plant must be designed and constructed to meet and the scope of EPA's obligations under the National Environmental Policy Act (NEPA). To defer these issues to the permit issuance stage (which may be years after the new source determination), raises the possibility that, at that time, it may be inordinately expensive to alter the facility to meet standards, or that alternatives EPA must consider under NEPA may no longer be available. When these considerations are not present, on the other hand, and the parties do not object, it may be more efficient to consolidate the hearing on the permit with the hearing on the new source determination. The proposed rule would still allow this to be done.

E. Construction Prohibition (§ 122.66(c)(4), (c)(5))

In issuing permits to "new sources" (see § 122.3 for definition) in States without approved NPDES programs, EPA must comply with NEPA. NEPA requires, among other things, the preparation of an environmental impact statement (EIS) on any major federal action significantly affecting the environment. Existing § 122.66(c) (4) and (5) prohibit the construction of a new source, for which an environmental impact statement is required, before EPA completes its review of environmental impacts under NEPA, unless the applicant signs an agreement to comply with appropriate NEPA-based requirements or the Regional Administrator makes a finding that such construction will not cause significant or irreversible adverse environmental impact.

Many dischargers and applicants have questioned EPA's legal authority to adopt and enforce a ban on

construction. The ban was originally intended to ensure that EPA was not deprived, at the time of issuing a permit, of the ability to consider all alternatives to the proposed action, including alternative sites or not constructing the discharging source at all. Those objecting to the ban have argued that the Clean Water Act regulates discharges, not construction, and that EPA is without authority to adopt a prohibition against construction in its regulations.

EPA has carefully considered these arguments and has decided to rescind the ban. In contrast to other federal regulatory statutes (such as the Atomic Energy Act, 42 U.S.C. 2011 *et seq.*), the Clean Water Act does not regulate construction of facilities, only discharges from them. See Section 301. Accordingly, if an applicant began construction in defiance of EPA's ban, the enforcement remedies under Section 309 of the Clean Water Act would not apply. EPA proposes to delete this prohibition entirely. (For a discussion of EPA's authority to condition permits based on NEPA, see Section F of this preamble, *infra*.) Elsewhere in today's *Federal Register* we are proposing to delete the same provisions pending issuance of final rulemaking on the proposal.

Although EPA proposes to lift the construction ban, applicants should bear in mind that the Agency will fully discharge its NEPA obligations for any discharge associated with a new source. Accordingly, the regulation would state that if construction commences before EPA completes any required NEPA review, EPA will not consider in the permit issuance process any costs which the applicant might incur in restoring the site or in altering construction plans. Before beginning construction, the owner or operator of a facility that may be a new source still must submit sufficient information to the Regional Administrator to enable him to make an initial new source determination, see 40 CFR 122.53(h)(2)(i). We strongly recommend that all applicants submit such information, as well as their permit applications, sufficiently early to enable NEPA review to be completed prior to the commencement of construction. Simple prudence dictates that a project should not be constructed in the face of potential unresolved issues relating to siting, design, and construction. These issues can and should be resolved through early NEPA review by the Regional Administrator.

F. Incorporation of NEPA Conditions in NPDES Permits (40 CFR 122.12(g), 122.62(d), 122.66, 124.85)

We are proposing to revise §§ 122.12(g), 122.62(d)(9), and 122.66(c)(3) to make clear that the National Environmental Policy Act (NEPA) cannot be used to review effluent limitations or other requirements established under the Clean Water Act or to set such effluent limitations. Section 511(c)(2) of the CWA expressly prohibits the use of NEPA for such purposes. Sections 122.12(g), 122.62(d)(9), and 122.66(c)(3) would make clear in accordance with the Settlement Agreement in *NRDC v. EPA* that, in all other respects, the regulations take no position on the circumstances under which NEPA conditions (other than effluent limitations) may be imposed in NPDES permits.

New § 124.85(e) would provide that evidence on environmental impacts of a facility may be submitted at a hearing for a new source subject to NEPA if the evidence would be relevant to the Agency's obligations under § 122.66(c)(3). That section, in turn, requires EPA, to the extent allowed by law, to conduct an evaluation of significant environmental impacts of the proposed action. Thus, the scope of the evidence on environmental impacts admissible at an NPDES hearing turns ultimately on the scope of the analysis required by NEPA.

In order to minimize delay and duplication of effort, § 124.85(e) also would provide that where a source holds a final RCRA, PSD, UIC, or ocean dumping permit, no evidence may be admitted or cross-examination allowed with respect to issues that were considered or could have been considered in those permit proceedings, even as to matters that may have been within the proper scope of a NEPA analysis. In such cases, the Presiding Officer may (to the extent required by NEPA) instead admit relevant portions of the record of the PSD, RCRA, UIC, or ocean dumping permit proceedings. This evidence may be used to perform the balancing of costs and benefits required by NEPA.

The proposal would also revise § 124.121(f) to make § 124.85(d)(2) and (e) applicable to panel hearings. The purpose of proposed § 124.85(e) is to provide a limited *res judicata* effect in NPDES permit proceedings to determinations in related RCRA, PSD, UIC, or ocean dumping permit proceedings. EPA does not believe that the limited applicability of NEPA to new source NPDES permit proceedings

provided in § 511(c) was intended by Congress to provide a vehicle for wholesale reexamination of determinations made by EPA under other statutes to which NEPA plainly does not apply. For example, PSD determinations, like all EPA determinations under the Clean Air Act, are exempt from NEPA's EIS requirements by statute. (See section 7(c)(1) of the Energy Supply and Environmental Coordination Act, 15 U.S.C. 793(c)(1)). Other EPA actions have been uniformly held by courts not to be subject to the EIS requirements. (See, e.g., *Wyoming v. Hathaway*, 525 F.2d 66 (10th Cir. 1975).)

EPA's proposal also would minimize duplication of effort and the waste of time and resources that attend relitigation of the same or similar issues in two or more agency proceedings. This approach would help carry out Congress' directive in Section 101(f) of the CWA that "the procedures utilized for implementing this Act shall encourage the drastic minimization of paperwork and interagency decision procedures, and the best use of available manpower and funds, so as to prevent needless duplication and unnecessary delays at all levels of government."

G. Compliance Schedule Prohibition (40 CFR 122.10(a)(2))

Existing § 122.10(a)(2) prohibits schedules of compliance in the first permits for new sources, new dischargers, and recommencing dischargers. These sources must have in operating condition and "start up" all necessary control equipment before they begin discharging, and they must comply with requirements within the shortest feasible time, not to exceed 90 days. (See section 122.66(d)(4).) However, water quality standards, effluent limitations guidelines, and other CWA requirements may be issued or revised shortly before the source is to begin discharge. In these cases, a source should be allowed a period of time to come into compliance with the newly issued or revised requirements. The proposed amendment would allow a schedule of compliance if any such requirements are issued or revised less than three years before commencement or recommencement of discharge; but new sources or new dischargers would qualify for a schedule only if the new or revised requirement was issued after construction began. Of course, the proposed regulation cannot authorize EPA or a State to issue a permit with a schedule of compliance extending beyond a statutory deadline under the

CWA. *Bethlehem Steel Corp. v. Train*, 544 F.2d 657 (3rd Cir. 1976).

H. Proper Operation and Maintenance (40 CFR 122.7(e))

Section 122.7(e) requires the permittee to properly operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee to achieve compliance with permit conditions. The provision defines "proper operation and maintenance" to include effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory controls, including appropriate quality assurance procedures.

EPA proposes to amend this section to eliminate most of these examples of proper operation and maintenance. This does not imply that these examples are not elements of proper operation and maintenance. Rather, the proposed change would provide facilities and sources with greater flexibility in establishing internal plant management procedures to assure that proper operation and maintenance is achieved. Adequate quality assurances in laboratory testing and analyses are of particular importance in maintaining the integrity of the self-monitoring requirements of the NPDES program. Therefore, the reference to adequate laboratory controls will be maintained.

EPA also proposes to amend the last sentence of § 122.7(e) to clarify that this provision is not intended to require the installation of back-up equipment, but rather to require operation of back-up equipment which is installed by a permittee, where operation of such equipment is necessary to achieve compliance with the conditions of the permit.

I. Notice of Physical Alterations or Additions (40 CFR 122.7(l)(1))

Section § 122.7(l) requires permittees to give notice as soon as possible of "any planned physical alterations or additions to the permitted facility," whether or not the change will require a permit modification or will result in a permit violation. However, many industrial facilities frequently undergo physical alteration or addition. Often such changes are minor and have little or no impact on a permittee's discharge. EPA has evaluated the requirement of § 122.7(l) in light of these concerns and in light of its goal of minimizing reporting requirements on the regulated community. EPA believes that a requirement to report all physical changes to a facility, regardless of the effect on the permittee's discharge, is

unnecessarily burdensome. Instead we propose that a permittee be required to report only those changes or additions which could significantly change the nature or increase the quantity of pollutants being discharged, and for which we would not otherwise receive notice through compliance reporting for pollutants limited in the permit or toxic notification under § 122.61. This should significantly decrease reporting requirements on permittees, yet continue to provide the Agency with appropriate information to determine permit violations or circumstances indicating a need for permit modifications.

J. Bypass (40 CFR 122.60(g))

Section 122.60(g)(2) provides that a permittee may allow any bypass which does not cause effluent limitations to be exceeded, but only if the bypass is for essential maintenance to assure efficient facility operations. In all other cases, a bypass is prohibited and enforcement action may be taken unless certain conditions are satisfied. Among these is the condition that there be no feasible alternatives to the bypass. This "no feasible alternative" condition is not satisfied if the permittee could have installed adequate back-up equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance.

EPA proposes to amend the bypass provision to eliminate the restriction which prohibits bypass except where necessary for essential maintenance purposes. This would allow any bypass which does not cause a violation of permit effluent limitations or other permit conditions. EPA believes that as long as a permittee complies with the effluent limitations in its permit, specific methods of treatment should not be required.

Except for discharges of produced water from offshore oil and gas exploration and production facilities, the amendment would require permittees to monitor all affected discharge points at the time of any bypass to assure compliance with permit limitations. The oil and gas industry has pointed out the difficulty and expense of monitoring at the site of offshore facilities. Cost is a particular concern because samples must be transported onshore for analysis. In order to minimize the burden of monitoring for offshore facilities, EPA proposes to authorize the Director to waive these additional monitoring requirements for offshore oil and gas exploration and production facilities where the permittee can demonstrate that effluent limitations will not be exceeded during bypass periods.

EPA also proposes to revise the second sentence of § 122.60(g)(4)(i)(B) to make it clear that permittees need not install back-up equipment in all cases merely because such equipment could prevent the need for bypass. The restriction will apply only if back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent bypass during normal periods of equipment downtime or for preventive maintenance.

K. Upsets for Water Quality Standards-based Limits (40 CFR 122.60(h))

Existing § 122.60(h) provides an affirmative defense in an enforcement action if the discharger shows that noncompliance with technology-based effluent limitations resulted from factors beyond the reasonable control of the discharger. The courts have ruled that EPA must allow for "upsets" in applying technology-based effluent limitations because the technology that underlies those limitations is inherently subject to failure for reasons beyond the control of the operator. See *Marathon Oil v. EPA*, 564 F.2d 1253 (9th Cir. 1977). Although the same rationale does not apply to effluent limitations based on water quality standards, EPA sees no reason to penalize a discharger that can prove that an upset occurred and that water quality standards were met despite its non-complying discharge. By deleting the words "technology-based" from § 122.60(h)(1), EPA would extend the upset defense provided by § 122.60(h) to encompass violations of permit conditions based on water quality standards. However, § 122.60(h)(4) limits this defense to circumstances in which the discharger can show that the violation of such permit conditions was not accompanied by a violation of the water quality standards.

The proposed rules also clarify the showing necessary to prove that an upset occurred. The existing rules require a discharger to prove that an upset occurred and that "the permittee can identify the specific cause(s) of the upset * * * ." In some cases, overly literal application of this requirement would require a discharger to produce a level of proof that it is not scientifically possible to obtain. The deletion of the word "specific" from § 122.60(h)(3)(i) simply clarifies that the regulation does not require investigation to an impossible degree of certainty. There may be cases where biological activity is disrupted in a treatment system, for example, where no change in raw waste characteristics could be identified, and where a thorough investigation by the permittee could not identify the precise cause of the change resulting in the

violation. Such evidence could be adduced to show the "cause" required by the regulation, even though the precise cause eluded detection.

Several persons have inquired whether a demonstration of "cause" of an upset required under § 122.60(h) can be based upon circumstantial evidence rather than direct evidence. It is EPA's intent that any demonstration of cause acceptable as proof of fact in court be available to a permittee seeking to utilize the upset defense. Proof of fact may be made through circumstantial as well as direct evidence. Indeed, circumstantial evidence may be all that is available. However, it is not enough simply to show that normal operating procedures were followed at the time effluent limitations were exceeded. The regulation requires at least a thorough investigation of the causes of an incident. Obviously, a claim of upset will be disfavored where previous violations have occurred and no efforts or insufficient efforts were made to identify and remedy the cause or causes.

L. Toxicity-based Limits (40 CFR 125.3(c)(4))

We are proposing to delete § 125.3(c)(4) which provided that effluent limitations based on a permit writer's best professional judgment could be expressed in terms of toxicity provided it was shown that the toxicity limits reflected the appropriate limits (e.g., technology or water quality-based limits) authorized by the Clean Water Act. EPA is in the process of studying toxicity testing and the proper role for such testing in the NPDES permit program. Draft toxicity testing manuals have been prepared, and comments elicited from various members of the public. Questions have been raised by industry as to the appropriateness of setting toxicity-based limits, as to the extent to which effluent toxicity-based limits can be correlated with water quality standards or technology-based limits, and as the need to develop approved measurement protocol for effluent toxicity. Until EPA has completed its review of the manuals and comments, and has adopted a position on whether and how toxicity testing should be used in the permitting process, EPA does not recommend that permit writers set toxicity-based limits in permits.

The permit writer may continue the use of bioassays and biosurveys (or other toxicity tests) to determine the potential toxicity of the effluent discharge on resident aquatic organisms in the receiving water body for the purpose of developing water quality-

based permit limitations under approved or revised State water quality standards. EPA is stressing the need to develop an adequate field data base (including physical, chemical and biological data) upon which determinations can be made by the regulatory authority as to whether permit limitations more stringent than those specified in promulgated effluent guidelines are needed to protect designated uses under State water quality standards. EPA has published a permitting policy, "Policy for the Second Round Issuance of National Pollutant Discharge Elimination System (NPDES) Permits for Industrial Sources, June 2, 1982," that will guide EPA, where it is the permitting authority, in setting priorities for dischargers according to their known or suspected impairment of designated uses in the receiving waters and in the use of toxicity testing to determine water quality-based permit limits, where justified.

In carrying out toxicity testing, EPA will coordinate with State agencies responsible for water quality standards, planning and monitoring to assure maximum utilization of available data and resources in the design and implementation of field studies that may include toxicity testing. The permitting agency may require bioassays or other types of toxicity testing in the permit to complement its own evaluation. Water quality-based permits will be written by EPA in full coordination with the State agency responsible for water quality standards and in accordance with the Continuing Planning Process (Section 303(e) of CWA) and will meet the spirit and intent of Section 303 of the CWA.

EPA, where appropriate, will also continue to test the toxicity of effluents to evaluate the effectiveness of existing technology and water quality-based limitations.

M. Best Professional Judgment (BPJ) (40 CFR 125.3)

In the absence of applicable effluent limitations guidelines, or if those guidelines do not control pollutants of concern at a particular facility, EPA and State Directors may establish effluent limitations on a case-by-case basis, based upon the permit writer's "best professional judgment" (BPJ) as to what limitations the permittee would achieve after applying the technologies representing the "best practicable control technology currently available" (BPT), the "best available technology economically achievable" (BAT), or the "best conventional pollutant control technology" (BCT). Such case-by-case permits have come to be known as "BPJ permits."

This proposal details, for the first time, the statutory factors that must be considered and explained in the fact sheet for a BPJ permit. Section 125.3(c)(2) already requires the permit writers to consider "statutory factors" in issuing BPJ permits, so these changes simply clarify an existing requirement. EPA permit writers also should be familiar with the series of legal opinions issued in connection with evidentiary hearings under the pre-1979 NPDES rules See NLS Publishing Company, *EPA General Counsel Opinions*, "NPDES Permits."

We are proposing to revise § 125.3(c)(2) and (c)(3) to require a permit writer in setting case-by-case permit limitations under section 402(a)(1) of the Act, to make explicit in the fact sheet his consideration and analysis of the relevant statutory factors (now enumerated in § 125.3(d)), and any other factors and documents considered. This requirement will facilitate informed comment by permit applicants as well as subsequent review, if necessary.

We are proposing to delete the parenthetical clause in § 125.3(c)(2)(i) to make clear that in establishing case-by-case permit limitations under section 402(a)(1) of the Act, permit writers are not bound by EPA draft or proposed development documents or guidance. We continue to believe, however, that permit writers must consider all pertinent information, including these documents, in developing case-by-case limits, just as they must consider significant comments and criticisms of the data they contain.

N. Net/Gross Limits (40 CFR 122.63(g), (h))

Section 122.63(g) and (h) spell out the circumstances under which a discharger's technology-based effluent limitations are adjusted to account for the effect of pollutants in the intake water. This proposal clarifies ambiguities in the existing regulation and eases some restrictions on the availability of net credit. However, the proposal is limited to technology-based limitations and does not apply to water quality-based limitations.

The new proposed rule would establish a clear test for the availability of net credit in cases where the applicable effluent limitations guidelines do not specifically provide that they are to be applied on a net basis. Under the proposed test, net credit is allowed if the discharger operates a control system that would meet the effluent limitations in the absence of intake water pollutants, but fails to do so because of the effects of intake water pollutants. The basic principle is that such a control

system must be applied to the discharger's effluent, but that credit is available as necessary to meet applicable limitations after the control system is applied.

In determining eligibility for net credit for nonprocess effluent streams (e.g., noncontact cooling water) which were not considered in the development of applicable effluent limitations guidelines, the "control system" referred to in proposed § 122.63(h)(1)(ii) means any control measure actually applied to the nonprocess stream in order to meet the applicable technology-based limitations and standards. If the guideline does not require that the nonprocess stream be treated by the same type or level of treatment used for process effluent discharges, the permittee need only demonstrate that the control measures actually applied would, if properly installed and operated, meet the applicable limits and standards in the absence of intake pollutants.

One question that arises under this approach is whether the discharger is required to operate its control system in such a manner as to achieve incidental removal of intake water pollutants, even if to do so would require the discharger to incur more costs than would be required in the absence of intake water pollutants. The modified net/gross provision provides as a general rule that a discharger will get credit for pollutants in its intake water only to the extent necessary to enable the discharger to comply with its effluent limitations. If, however, the discharger would incur significant additional costs above those contemplated in the effluent limitations guidelines, in achieving the incidental removal of intake pollutants (e.g., by incurring additional operating costs) the discharger will qualify for a higher credit to account for intake pollutants.

In calculating best professional judgement (BPJ) effluent limitations, the permit writer must determine what limits can be achieved by installation of the required technology, for example, best available technology economically achievable. In calculating BPJ limits, the permit writer should determine what the selected technology would achieve absent pollutants in the intake water, and adjust those limitations if necessary to account for the effects of intake water pollutants on the performance of the selected technology. Higher credits will be allowed where the discharger can show that it would incur significant additional costs above what would otherwise be required to meet BPJ limits, in the absence of intake pollutants, to

achieve the incidental removal of pollutants in its intake water.

Similarly, if a permittee is adding chemicals to remove pollutants, then "proper" operation of the control system identified pursuant to 122.63(h)(1)(ii) could arguably require the permittee to incur a significant additional expense to treat as much of the pollutants present in the effluent as the installed technology is capable of removing. In these cases, the permittee need only operate the control systems in such a manner as to meet the applicable limitations and standards in the absence of pollutants in the intake water. Thus, for example, when the permittee is adding chemicals to remove chlorine added by the permittee's processes, it would only be required to add that amount of chemicals necessary to treat the chlorine added by the facility if it would require a significant additional expense to add more chemicals to also control those pollutants present in the intake water.

Where a company is adding a particular pollutant only during certain periods of the day it would not be required to treat its effluent continuously for that pollutant, but rather to properly operate its treatment system as necessary to remove the pollutant added by process operations. During such periods the discharger is required to treat for the total quantity of pollutants present in the effluent which the installed technology is capable of removing unless to do so would result in a significant additional expense as discussed above.

EPA also proposes to delete the requirement, in existing § 122.63(h)(1), that net credit be allowed only if the discharge is into the same body of water from which the intake is drawn. Many dischargers use intake water from public water supplies, lakes, or streams other than those into which wastes are discharged. The rationale of EPA's proposed rule hinges upon the inability of the discharger to meet effluent limitations with appropriate treatment because of the presence of pollutants in intake water. Of course, this provision would not allow the violation of water quality standards through use of polluted intake water from a saline well or other source. But these problems would be controlled through limitations based on water quality standards, not through the technology-based standards.

The existing rule prohibits net credit for the discharge of pollutants to the extent that intake water pollutants vary physically, chemically, or biologically from the pollutants limited in the permit. The purpose of this restriction was explained in the preamble to the June 7,

1979 NPDES regulations (44 FR 32866). EPA sought to prevent the discharge of wastes that were more toxic than intake water pollutants, but that were controlled by a limitation that did not measure this difference in toxicity, such as a TSS limit. This same purpose is achieved more flexibly by proposed § 122.63(h)(3). Under this provision, net credit would be allowed for pollutants that are "indicators" for toxic pollutants if the discharger agrees to an appropriate effluent limitation on the toxics, or shows that the effluent is similar in chemical characteristics or not substantially greater in toxicity than intake water pollutants.

EPA anticipates the use of three basic techniques to demonstrate similarity in influent and effluent chemical characteristics or toxicity. One is to analyze influent and effluent for priority pollutants and to demonstrate that the levels of priority pollutants in the effluent are not substantially higher than in the influent. A second method is to show that the operation is inherently incapable of producing toxic pollutants. For example, a gravel washing operation would produce water which could reasonably be expected not to be higher in toxicity than incoming river water. A third method would be to perform toxicity testing (such as bioassays) on influent and effluent, to demonstrate that toxicity levels are not substantially higher in the effluent.

Proposed § 122.63(h)(4) clarifies the availability of "net" credit for raw water clarifier sludge. This is sludge that results from treatment of intake water to make the water useable for process purposes. Under existing § 122.63(2)(i), it is not clear that net credit is available for these sludges, because the rules there provide that effluent limitations "shall be calculated on the basis of the amount of pollutants present after any treatment steps have been performed on the intake water by or for the discharger." But this provision is no longer necessary under the new test described above, because pollutants removed by intake water treatment systems will have no effect upon the effluent treatment systems proposed or used to meet applicable technology-based limitations and standards. To make it clear that the sludges may be discharged, § 122.63(h)(4) allows the discharges of raw water clarifier sludge provided water quality standards are not violated (for example, by massive sludge discharges resulting in high concentrations of pollutants). Of course, the credit does not extend to water treatment chemicals that may be present in the sludge, and these should be considered by permit writers to

determine whether case-by-case limits are necessary.

The net/gross provision does not mandate how a net credit must be determined and applied. EPA continues to recognize the discretion of individual permit writers to adjust permit limits to allow either a fixed net limit or a limit that varies with intake pollutant concentration. Permit writers should apply net limits in such a manner as to allow for straightforward determinations of compliance.

Demonstrations of eligibility for a net limit made in the past under prior regulatory provisions may be accepted in determining eligibility in future permit issuance where such demonstrations meet the requirements of this provision, and where no changes have occurred which would require the adoption of new permit terms or limitations.

In circumstances where a permittee cannot demonstrate the substantial similarity for generic pollutants or otherwise fails to qualify for a net credit, it may, as an alternative, apply for a Fundamentally Different Factors Variance. It should be noted, however, that an FDF demonstration involves a showing that the removal cost is wholly disproportionate to removal costs considered in developing national limits or that a non-water quality environmental impact fundamentally more adverse than the impact considered during the development of the national limit would result.

O. Total Metals (40 CFR 122.63(c))

Under existing § 122.63(c), all limitations on discharges of metals in guidelines-based permits must be expressed in terms of "the total metal (that is, the sum of the dissolved and suspended fractions of the metal)" unless the guideline specifies another technique. Case-by-case permits must also be expressed in terms of total metals unless a limitation on the dissolved or valent form is necessary to carry out the provisions of the CWA. EPA now proposes to amend this regulation to substitute a more flexible requirement.

There are three basic methods for sampling metals in effluents. In "dissolved metals," effluents are carefully filtered before analysis to exclude essentially all solid matter; therefore, only metals that are already dissolved are measured. In "total metals," effluents are treated with hot concentrated acids to dissolve essentially all solid matter; therefore, metals are measured in both dissolved and solid form. "Total recoverable metals" represents an intermediate

method by which effluents are treated with a mild acid to dissolve readily soluble solids, and then filtered to remove relatively insoluble solids from the measurement.

While the chemistry of natural water systems is exceedingly complex, environmental fate studies (see, for example, "Water Related Environmental Fate of 129 Priority Pollutants," (EPA-440/4-79-029a)) indicate that metals in solid form frequently dissolve in receiving waters and that ambient conditions are more important than effluent conditions in determining the ultimate fate of metals. In addition, metals are frequently removed from raw effluents by precipitating the metal hydroxides. These precipitates, while in solid form, are easily soluble given small changes in pH. On the other hand, industry has argued that the "total metals" method inappropriately measures metals that would dissolve slowly, if at all, under instream conditions. The present regulation proposes the use, generally, of "total recoverable metals." EPA believes that the short-term acid treatment is a reasonable way of approximating the metals that will rapidly dissolve in receiving waters. This change will result in reduced analytical costs, since "total recoverable metals" measurements are cheaper than "total metals." The "total metals" or "dissolved metals" techniques would still be employed where required by applicable effluent limitations guideline. In this respect, it is important to note that data required to be measured or which has been measured by the "total recoverable metals" technique can not be used in place of data required to be measured or which has been measured using the "total metals" technique.

P. Actual Production (40 CFR 122.63(b)(2))

Section 122.63(b)(2) requires that production-based permit effluent limitations be based on some "reasonable measure of actual production of the facility, such as the production during the high month of the previous year, or the monthly average for the highest of the previous 5 years." Some industry representatives have questioned whether § 122.63(b)(2) limits "actual production" to one of these two measures discussed in the regulation. The operative requirement of this provision is that the permit be based on a reasonable measure of actual production. The examples given are simply examples, and merely illustrate typical acceptable measures. Other measures of actual production are entirely acceptable if the Director finds

them "reasonable." For example, in a cyclical industry that experiences sustained periods of low production and has sharply fluctuating production levels in any one year, the monthly average for the highest month of the previous ten years may be an acceptable measure of expected actual production.

We are proposing a new § 122.63(b)(2)(ii) to address a problem unique to the automotive manufacturing industry. This industry produces a consumer product for which the design changes yearly, the demand is extremely volatile, and the production quotas may need to be adjusted to meet consumer demand with as little as a week's notice. Industry representatives have claimed that a number of plants have been at depressed production levels, far below design capacity, for a number of years. Thus, the auto industry presents a case in which historic production may fall far short of capacity and in which the Director may not be able to modify the permit to increase effluent limitations with sufficient speed to allow production to meet consumer demand.

If an automotive manufacturing applicant shows that actual production has been substantially below capacity but has a reasonable potential for an increase during the permit term, the proposal requires that EPA permit writers establish higher, alternate limits in the permit. The higher limits apply *only* when the permittee's production increases. To qualify for the higher limits, the permittee must provide advance notice at least two business days before each month in which increased production is expected. The actual, not the anticipated, level of production for that month will determine the applicable effluent limitations. The permittee must report both the level of production and the applicable limits on its Discharge Monitoring Report. For example, consider a hypothetical automotive plant with historic production of only 60% of capacity and, based on that production level, permit limits on pollutant "X" of 2 pounds per day. Its alternative limits might be 2.5 pounds per day for production in the range of 61-80% of capacity and 3 pounds per day for 81-100%. On June 20, the plant notifies the Director that it expects to qualify for the alternate limits for the period July 1-15 (the plant need not specify the level of production it anticipates). If its actual production for that period is in the 61-80% range, it would be subject to the 2.5 pound daily limit during that period.

Because we are unsure how frequently this rather complex system of alternate limits will actually be

necessary, we have authorized, but not required, its use by approved NPDES States. The proposal is limited to the automobile manufacturing industry because only that industry has provided information justifying the need for permit limits to be adjusted in an extremely short time. If other industries have circumstances that require short-time permit limit adjustment, we invite commenters to provide information (such as data on production variability) that would justify more extensive coverage under this regulation.

Q. Disposal of Pollutants into Wells, POTWs, or Land Application (40 CFR 122.65)

These proposed regulations make several important changes to the provisions of the rules (§ 122.65) governing dischargers that do not dispose of all their wastes to waters of the United States. The existing regulations set forth a formula for adjusting technology-based effluent limitations in such cases to reduce the amount discharged so as to ensure the application of the same level of treatment to the remaining wastes as would have been applied to the total waste stream.

EPA now proposes to amend this rule to recognize that land application and well disposal are forms of treatment which prevent wastes from reaching waters of the United States. Accordingly, no adjustment to technology-based effluent limitations is necessary for wastes that are disposed by these methods. However, pollutants discharged into publicly owned treatment works (POTWs) will be discharged into waters of the United States after treatment. Accordingly, to ensure that use of this means of disposal does not result in more discharge of pollutants than would be the case if the discharger applied technology-based requirements to all its wastes, EPA has retained the adjustment formula to cover industries which discharge a portion of their wastes into POTWs.

We are proposing a new provision to allow the Director to adjust the effluent limitations yielded by the formula if those limitations would require a greater degree of effluent reduction (taking into account both reduction of the POTW and reduction at the permittee's facility) than would have been required if the industry had treated and discharged all its wastes directly to the receiving waters. The proposal is limited to technology-based limitations and would not allow adjustment to water quality based limitations.

Another proposed provision deals with the situation in which effluent limitations guidelines control conventional or nonconventional pollutants that are indicators for toxic pollutants. In these cases, disposal to wells or land disposal may enable the discharger to avoid the technology or technologies that the guidelines assumed would be applied. If this would result in the discharge of more toxic pollutants to waters of the United States than would have been the case had the entire waste stream been treated and discharged, proposed § 122.65(b) authorizes the Director to adjust the limitations as necessary to assure adequate control of toxic pollutants.

The revisions to § 122.65 apply specifically to the calculation of effluent limitations using applicable effluent limitation guidelines. Permit writers should also consider well and POTW disposal and land application in calculating BP limits. In particular, EPA recognizes that well and POTW disposal and land application are treatment methods that may be used to meet effluent limitations. Therefore, the costs associated with these treatments should be considered part of the overall treatment costs evaluated in determining the control measures which constitute BAT or BCT for the facility as a whole, and which underlie effluent limits to be applied to the portion of the waste stream which is to be discharged to waters of the United States.

R. Permit Conditions Stayed by State Court or Agency (40 CFR 122.62(d)(3))

Under section 401 of the CWA, before issuing an NPDES permit EPA must obtain a certification from the State in which the discharge originates that the discharge will comply with State legal requirements, including water quality standards. EPA may issue a permit without certification, however, if the State waives certification, or fails to act within a "reasonable period of time (which shall not exceed one year)" after receipt of the request.

Generally, this system has worked well. Occasionally, however, the permit process can become bogged down if a certification is embroiled in State administrative or judicial review proceedings. The purpose of this proposal is to provide a mechanism for breaking the log jam and allowing a permit to be issued, but only after first allowing the State an opportunity to complete review proceedings. If a certification is stayed by a State court or administrative authority, EPA will notify the State that certification will be deemed waived if EPA does not receive a final certification within sixty days

(the time allowed under § 124.53(c)(3) for State certification of draft permits). Thereafter, if EPA does not receive a certification, EPA will be free to proceed with permit issuance proceedings, including any necessary hearings, and to apply State standards under section 301(b)(1)(C) of the Act.

This proposal would not amend § 124.55(b). Under that provision, if the State completes review of a certification after a waiver has occurred under this proposal, EPA will nevertheless incorporate the conditions required under the certification if it is received prior to final Agency action on the permit.

S. Non-Adversary Panel Hearing Procedures (40 CFR Part 124, Subpart F)

In the June 7, 1979, revisions to the NPDES regulations, EPA first adopted non-adversary panel procedures (NAPP) for hearings on initial licenses. As the preamble to those regulations explained (44 FR 32887-32892), these new procedures took advantage of the less restrictive requirements of the Administrative Procedure Act (APA) governing initial licensing. The regulations contain a number of innovative features. For example, permit hearings are conducted by a panel of agency experts sitting with an administrative law judge, not by the law judge alone. The procedures also allow the public comment period and the formal hearing to be collapsed into a single proceeding. Separation-of-functions requirements are less restrictive than those for evidentiary hearings. Although no NAPP hearings have yet been held, some industry representatives have challenged some of the procedures.

EPA continues to believe that these procedures will provide a sensible, expeditious framework for hearings raising technical and scientific issues. To some extent, however, the procedures are necessarily in a developmental phase. Little will be learned about their usefulness if they are thrust upon unwilling and uncooperative permit applicants. Accordingly, we are proposing at this time to amend the rules to provide that the panel hearing procedures will not be used unless the applicant consents.

EPA also proposes to extend to NAPP hearings the provisions of § 124.85(b)(16) pertaining to the scope of cross-examination. The proposed regulations would provide in § 124.121(b) (as required in existing § 124.85(b)(16)) that no cross-examination shall be allowed on questions of policy except to the extent required to disclose the factual basis for permit requirements. This does

not preclude cross-examination on facts which form the basis for EPA policy, if such cross-examination relates to the factual basis for permit requirements. Thus, for example, if it were EPA policy to require a specified frequency of monitoring for dischargers of certain pollutants, and if a permittee challenged such a proposed monitoring requirement in a permit subject to a hearing, the permit applicant would be allowed to cross-examine a witness on the factual basis for the required monitoring frequency or why the policy was applied to the applicant's situation. The witness (or EPA counsel) would not be able to terminate the examination simply by answering that the required frequency was EPA "policy."

EPA also proposes to prohibit persons who helped formulate the draft from serving as members of the panel in a NAAP proceeding. Such persons will be designated as members of EPA trial staff, and excluded from membership on the decisional body as explained below.

T. Revisions to Evidentiary Hearing Procedures (40 CFR Part 124, Subpart E)

EPA proposes to amend the procedures governing evidentiary hearings in two ways. First, the Agency proposes to disallow *ex parte* communications between EPA witnesses, or persons who helped EPA formulate the draft permit, and members of the decisional body by designating such witnesses and persons as members of the EPA trial staff. For the reasons outlined in the preamble to the final Consolidated Permit Regulations, EPA does not believe this step is required by law. See 45 FR 33415 (May 19, 1980). However, it is being taken to avoid any appearance of unfairness.

The second change significantly alters the requirements of §§ 124.13 and 124.76 that all evidence supporting a party's position be submitted by the close of the informal comment period on the permit. Under the revised provision, parties would still be required to raise all reasonably ascertainable issues and all reasonably available arguments during the informal comment period on the permit but would not be required to submit all supporting information. This additional requirement of the existing rules that all factual grounds and supporting material be submitted during the public comment period could be invoked in either of two cases. First, the Regional Administrator could reopen the initial comment period and require all supporting evidence to be submitted at that time only if he believed it would expedite decision-making (proposed § 124.14(a)(1)). Second, section

124.14(a)(3) would authorize the Regional Administrator to require the submission of all evidence during the initial comment period where it reasonably appears that issuance of the permit will be contested and collapsing the comment periods may substantially expedite the decision-making process.

Collapsing the comment periods in this manner may impose greater burdens on permit applicants and participants in the permitting process. Accordingly, the Regional Administrators should exercise this discretion with care. Also, Regional Administrators are encouraged to consult with permit applicants and other known interested persons before exercising their discretion to collapse the comment periods. Such consultation will tend to ensure that the decision is an informed one. EPA anticipates that Regional Administrators will apply these procedures during the initial comment period primarily for major permits, such as for new factories or nuclear power plants, which are likely to be contested and which will involve complex technical issues.

A new § 124.14(a)(4) recognizes that applying the procedures of § 124.14(a)(1) to a permit may require a lengthier than normal comment period.

U. Mistake and Failure of Technology to Meet BPJ Limits as Grounds for Permit Modification (40 CFR 122.15(a)(5))

We are proposing a new § 122.15(a)(5)(xii) to provide for permit modifications to correct technical mistakes or mistaken interpretations of law. Whether the mistake results in overly lenient or overly stringent permit conditions, it makes sense to authorize permit modifications to correct the mistake. An example might be a mathematical mistake made in calculating a water quality-based limit; however, a claim that the model used to calculate the limit was itself invalid would not constitute a "technical mistake." Similarly, the Director would be authorized to modify a permit that was based on a mistaken determination that a new facility built after proposal of applicable new source performance standards was a "new source" under § 122.3 even though final standards were never promulgated in accordance with § 306 of CWA.

We also are proposing a new § 122.15(a)(5)(xiii) to authorize permit modifications in situations in which a facility with a BPJ permit has installed and properly operated and maintained the treatment technology considered by the Director in developing effluent limitations, but nevertheless has been unable to meet its permit limits. Although such situations seldom should

arise, when they do it is unfair to force a discharger who can make the required showing to remain in violation of its permit until a modified renewal permit can be issued under existing § 122.62(1)(2)(i).

This cause for modification would be limited to BPJ permits because a discharger's failure to meet guideline-based permit limits is more appropriately remedied through other means and is generally the result of one of three circumstances. The first is that the discharger has improperly designed, installed, operated or maintained the treatment system, in which case no relief should be granted. The second is that the discharger's facility is fundamentally different from the facilities considered in developing the guideline, in which case the discharger may be eligible for a "fundamentally different factors" variance under Part 125, Subpart D. The third is that the guideline itself is faulty, in which case the discharger should petition EPA to amend the guideline. Because EPA itself has promulgated the guideline on the basis of an extensive rulemaking record it is more appropriate to request the Agency to judge a claim that the guideline is defective than it is to allow an individual permit writer to respond to the request with a change to one individual permit.

V. Anti-backsliding (40 CFR 122.62(l))

Section 122.62(l) reflects EPA's "anti-backsliding policy" which prohibits the renewal or reissuance of an NPDES permit containing effluent limitations less stringent than those imposed in the previous permit, except in limited circumstances recognized under the existing regulations at § 122.62(l). EPA is today proposing to additionally eliminate this anti-backsliding policy in situations where (1) The previous permit limitations were imposed on a case-by-case basis under section 402(a)(1) of the CWA in the absence of final effluent limitations guidelines, and (2) final effluent limitations guidelines are subsequently promulgated which are less stringent. In this case, upon the request of the permittee, the Regional Administrator must revise the permit limitations to reflect the limitations established by the less stringent effluent limitations guideline for those parameters directly covered by the guideline. He may also revise other parameters limited in the permit when the permittee shows they are no longer "appropriate," for example, when they will be adequately controlled through limitations on the parameters specified in the guideline. EPA also is proposing to apply the new policy to existing

permits during their terms by adding a new cause for permit modification, § 122.15(a)(5)(xi). NPDES States are free to adopt this new policy, but may of course impose more stringent limitations.

EPA is abandoning its "anti-backsliding" requirement in this circumstance for several reasons. EPA believes that in the application of nationally promulgated effluent limitations guidelines permittees should be given equal treatment, so that companies who have made good faith efforts to comply with previously imposed permit limitations will not be penalized nor placed at a disadvantage with respect to companies operating under subsequently issued, less stringent limitations.

In addition, EPA is now involved in its "second round" of NPDES permitting under the Clean Water Act (CWA). A large number of NPDES permits have expired and must be re-issued. As with the first round of issuance, it is expected that some of these permits will be issued on a case-by-case basis under the authority of section 402(a)(1) because of the absence of nationally promulgated effluent limitations guidelines. If the anti-backsliding rule remains in effect it is likely that many permittees will challenge any permit limitation issued in the absence of guidelines. Thus, the proposed changes would help to avoid widespread challenges to second round permits, a situation which could force the Agency to divert resources from permit issuance proceedings to evidentiary hearings and further legal challenges.

Industry also raised concerns with interpretation of the "information" exception to the anti-backsliding policy in the context of water quality based limitations. For purposes of implementing the anti-backsliding provision in § 122.62(l) for a reissued permit, where limitations in the expiring permit were based on water quality standards, "information" under § 122.15(a)(2) may include alternative grounds (including necessary methodology, mathematical parameters, and other assumptions) for translating water quality standards into water quality based limitations.

W. Modification of NPDES Permits (40 CFR 122.15, 122.17)

The changes in today's proposal do not affect or modify existing permits. Permittees must comply with the terms of their permits, even if those terms differ from the requirements in the regulations. See CWA, § 402(h). However, in order to prevent

unnecessary administrative hearings and litigation during rulemaking proceedings on these proposals, EPA has agreed to propose a new § 122.15(a)(5)(xiv) allowing NPDES permits that became final after March 9, 1982, to be modified to conform to any final rule adopted under the Settlement Agreement for §§ 122.60(g)(2)(ii) (bypass), 122.63(b) (actual production), 122.63(c) (total metals), 122.65 (discharge into POTWs, wells, or by land disposal). A permittee would be required to demonstrate that it qualifies for the modification and that good cause exists to modify the permit. The good cause requirement calls for the permittee to show something more than that it qualifies for the modification since such a showing must be made in any modification request. For example, the permittee might show good cause by demonstrating that the modification would result in cost savings, reduce energy consumption, allow the use of simpler or more reliable control technologies, or otherwise significantly alleviate the burdens imposed by its current permit terms and conditions, including permit limits.

We are also proposing to add a new § 122.17(g) to allow modifications for the following provisions to be processed as minor permit modifications: §§ 122.7(e) (proper operation and maintenance), 122.7(l) (planned facility change), 122.60(g)(2)(i) (bypass), 122.60(g)(4)(i)(B) (bypass), 122.60(h) (upset), and 122.61(a) (toxic notification). Changes to a permit to reflect these new provisions could thus occur through the more streamlined minor modification procedure, which does not entail public notice and comment.

Changes proposed today relating to other provision would not allow modification of the terms or conditions of existing permits. The cut-off date is proposed so as to prevent unnecessary modifications that could place an unreasonable strain on Agency or State resources.

III. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirement of a Regulatory Impact Analysis. These amendments clarify the meaning of several generic permit requirements and generally make the regulations more flexible and less burdensome for affected permittees. They do not satisfy any of the criteria specified in section 1(b) of the Executive Order and, as such, do not constitute major rulemakings.

This regulation was submitted to the Office of Management and Budget for review.

IV. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, EPA must submit to the Director of OMB for review and approval, new or revised requirements for collection of information. To a large extent the amendments proposed today decrease or eliminate requirements for the collection of information. Any final rule will include an explanation of how the information provisions respond to OMB comments.

V. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to prepare a Regulatory Flexibility Analysis to assess the impact of rules on small entities. No regulatory flexibility analysis is required, however where the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Today's proposed amendments to the regulations clarify the meaning of several generic permit requirements and otherwise make the regulations more flexible and less burdensome for all permittees. Accordingly, I hereby certify, pursuant to 5 U.S.C. 605(b) that these proposed amendments, if issued in final form will not have a significant impact on a substantial number of small entities.

List of Subjects

40 CFR Part 122

Administrative practice and procedures, Air pollution control, Hazardous materials, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Confidential business information.

40 CFR Part 124

Administrative practice and procedure, Air pollution control, Hazardous materials, Waste treatment and disposal, Water pollution control, Water supply, Indians—lands.

40 CFR Part 125

Water pollution control, Waste treatment and disposal.

(Clean Water Act, 33 U.S.C. 1251 *et seq.*)

Dated: November 8, 1982.

Anne M. Gorsuch,
Administrator.

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM; THE HAZARDOUS WASTE PERMIT PROGRAM; AND THE UNDERGROUND INJECTION CONTROL PROGRAM

Subpart A—Definitions and General Program Requirements

1. Section 122.4 is proposed to be amended by revising paragraph (d)(7) to read as follows:

§ 122.4 Application for a permit.

* * * * *

(d) * * *

(7) A topographic map (or other map if a topographic map is unavailable) extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area. Group II storm water discharges, as defined in § 122.57(b)(3), are exempt from the requirements of this paragraph (d)(7).

* * * * *

2. Section 122.6 is proposed to be amended by revising the introductory text of paragraph (b) and revising paragraph (b)(2) to read as follows:

§ 122.6 Signatories to permit applications and reports.

* * * * *

(b) All reports required by permits, other information requested by the Director, all permit applications submitted for Class II wells under § 122.38 for the UIC program, and all permit applications submitted for Group II storm water discharges under section 122.57 for the NPDES program shall be signed by a person described in paragraph (a), or by a duly authorized representative of that person. A person is a duly authorized representative only if:

* * * * *

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent

responsibility; or, for NPDES only, an individual or position having overall responsibility for environmental matters for the company.

3. Section 122.7 is proposed to be amended by revising paragraph (e) and paragraph (l)(1) to read as follows:

§ 122.7 Conditions applicable to all permits.

(e) *Proper operation and maintenance.* The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also include adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

(l) *Reporting requirements.* (1) *Planned changes.* The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. For NPDES permittees, notice is required only when the alteration or addition could significantly change the nature or increase the quantity of pollutants discharged which are subject neither to effluent limitations in the permit, nor to notification requirements under § 122.61(a)(1).

4. Section 122.10 is proposed to be amended by revising paragraph (a)(2) to read as follows:

§ 122.10 Schedules of compliance.

(a) ***
(2) The first NPDES permit issued to a new source or a new discharger shall contain a schedule of compliance only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised after commencement of construction but less than three years before commencement of the relevant discharge. For recommending dischargers, a schedule of compliance shall be available only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised less than three years before recommencement of discharge.

5. Section 122.12 is proposed to be amended by revising paragraph (g) as follows:

§ 122.12 Considerations under Federal law.

(g) *For NPDES only,* the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*, may require preparation of an Environmental Impact Statement and consideration of EIS-related permit conditions (other than effluent limitations) as provided in § 122.66(c).

6. Section 122.15 is proposed to be amended by removing paragraph (a)(5)(ix), redesignating paragraphs (a)(5)(x) and (a)(5)(xi) as (a)(5)(ix) and (a)(5)(x) respectively and adding new paragraphs (a)(5)(xi), (xii), (xiii), and (xiv) as follows:

§ 122.15 Modification or revocation and reissuance of permits.

(a) ***
(5) ***
(xi) When the permittee's effluent limitations were imposed under section 402(a)(1) of the CWA and these limitations are more stringent than an applicable, subsequently promulgated effluent limitations guideline. Upon the permittee's request, the State Director may, and the Regional Administrator shall, modify the permit (A) by conforming the permit to the subsequently promulgated guidelines for pollutants directly limited by those guidelines, and (B) by deleting or adjusting permit limitations for pollutants not directly limited by the guidelines upon a showing by the permittee that such limitations are not appropriate. Nothing in paragraph (a)(5)(xi) of this section shall limit the availability of a fundamentally different factors variance under § 125.30.

(xii) To correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit conditions.

(xiii) When the discharger has installed the treatment technology considered by the permit writer in setting effluent limitations imposed under section 402(a)(1) of the CWA and has properly operated and maintained the facilities but nevertheless has been unable to achieve those effluents limitations. If there is a subsequently promulgated, applicable effluent limitations guideline, see paragraph (a)(5)(xi) of this section to determine the modified limitations.

(xiv) When the permit becomes final and effective on or after March 9, 1982, and the permittee applies for the modification no later than 90 days after the effective date of final regulations

issued under the Settlement Agreement dated June 7, 1982 in connection with *Natural Resources Defense Council v. EPA*, No. 80-1607 and consolidated cases, if the permittee shows good cause in its request and that it qualifies for the modification, to conform to changes respecting the following regulations issued under that Settlement Agreement:

- 40 CFR 122.60(g)(2)(ii)
- 40 CFR 122.63(b)
- 40 CFR 122.63(c)
- 40 CFR 122.65.

7. Section 122.17 is proposed to be amended by adding a new paragraph (g)(3) to read as follows:

§ 122.17 Minor modifications of permits.

(g) ***
(3) When the permit becomes final and effective on or after March 9, 1982, to conform to changes respecting §§ 122.7(e), 122.7(1), 122.60(g)(2)(i), 122.60(g)(4)(i)(B), 122.60(h) and 122.61(a) issued under the Settlement Agreement dated June 7, 1982 in connection with *Natural Resources Defense Council v. EPA*, No. 80-1607 and consolidated cases.

Subpart D—Additional Requirements for National Pollutant Discharge Elimination System Programs Under the Clean Water Act

8. Section 122.53 is proposed to be amended by designating the existing paragraph (b) as (b)(1) and adding a new paragraph (b)(2); by revising the introductory text of paragraph (d)(7), revising paragraphs (d)(7)(i)(B), (d)(7)(iii), and (d)(9); by removing paragraph (d)(10); by redesignating paragraphs (d)(11) through (d)(13) as (d)(10) through (d)(12); and by revising paragraph (h)(4) to read as follows:

§ 122.53 Application for a permit.

(b) ***
(2) Any existing storm water discharger under § 122.57 which does not have an effective permit shall submit an application by (6 months after publication of this regulatory revision in the Federal Register). Any discharger designated under § 122.57(c) shall submit an application within 6 months of notification of its designation.

(d) ***
(7) *Effluent characteristics.* Information on the discharge of pollutants specified in this subparagraph. When "quantitative

data" for a pollutant is required, the applicant must collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods approved under 40 CFR Part 136. When no analytical method is approved the applicant may use any suitable method but must provide a description of the method. When an applicant has two or more outfalls with substantially identical effluents, the Director may allow the applicant to test only one outfall and report that the quantitative data also applies to the substantially identical outfalls. The requirements in paragraphs (d)(7) (iii) and (iv) of this section that an applicant must provide quantitative data for certain pollutants known or believed to be present does not apply to pollutants present in a discharge solely as the result of their presence in intake water; however, an applicant must report such pollutants as present. Grab samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, and fecal coliform. For all other pollutants, 24-hour composite samples must be used. However, a minimum of one grab sample may be taken for effluents from holding ponds or other impoundments with a retention period greater than 24 hours, and a minimum of one to four (4) grab samples may be taken for storm water discharges depending on the duration of the discharge. One grab shall be taken in the first hour (or less) of discharge with one additional grab taken in each succeeding hour of discharge up to a minimum of four grabs for discharges lasting four or more hours. In addition, the Director may waive composite sampling for any outfall for which the applicant demonstrates that the use of an automatic sampler is infeasible and that the minimum of four (4) grab samples will be a representative sample of the effluent being discharged. An applicant is expected to "know or have reason to believe" that a pollutant is present in an effluent based on an evaluation of the expected use, production, or storage of the pollutant, or on any previous analyses for the pollutant. (For example, any pesticide manufactured by a facility may be expected to be present in contaminated storm water runoff from the facility.)

(i) * * *

(B) The Director may waive the reporting requirements for individual point sources or for a particular industry category for one or more of the pollutants listed in paragraph (d)(7)(i)(A) of this section if the applicant has demonstrated that such a waiver is appropriate because information

adequate to support issuance of a permit can be obtained with less stringent requirements.

* * *

(iii)(A) Each applicant must indicate whether it knows or has reason to believe that any of the pollutants in Table IV of Appendix D (certain conventional and nonconventional pollutants) is discharged from each outfall. If an applicable effluent limitations guideline either directly limits the pollutant or, by its express terms, indirectly limits the pollutant through limitations on an indicator, the applicant must report quantitative data. For every pollutant discharged which is not so limited in an effluent limitations guideline, the applicant must either report quantitative data or briefly describe the reasons the pollutant is expected to be discharged.

(B) Each applicant must indicate whether it knows or has reason to believe that any of the pollutants listed in Table II or Table III of Appendix D (the toxic pollutants and total phenols) for which quantitative data are not otherwise required under paragraph (d)(7)(ii) of this section, is discharged from each outfall. For every pollutant expected to be discharged on a routine or frequent basis in concentrations of 100 ppb or greater the applicant must report quantitative data. For acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4,6 dinitrophenol, where these four pollutants are expected to be discharged on a routine or frequent basis in concentrations of 500 ppb or greater the applicant must report quantitative data. For every pollutant expected to be discharged in concentrations less than 100 ppb, or in the case of acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4,6 dinitrophenol, in concentrations less than 500 ppb the applicant must either submit quantitative data or briefly describe the reasons the pollutant is expected to be discharged. An applicant qualifying as a small business under paragraph (d)(8) of this section is not required to analyze for pollutants listed in Table II of Appendix D (the organic toxic pollutants).

* * *

(9) *Storm water discharge exemption.*

(i) An applicant that qualifies as a Group I storm water discharger under § 122.57(b)(2) is exempt from the requirement in paragraph (d)(7)(iii) of this section that it report quantitative data for those pollutants listed in Tables II, III, or IV that it knows or has reason to believe are discharged from the outfall. However, the applicant must indicate whether it knows or has reason

to believe that any of those pollutants are present. For every pollutant expected to be discharged, the applicant must briefly describe the reasons the pollutant is expected to be discharged.

(ii) An applicant that qualifies as a Group II storm water discharger under § 122.57(b)(3) is exempt from the requirements of paragraphs (d)(2), (d)(5), (d)(6), (d)(7), (d)(10), and (d)(11) of this section.

(iii) For the purpose of paragraph (d)(3) of this section, both Group I and Group II storm water dischargers may estimate the average flow of their discharge and must indicate the rainfall event this estimate is based on.

(iv) The Director may require additional information under paragraph (d)(12) of this section.

* * *

(h) * * *

(4) Any interested person may challenge the Regional Administrator's initial new source determination by requesting an evidentiary hearing under Subpart E of Part 124 within 30 days of issuance of the public notice of the initial determination. If all parties to the evidentiary hearing on the determination agree, the Regional Administrator may defer the hearing until after a final permit decision is made, and consolidate the hearing on the determination with any hearing on the permit.

* * *

9. Section 122.57 is proposed to be revised to read as follows:

§ 122.57 Storm Water Discharges.

(Applicable to State NPDES programs, see § 123.7)

(a) *Permit requirement.* Storm water discharges, as defined in this section, are point sources subject to the NPDES permit program. The Director may issue an NPDES permit or permits for discharges into waters of the United States from a storm water discharge covering all conveyances which are a part of that storm water discharge. Where there is more than one owner or operator of a single system of such conveyances, any or all discharges into the storm water discharge system may be identified in the application submitted by the owner or operator of the portion of the system that discharges directly into waters of the United States. Any such application shall include all information regarding dischargers into the system that would be required if the dischargers submitted separate applications. Dischargers so identified shall not require a separate permit unless the Director specifies otherwise. Any permit covering more than one

owner or operator shall identify the effluent limitations, if any, which apply to each owner or operator. Where there is more than one owner or operator, no discharger into a storm water discharge may be subject to a permit condition for discharges into the storm water discharge other than its own discharges into that system without its consent. (See § 122.53(b)(2) for application deadlines for existing storm water discharges.)

(b) *Definitions.* (1) "Storm water discharge" means a conveyance or system of conveyances (include pipes, conduits, ditches, and channels) primarily used for collecting and conveying storm water runoff and which

(i) Discharges storm water runoff contaminated by contact with process wastes, raw materials, toxic pollutants, hazardous pollutants listed in Table V of Appendix D, or oil and grease; or

(ii) Is designated under paragraph (c) of this section.

"Storm water discharge" excludes conveyances which discharge storm water runoff combined with municipal sewage.

(2) "Group I storm water discharge" means any 'storm water discharge' which is

(i) Subject to effluent limitations guidelines or toxic pollutant effluent standards;

(ii) Designated under paragraph (c) of this section; or

(iii) Located at an industrial plant or in plant associated areas, if there is a potential for significant discharge of storm water contaminated by contact with process wastes, raw materials, toxic pollutants, or hazardous pollutants listed in Table V of Appendix D. "Plant associated areas" means industrial plant yards, immediate access roads, drainage ponds, refuse piles, storage piles or areas, and material or products loading and unloading areas. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots. (See § 122.53(d)(9)(i) for exemptions from certain application requirements.)

(3) "Group II storm water discharge" means any "storm water discharge" not included in paragraph (b)(2) of this section. (See § 122.4(d)(7) and § 122.53(d)(9)(ii) for exemptions from certain application requirements.)

(4) A conveyance or system of conveyances operated primarily for the purpose of collecting and conveying storm water runoff which does not constitute a "storm water discharge" under paragraph (b)(1) of this section is not considered a point source subject to the requirements of CWA.

(5) Whether a system of conveyances is or is not a storm water discharge for purposes of this section shall have no bearing on whether the system is eligible for funding under Title II of CWA. See 40 CFR § 35.925-21.

(c) *Case-by-case designation of storm water discharges.* The Director may designate a conveyance or system of conveyances primarily used for collecting and conveying storm water runoff as a storm water discharge. This designation may be made when:

(1) A Water Quality Management plan under section 208 of CWA which contains requirements applicable to such point sources is approved; or

(2) The Director determines that a storm water discharge is a significant contributor of pollution to the waters of the United States. In making this determination the Director shall consider the following factors:

(i) The location of the discharge with respect to waters of the United States;

(ii) The size of the discharge;

(iii) The quantity and nature of the pollutants reaching waters of the United States; and

(iv) Other relevant factors.

10. Section 122.59 is proposed to be amended by revising paragraph (a)(2) to read as follows:

§ 122.59 General permits.

* * * * *

(a) * * *

(2) *Sources.* The general permit may be written to regulate, within the area described in paragraph (a)(1) of this section, either:

(i) Storm water discharges; or

(ii) A category of point sources other than storm water discharges if the sources all:

(A) Involve the same or substantially similar types of operations;

(B) Discharge the same types of wastes;

(C) Require the same effluent limitations or operating conditions;

(D) Require the same or similar monitoring; and

(E) In the opinion of the Director, are more appropriately controlled under a general permit than under individual permits.

* * * * *

11. Section 122.60 is proposed to be amended by revising paragraphs (g)(2), (g)(4)(i)(B), (h)(1), (h)(2), and (h)(3)(i); by redesignating paragraph (h)(4) as (h)(5) and by adding a new paragraph (h)(4) to read as follows:

§ 122.60 Additional conditions applicable to all NPDES permits.

* * * * *

(g) * * *

(2)(i) The permittee may allow any bypass to occur if combined discharges from the outfall being bypassed and from any bypass discharge points do not exceed effluent limitations, on the following conditions:

(A) Except for discharges of produced water from offshore oil and gas exploration and production facilities, all such discharge points shall be monitored during reporting periods affected by by-passes, and all results shall be reported to the Director in the Discharge Monitoring Report. The permit shall include such additional monitoring requirements as the Director finds necessary to assure that effluent limitations are not exceeded.

(B) For discharges of produced water from offshore oil and gas exploration and production facilities, the Director, upon demonstration by the permittee that effluent limitations will not be exceeded during certain bypass conditions, may allow such bypasses to occur without monitoring.

(i) These bypasses are not subject to the provisions of paragraph (g)(3) and (g)(4) of this section.

* * * * *

(4) * * *

(i) * * *

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

* * * * *

(h) *Upset—(1) Definition.* "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(2) *Effect of an upset.* An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of paragraph (h)(3) of this section are met. No determination made during administrative review of claims that

noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(3) ***

(i) An upset occurred and that the permittee can identify the cause(s) of the upset;

* * * * *

(4) *Upsets where limitations are based on water quality.* In addition to the demonstration required under paragraph (h)(3) of this section, a permittee who wishes to establish the affirmative defense of upset for a violation of effluent limitations based upon water quality standards shall also demonstrate that the standards were achieved in all stream segments, and for all pollutants or parameters, which could have been affected by the noncomplying discharge.

* * * * *

12. Section 122.61 is proposed to be amended by revising the introductory text of paragraph (a)(1), (a)(1)(iii), and (a)(2) to read as follows:

§ 122.61 Additional conditions applicable to specified categories of NPDES permits.

(a) ***

(1) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels:"

* * * * *

(iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with § 122.53(d)(7); or

* * * * *

(2) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following notification levels:

(i) Five hundred micrograms per liter (500 ug/l);

(ii) One milligram per liter (1 mg/l) for antimony;

(iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with § 122.53(d)(7);

(iv) The level established by the Director in accordance with § 122.62(f).

* * * * *

13. Section 122.62 is proposed to be amended by revising paragraphs (d)(3), (d)(9) and (l)(1) to read as follows; by removing paragraph (e)(1)(ii); and by redesignating paragraph (e)(1)(i) as paragraph (e)(1):

§ 122.62 Establishing NPDES permit conditions.

* * * * *

(d) ***

(3) Conform to the conditions of a State certification under section 401 of the CWA which meets the requirements of § 124.53 when EPA is the permitting authority. If a State certification is stayed by a court of competent jurisdiction or an appropriate State board or agency, EPA shall notify the State that the Agency will deem certification waived unless a finally effective State certification is received within sixty days from the date of the notice. If the State does not forward a finally effective certification within the sixty day period, EPA shall include conditions in the permit which may be necessary to meet EPA's obligation under section 301(b)(1)(C) of the CWA;

* * * * *

(9) Incorporate any other appropriate requirements, conditions, or limitations (other than effluent limitations) into a new source permit to the extent allowed by National Environmental Policy Act, 42 U.S.C. §§ 4321 *et seq.* and section 511 of the CWA, when EPA is the permit issuing authority (See § 122.66(c)).

* * * * *

(l) *Reissued permits:* (1) When a permit is renewed or reissued, limitations, standards, or conditions which are at least as stringent as the final limitations, standards, or conditions in the previous permit (unless there exists cause for permit modification under § 122.15(a)).

* * * * *

14. Section 122.63 is proposed to be amended by revising paragraphs (b)(2), (c), (g), and (h) to read as follows:

§ 122.63 Calculating NPDES permit conditions.

* * * * *

(b) ***

(2)(i) Except in the case of POTWs or as provided in subparagraph (ii) of this paragraph, calculation of any permit limitations, standards, or prohibitions which are based on production (or other measure of operation) shall be based not upon the designed production capacity but rather upon a reasonable measure of actual production of the facility, such as the production during the high month of the previous year, or the monthly average for the highest of the previous 5 years. For new sources or new dischargers, actual production shall be estimated using projected production. The time period of the measure of production shall correspond to the time period of the calculated permit limitations; for example, monthly

production shall be used to calculate average monthly discharge limitations.

(ii) *(Applicable to the automotive manufacturing industry)* If the applicant satisfactorily demonstrates to the Director at the time the application is submitted that its actual production, as indicated in (b)(2)(i) of this section, is substantially below maximum production capability and that there is a reasonable potential for an increase above actual production during the duration of the permit, the State Director may and the Regional Administrator shall include a condition establishing alternate permit limitations, standards, or prohibitions based upon the increased production levels anticipated (not to exceed maximum production capability). The condition shall authorize discharges in compliance with the higher alternate limitations, standards, or prohibitions upon written notice to the Director at least two business days before the month in which increased production is anticipated. The notice shall state that the permittee anticipates qualifying for alternate limits for a period not to exceed thirty days. If increased production is anticipated to continue beyond the period identified in the notice, a new notice shall be submitted at least two business days prior to the commencement of the new period. The permittee shall comply with the limitations, standards, or prohibitions that reflect the level of actual production for that period not to exceed the maximum level. The permittee shall submit with the DMR for that period the level of production that actually occurred and the limitations, standards, or prohibitions applicable to that level of production.

(c) *Metals.* All permit effluent limitations, standards, or prohibitions for a metal shall be expressed in terms of "total recoverable metal" as defined in 40 CFR Part 136 unless:

(1) An applicable effluent standard or limitation has been promulgated under the CWA and specifies the limitation for the metal in the dissolved or valent or total form; or

(2) In establishing permit limitations on a case-by-case basis under § 125.3, it is necessary to express the limitation on the metal in the dissolved or valent or total form to carry out the provisions of the CWA; or

(3) All approved analytical methods for the metal inherently measure only its dissolved form (e.g., hexavalent chromium).

* * * * *

(g) *Pollutants in intake water.* Except as provided in paragraph (h) of this

section technology-based effluent limitations in permits shall not be adjusted for pollutants in the intake water. This paragraph (g) and paragraph (h) do not preclude taking into account, as appropriate, the presence of pollutants in intake water in implementing water quality standards.

(h) *Net Limitations:* (1) Upon request of the discharger, technology-based effluent limitations or standards imposed in a permit shall be calculated on a "net" basis; that is, adjusted to reflect credit for pollutants in the discharger's intake water, if:

(i) The applicable effluent limitations and standards contained in 40 CFR Subchapter N specifically provide that they shall be applied on a net basis; or

(ii) The discharger demonstrates that the control system it proposes or uses to meet applicable technology-based limitations and standards would, if properly installed and operated, meet the limitations and standards in the absence of pollutants in the intake water.

(2) A permit containing effluent limitations or standards imposed on a net basis must require that:

(i) The permittee conduct additional monitoring (for example, for flow and concentration of pollutants) as necessary to determine continued eligibility for and compliance with any such adjustments; and

(ii) The permittee notify the Director if eligibility for an adjustment under this section has been altered or no longer exists. In that case, the permit may be modified accordingly under § 122.15.

(3) Permit effluent limitations or standards adjusted under this subsection shall be calculated on the basis of the amount of pollutants present in the intake water, only to the extent the discharger demonstrates is necessary to meet the applicable limitations and standards after applying the control system identified pursuant to § 122.63(h)(1)(ii) except to the extent that the applicant can show that the costs of control are significantly greater than the costs reflected in applicable effluent limitations guidelines, as a result of the presence of intake pollutants. Where the Director concludes that limitations on generic measures of pollution, such as Oil and Grease, Total Suspended Solids, Biochemical Oxygen Demand, or Total Organic Carbon are necessary to control toxic or non-conventional pollutants not otherwise limited in the permit, effluent limitations or standards for such generic measures of pollution may be adjusted only if:

(i) The permittee agrees to the inclusion of specific effluent limitations

on those nonconventional or toxic pollutants; or

(ii) The permittee shows that the effluent is not substantially greater in toxicity than the intake water; or

(iii) The permittee shows that the constituents of the generic measure in the effluent are substantially similar in chemical characteristics to the same constituents of the generic measure in the intake water, in which case the limitations may be adjusted to the extent such similarity is demonstrated. The showing of substantial similarity required under § 122.63(h)(3) may be made by showing similarity in the levels of priority toxic pollutants in the intake water and effluent, performing an aquatic toxicity test on the intake water and effluent, or in appropriate cases, by demonstrating that the nature of the facility, its processes, or other circumstances make clear that the intake water and effluent are similar.

(4) Discharges of raw water clarifier sludge and filter backwash are discharges subject to NPDES permits and thus are eligible for a net limit in accordance with the procedures outlined in this provision. In showing eligibility for a net limitation the permittee need not make the demonstration required by paragraph (h)(1)(ii) of this section as to the use of control technology to meet the applicable effluent limitations. However, in calculating a net limit, the permit writer shall provide that the discharge does not result in the violation of applicable water quality standards. The permit writer should consider in setting effluent limitations those chemicals, if any, added to the discharge. Net limits for discharges of raw water clarifier sludge or filter backwash shall be available for those discharges at the outfall at which the discharge actually occurs, whether this is through a separate outfall or in combination with other discharges.

15. Section 122.65 is proposed to be amended by revising the introductory text of paragraph (a) and paragraph (a)(2), redesignating paragraphs (b) and (c) as (c) and (d), adding a new paragraph (b), and by revising the introductory text of newly redesignated paragraph (c) to read as follows:

§ 122.65 Disposal of pollutants into wells, into publicly owned treatment works or by land application.

(Applicable to State NPDES program, see § 123.7.)

(a) *Disposal into POTWs.* When part of a discharger's process wastewater is not being discharged into waters of the United States or contiguous zone because it is disposed into a POTW,

thereby reducing the flow or level of pollutants being discharged into waters of the United States, applicable effluent standards and limitations for the discharge in an NPDES permit shall be adjusted to reflect the reduced raw waste resulting from such disposal. Effluent limitations and standards in the permit shall be calculated by one of the following methods:

(2) In all cases other than those described in paragraph (a)(1) of this section, effluent limitations shall be adjusted by multiplying the effluent limitation derived by applying effluent limitation guidelines to the total waste stream by the amount of wastewater flow to be treated and discharged into waters of the United States, and dividing the result by the total wastewater flow. Effluent limitations and standards so calculated shall be further adjusted by the Director if application of this paragraph would require a greater degree of effluent reduction (taking into account both reduction at the POTW and reduction at the permittee's facility) than would have been required by the effluent limitations guideline if the permittee had discharged all wastewater directly.

This method may be algebraically expressed as:

$$P = ExN/T$$

where P is the permit effluent limitation, E is the limitation derived by applying effluent guidelines to the total wastestream, N is the wastewater flow to be treated and discharged to waters of the United States, and T is the total wastewater flow.

(b) *Disposal into wells or by land application.* If all the wastes from a particular process are discharged into wells or to land application, and effluent limitations guidelines provide separate allocation for wastes from that process, all allocations for the process shall be eliminated from calculation of permit effluent limitations or standards. If a portion of the wastes from the process is discharged to wells or to land application, the discharger shall receive the full amount of allocation authorized under the applicable effluent limitations guidelines unless:

(1) The allocation is for a pollutant which is an indicator for a toxic pollutant; and

(2) The levels of toxic pollutants which will be discharged are higher than they would be if the guidelines were applied to the entire waste stream. In such cases, the Director shall adjust the effluent limitations as necessary to ensure the degree of control of toxic

pollutants contemplated by the applicable effluent limitations guidelines.

(c) Paragraphs (a) and (b) of this section shall not apply to the extent that promulgated effluent limitations guidelines:

16. Section 122.66 is proposed to be amended by revising paragraphs (c)(3) and (c)(4), and removing (c)(5) to read as follows:

§ 122.66 New sources and new dischargers.

(3) The Regional Administrator, to the extent allowed by law, shall issue, condition (other than imposing effluent limitations), or deny the new source NPDES permit following a complete evaluation of any significant beneficial and adverse impacts of the proposed action and a review of the recommendations contained in the EIS or finding or no significant impact.

(4) An applicant for a new source permit for which an EIS may be required under NEPA should submit the application sufficiently early to allow for completion of NEPA review prior to commencement of construction. If the applicant commences construction prior to completion of NEPA review, EPA will not consider, in balancing costs and benefits, any costs which might be incurred by the applicant in restoring the site or in altering construction plans.

Appendix D to Part 122—NPDES Permit Application Testing Requirements (§122.53) [Amended]

17. Appendix D of Part 122 is proposed to be amended by retitling Table III to read as follows:

Table III: Other Toxic Pollutants (Metals and Cyanide) and Total Phenols

PART 124—PROCEDURES FOR DECISIONMAKING

Subpart A—General Program Requirements

18. Section 124.13 is proposed to be revised to read as follows:

§ 124.13 Obligation to raise issues and provide information during the public comment period.

All persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Director's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their

position by the close of the public comment period (including any public hearing) under § 124.10. Any supporting materials which are submitted shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of State or Federal statutes and regulations, EPA documents of general applicability, or other generally available reference materials. Commenters shall make supporting material not already included in the administrative record available to EPA as directed by the Regional Administrator. (A comment period longer than 30 days may be necessary to give commenters a reasonable opportunity to comply with the requirements of this section. Additional time shall be granted under § 124.10 to the extent that a commenter who requests additional time demonstrates the need for such time.)

19. Section 124.14 is proposed to be amended by redesignating paragraphs (a) through (d) as (b) through (e) and by adding a new paragraph (a) to read as follows:

§ 124.14 Reopening of the public comment period.

(a)(1) The Regional Administrator may order the public comment period reopened if the procedures of this paragraph could expedite the decision-making process. When the public comment period is reopened under this paragraph, all persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Regional Administrator's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must submit all reasonably available factual grounds supporting their position, including all supporting material, by a date, not less than sixty days after public notice under paragraph (a)(2) of this section, set by the Regional Administrator. Thereafter, any person may file a written response to the material filed by any other person, by a date, not less than twenty days after the date set for filing of the material, set by the Regional Administrator.

(2) Public notice of any comment period under this paragraph shall identify the issues as to which the requirements of § 124.14(a) shall apply.

(3) On his own motion or on the request of any person, the Regional Administrator may direct that the requirements of paragraph (a)(1) of this section shall apply during the initial comment period where it reasonably appears that issuance of the permit will

be contested and that applying the paragraph (a)(1) of this section requirements will substantially expedite the decision-making process. The notice of the draft permit shall state whenever this has been done.

(4) A comment period of longer than 60 days will often be necessary in complicated proceedings to give commenters a reasonable opportunity to comply with the requirements of this section. Commenters may request longer comment periods and they shall be granted under § 124.10 to the extent they appear necessary.

Subpart D—Specific Procedures Applicable to NPDES Permits

20. Section 124.56 is proposed to be amended by adding a new paragraph (b)(1)(iv) to read as follows:

§ 124.56 Fact sheets.

(b) *

(1) *

(iv) Limitations set on a case-by-case basis under § 125.3(c)(2) or (c)(3).

Subpart E—Evidentiary Hearing for EPA-Issued NPDES Permits and EPA-Terminated RCRA Permits

21. Section 124.76 is proposed to be revised to read as follows:

§ 124.76 Obligation to submit evidence and raise issues before a final permit is issued.

In any case where the Regional Administrator elected to apply the requirements of § 124.14(a), no evidence shall be submitted by any party to a hearing under this Subpart that was not submitted to the administrative record required by § 124.18 as part of the preparation of and comment on a draft permit, unless good cause is shown for the failure to submit it. No issues shall be raised by any party that were not submitted to the administrative record required by § 124.18 as Part of the preparation of and comment on a draft permit unless good cause is shown for the failure to submit them. Good cause includes the case where the party seeking to raise the new issues or introduce new information shows that it could not reasonably have ascertained the issues or made the information available within the time required by § 124.15; or that it could not have reasonably anticipated the relevance or materiality of the information sought to be introduced. Good cause exists for the introduction of data available on

operation authorized under § 124.60(a)(2).

22. Section 124.78 is proposed to be amended by revising paragraph (a)(1) to read as follows:

§ 124.78 Ex parte communications.

(a) * * *

(1) "Agency trial staff" means those Agency employees, whether temporary or permanent, who have been designated by the Agency under § 124.77 or § 124.116 as available to investigate, litigate, and present the evidence, arguments, and position of the Agency in the evidentiary hearing or nonadversary panel hearing. Any EPA employee, consultant, or contractor who is called as a witness by EPA trial staff, or who assisted in the formulation of the draft permit which is the subject of the hearing, shall be designated as a member of the Agency trial staff;

* * *

23. Section 124.85 is proposed to be amended by adding a new paragraph (e) to read as follows:

§ 124.85 Hearing procedures.

* * *

(e) *Admission of Evidence on Environmental Impacts.* If a hearing is granted under this Subpart for a new source subject to NEPA, the Presiding Officer may admit evidence relevant to any environmental impacts of the permitted facility if the evidence would be relevant to the Agency's obligations under § 122.66(c)(3). If the source holds a final RCRA, PSD, or UIC permit, or an ocean dumping permit under the Marine Protection, Research, and Sanctuaries Act (MPRSA), no such evidence shall be admitted nor shall cross-examination be allowed relating to (1) effects on air quality, (2) effects attributable to underground injection or hazardous waste management practices, or (3) effects of ocean dumping subject to the MPRSA, which were considered or could have been considered in the PSD, RCRA, UIC, or MPRSA permit issuance proceedings. However, the presiding officer may admit without cross-examination or any supporting witness relevant portions of the record of PSD, RCRA, UIC, or MPRSA permit issuance proceedings.

Subpart F—Non-Adversary Panel Procedures

24. Section 124.111 is proposed to be amended by revising the introductory text of paragraph (a) as follows:

§ 124.111 Applicability.

(a) Except as set forth in this Subpart, the Regional Administrator may, with the consent of the applicant, apply the

procedures of this Subpart in lieu of, and to complete exclusion of, Subparts A through E in the following cases:

* * *

25. Section 124.120 is proposed to be amended by revising paragraph (a) as follows:

§ 124.120 Panel hearing.

(a) A Presiding Officer shall preside at each hearing held under this Subpart. An EPA panel shall also take part in the hearing. The panel shall consist of three or more EPA temporary or permanent employees having special expertise or responsibility in areas related to the hearing issue, none of whom shall have taken part in formulating the draft permit. If appropriate for the evaluation of new or different issues presented at the hearing, the panel membership, at the discretion of the Regional Administrator, may change or may include persons not employed by EPA.

26. Section 124.121 is proposed to be amended by revising paragraphs (a)(1), (b) and (f) to read as follows:

§ 124.121 Opportunity for cross-examination.

(a) * * *

(1) The disputed issues(s) of material fact. This shall include an explanation of why the questions at issue are factual, the extent to which they are in dispute in light of the then-existing record, and the extent to which they are material to the decision on the application; and

* * *

(b) After receipt of all motions for cross-examination under paragraph (a) of this section, the Presiding Officer, after consultation with the hearing panel, shall promptly issue an order either granting or denying each request. No cross-examination shall be allowed on questions of policy except to the extent required to disclose the factual basis for permit requirements, or on questions of law, or regarding matters (such as the validity of effluent limitations guidelines) that are not subject to challenge in permit issuance proceedings. Orders granting requests for cross-examination shall be served on all parties and shall specify:

- (1) The issues on which cross-examination is granted;
- (2) The persons to be cross-examined on each issue;
- (3) The persons allowed to conduct cross-examination;
- (4) Time limits for the examination of witnesses by each cross-examiner; and
- (5) The date, time and place of the supplementary hearing at which cross-examination shall take place.

* * *

(f) The provisions of §§ 124.85(d)(2) and 124.84(e) apply to proceedings under this Subpart.

PART 125—CRITERIA AND STANDARDS FOR THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

27. Section 125.3 is proposed to be amended by revising paragraphs (c)(2) and (c)(3), removing paragraph (c)(4), redesignating paragraphs (d) through (g) as (e) through (h) and adding a new paragraph (d) to read as follows:

§ 125.3 Technology-based treatment requirements in permits.

* * *

(c) * * *

(2) On a case-by-case basis under section 402(a)(1) of the Act, to the extent that EPA-promulgated effluent limitations are inapplicable. The permit writer shall apply the appropriate factors listed in § 125.3(d) and shall consider:

(i) The appropriate technology for the category or class of point sources of which the applicant is a member, based upon all available information; and

(ii) Any unique factors relating to the applicant. The fact sheet required by § 124.56 shall set forth the basis for any case-by-case limitations imposed under this section. This basis shall include an analysis of the permit writer's application of the appropriate factors listed in § 125.3(d), an analysis of the selection and application of any other factors considered by the permit writer (e.g., any unique site-specific factors), and specific references to and explanations of the use of and the applicability of any federal or state guidance memoranda, materials or documents relied on in setting the limitations.

(3) Through a combination of the methods in paragraphs (c)(1) and (2) of this section. Where promulgated effluent limitations guidelines only apply to certain aspects of the discharger's operation, or to certain pollutants, other aspects or activities are subject to regulation on a case-by-case basis in order to carry out the provisions of the Act. The fact sheet required by § 124.56 shall set forth the basis for these limitations as required under paragraph (c)(2) of this section and, if effluent limitations guidelines are applicable to the facility covered by the permit, shall also explain why regulation of pollutants or activities not regulated by the applicable effluent limitations guidelines is needed.

(d) In setting case-by-case limitations pursuant to § 125.3(c), the permit writer must apply the following factors:

- (1) For BPT requirements:
 - (i) The total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application;
 - (ii) The age of equipment and facilities involved;
 - (iii) The process employed;
 - (iv) The engineering aspects of the application of various types of control techniques;
 - (v) Process changes; and
 - (vi) Non-water quality environmental impact (including energy requirements).
- (2) For BCT requirements:
 - (i) The reasonableness of the relationship between the costs of attaining a reduction in effluent and the effluent reduction benefits derived;
 - (ii) The comparison of the cost and level of reduction of such pollutants from the discharge from publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources;
 - (iii) The age of equipment and facilities involved;
 - (iv) The process employed;
 - (v) The engineering aspects of the application of various types of control techniques;
 - (vi) Process changes; and
 - (vii) Non-water quality environmental impact (including energy requirements).
- (3) For BAT requirements:
 - (i) The age of equipment and facilities involved;
 - (ii) The process employed;
 - (iii) The engineering aspects of the application of various types of control techniques;
 - (iv) Process changes;
 - (v) The cost of achieving such effluent reduction; and
 - (vi) Non-water quality environmental impact (including energy requirements).

[FR Doc. 82-31296 Filed 11-17-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 122

[WH-FRL-2228-6a]

Consolidated Permit Regulations; Suspension of NPDES Application Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed suspension of portion of final rule.

SUMMARY: On June 7, 1982, EPA entered into a Settlement Agreement with numerous industry petitioners in the

consolidated permit regulations litigation (*NRDC v. EPA*, No. 80-1607 and consolidated cases, (D.C. Cir., filed June 2, 1980)). The Settlement Agreement resolved many issues relating to requirements of the National Pollutant Discharge Elimination System (NPDES) permit program under the Clean Water Act (CWA). This notice proposes to suspend certain provisions of the consolidated permit regulations and related provisions of consolidated permit application forms 1 and 2c to correspond with proposed changes to the regulations agreed to in that settlement. This proposal would make three types of changes. First, certain reporting requirements which apply to all existing industrial dischargers applying for NPDES permits would be suspended. Second, several application requirements would be suspended only as they apply to storm water discharges. Finally, the ban on construction of "new sources" prior to issuance of a final NPDES permit would be eliminated. These suspensions would minimize the regulatory burdens imposed on applicants for an NPDES Permit pending final rulemaking on proposed changes to these regulations. Notice of these proposed changes is found elsewhere in today's *Federal Register*.

DATE: EPA will consider written comments on the proposed suspensions which are received by December 20, 1982.

ADDRESS: Send written comments to Gail Goldberg, Office of Water Enforcement and Permits, Environmental Protection Agency (EN-336), 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Gail Goldberg, Office of Water Enforcement and Permits (202/426-7010) or Karen Wardzinski, Office of General Counsel (202/755-0753).

SUPPLEMENTARY INFORMATION: On May 19, 1980, EPA issued regulations consolidating the requirements and procedures for five EPA permit programs, including the NPDES program under the CWA, the Hazardous Waste Management Program (HWMP) under the Resource Conservation and Recovery Act (RCRA), the Underground Injection Control (UIC) program under the Safe Drinking Water Act (SDWA), State "Dredge and Fill" permit programs under section 404 of the CWA, and, in limited part, the Prevention of Significant Deterioration (PSD) Program under the Clean Air Act (CAA), (45 FR 35290). (For a more detailed description of the development of these regulations and challenges filed against them, see 47 FR 25546). At the same time, EPA

published consolidated permit application forms, two of which—forms 1 and 2c—implemented NPDES regulations on application requirements for existing industrial dischargers, (45 FR 33516).

Petitions which were filed in several courts of appeals for review of the NPDES Portion of the consolidated permit regulations challenged, among others, several of the regulatory provisions which established NPDES application requirements and the provision which imposed a pre-permit construction ban on "new sources." EPA participated in extensive negotiations with both industry and environmental groups on issues raised in the petitions for review and on June 7, 1982 signed a Settlement Agreement with industry litigants only, which resolved many of the NPDES issues. To implement this Settlement Agreement, the Agency has elsewhere in today's *Federal Register* proposed revisions to the regulations. Several of these proposed revisions affect application requirements for NPDES Permits. One provision affects the current prohibition on construction of "new sources" until the issuance of an NPDES permit. In order to provide expedited relief to affected permittees and prevent the collection and submission of what may ultimately be unnecessary information, EPA proposes to suspend certain portions of the regulations which relate to application requirements. The proposed suspensions would affect certain NPDES permit application information requirements applicable to all existing manufacturing, commercial, mining and silvicultural point source discharges, and certain additional application information requirements as they apply to point source storm water discharges. In addition, EPA is proposing to suspend the construction ban. Nothing in the Clean Water Act or NEPA requires such a ban. Moreover, retention of the ban would place unwarranted restrictions on construction of new sources; accordingly, no purpose is served by retaining the requirement during the rulemaking process. Thus, applicants for a new source NPDES permit for which an EIS is required would no longer be prohibited from beginning construction prior to final agency action issuing a final permit. These suspensions would, if adopted, carry out the objectives of enhancing efficiency and eliminating unnecessary regulatory burdens, as part of the Agency's response to the President's Task Force on Regulatory Relief.

A. Application Requirements for Existing Industrial Dischargers

Elsewhere in today's *Federal Register*, EPA has proposed several revisions to the NPDES portion of the consolidated permit regulations which will significantly alter the type and amount of information an NPDES permit applicant must submit. Several of the current regulatory provisions focus on the "use or manufacture" of toxic pollutants in requesting information from permittees or in requiring action on the part of permit writers in issuing or modifying permits. The intent of the Clean Water Act is to control the discharge of pollutants. Although facilities may often discharge pollutants that are used in plant processes or that are manufactured as products or by-products, discharge of all such pollutants will not necessarily occur. EPA believes it is more appropriate to focus on the discharge or potential discharge of toxic pollutants, rather than on their use or manufacture by an applicant. Application and permit requirements which concentrate on potential for discharge should provide adequate control of toxic discharges. In the meantime, no useful purpose would be served by retention of those requirements which focus on "use or manufacture", and which impose a significant burden on applicants and permittees.

With this in mind EPA proposes to suspend the following sections:

Section 122.53(d)(9) (Item VI-A of consolidated permit application form 2c), which requires permit applicants to predict potential future use or manufacture of toxic pollutants; § 122.62(e)(1)(ii), which requires the Director to control, through effluent limitations imposed in a permit, all toxic pollutants used or manufactured by a discharger; and § 122.15(a)(5)(ix), which authorizes EPA to modify permits based on information of new use or manufacture of toxic pollutants.

In addition, EPA proposes to suspend § 122.53(d)(10) (Item VI-B of consolidated permit application form 2c). This provision requires an applicant to describe discharges of any pollutants which the applicant believes will exceed two times the values reported in the application. The provision, in conjunction with § 122.53(d)(9), requires the applicant to predict potential future use, manufacture, or discharge of pollutants. EPA believes this information would be useful to permit writers in setting appropriate limitations at the time the permit was issued and in ensuring that necessary treatment equipment would be installed to control

the discharge of such pollutants at the commencement of their discharge. Although EPA continues to believe that this information is useful, it is not essential for writing adequate permit limitations and conditions and thus imposes an unnecessary regulatory burden on permit applicants. Permittees will be required to notify the permitting authority when they begin or expect to begin to discharge toxics at levels above those reported in the application (see, § 122.61(a)). This should provide permit writers with information with which to determine if a permit modification is necessary.

Elsewhere in today's *Federal Register*, EPA has proposed to delete each of the four sections discussed above. That notice contains a more detailed explanation of the basis and purpose of this proposal.

B. Application Requirements for Storm Water Discharges

Elsewhere in today's *Federal Register*, EPA has also proposed revisions to the regulations which affect only storm water discharges. That proposal intends to limit the types of storm water dischargers which are considered "point sources" subject to NPDES permitting and reduce the amount of information these dischargers must submit in an NPDES application. Today's proposed suspension differs somewhat from those intended proposed revisions. We do not think it appropriate for EPA to eliminate particular sources from the definition of "point source" through the suspension process, since our action in that case would be a substantive change to the current regulation and not merely a suspension of its applicability to given sources. In most other respects, however, today's suspension tracks the proposed amendments to the regulations. Thus, today's suspensions will propose to suspend certain application requirements as they affect storm water discharges considered to be "point sources" under the current regulations. The suspensions would prevent the collection and submission of testing and reporting requirements which may be eliminated in final rules. A more detailed explanation of EPA's proposal to suspend appears in the preamble to the proposed revisions found elsewhere in today's *Federal Register*.

The amount of information an applicant will be required to submit will depend upon the type of storm water discharge involved. We have divided storm water discharges into two broad groups based upon their potential for significant pollution problems, imposing fewer substantive requirements on those

discharges which we believe are less likely to be significant sources of pollution.

1. *Group I.* This first group consists of storm water discharges which (1) are subject to specific effluent limitations guidelines or toxic pollutant effluent standards, (2) are designated as significant contributors of pollution by the Director under § 122.57(c), or (3) are located at industrial facilities in areas immediately adjacent to the industrial plant or in plant associated areas, if there is a potential for significant discharge of storm water contaminated by contact with process wastes, raw materials, toxic pollutants, or hazardous substances listed in Table V of Appendix D. This third category covers conveyances which discharge storm water runoff from lands or buildings of an industrial plant where runoff has the potential for becoming contaminated from contact with raw materials, intermediate or finished products, wastes, or substances used in production or treatment operations. The term "industrial plant associated areas" includes such areas as industrial plant yards, immediate access roads, drainage ponds, refuse piles, storage piles or areas, and material or products loading and unloading areas. The term excludes commercial areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots, since it is not expected that significant contamination from process operations will occur here.

Persons whose storm water discharges fall within any of the three categories in Group I will be required to submit applications which comply with all the requirements of §§ 122.4 and 122.53, and consolidated permit application forms 1 and 2c (see 45 FR 33516), with one exception. The requirements in § 122.53(d)(7)(iii) that applicants report *quantitative* data is proposed to be suspended. For Group I discharges, applicants would be required only to indicate in Items V-B and V-C of form 2c whether they believe any of the listed pollutants are present or absent and briefly describe why. Applicants would not be required to test for pollutants which they believe to be present. However, Group I applicants will report quantitative data under § 122.53(d)(7)(i)(A), Item V-A of form 2c.

2. *Group II.* The second group consists of all point source storm water discharges required to be permitted under current § 122.57 that are not included in Group I. In general, it is expected that the storm water

discharges included in Group II are less likely than those in Group I to create significant pollution problems. Accordingly, EPA has proposed to further reduce the information these dischargers must submit to the permitting authority. Only basic information to identify the type, number, and location of Group II storm water discharges would be required. No testing for any pollutants listed in Item V of application form 2c (§ 122.53(d)(7)) would be required. Group II dischargers would be required to submit all of form 1 of the consolidated permit application except the requirement of Item XI (§ 122.4(d)(7)) to submit a topographic map of the permitted area. Since our purpose in requesting information from Group II dischargers is to obtain general identification information, the detail provided by a topographic map is not necessary at this time. In addition, only limited provisions of form 2c would be

required to be submitted. Group II dischargers would submit Items I and II-B and C (see §§ 122.53(d)(1), (d)(3) and (d)(4)), indicating the location and flow of each storm water outfall, the name of the receiving water and any treatment being done. Group II permit applicants would also have to complete the requirement of Item IX (see § 122.6(d)), certification of the permit application. All other provisions of form 2c (Items II-A, III, IV, V, VI, VII, and VIII) are proposed to be suspended. Thus, for Group II permit applicants, the requirements of § 122.53(d)(2), (d)(5), (d)(6), (d)(7), (d)(9), (d)(10), (d)(11), and (d)(12) are all proposed to be suspended. As always, permit writers retain the authority to require additional information where necessary to issue adequate permits.

The terms of the proposed suspension for storm water discharges are summarized in the following chart:

Group I	Group II
Coverage	Coverage
Storm water discharges: (1) Subject to specific effluent guidelines or toxic pollutant effluent standards (2) Designated as significant contributors of pollution, or (3) Located at industrial facilities in areas immediately adjacent to the industrial plant or in plant associated areas, if there is a potential for significant contamination with process wastes, raw materials, toxic pollutants or hazardous substances	Storm water discharges: All storm water discharges currently identified as "point source" discharges under § 122.57, but which are not covered in Group I.
Provisions Suspended	Provisions Suspended
Form 2c, Items— V-B—testing only (§ 122.53(d)(7)(iii)(B)) V-C—testing only (§ 122.53(d)(7)(iii)(A)) A permit applicant must indicate whether it believes the listed pollutant to be present or absent VI (§ 122.53(d)(9), (10))	Form 1, Item—XI—(§ 122.4(d)(7)) Form 2c, Items— II-A (§ 122.53(d)(2)) III (§ 122.53(d)(5)) IV (§ 122.53(d)(6)) V (§ 122.53(d)(7)) VI (§ 122.53(d)(9), (10)) VII (§ 122.53(d)(11)) VIII (§ 122.53(d)(12))
Provisions Still Applicable	Provision Still Applicable
Form 1, All Items (§ 122.4) Form 2c, Items— I (§ 122.53(d)(1)) II (§ 122.53(d)(2), (3), (4)) III (§ 122.53(d)(5)) IV (§ 122.53(d)(6)) V-A (§ 122.53(d)(7)(i)) V-B (§ 122.53(d)(7)(iii)(B)) V-C (§ 122.53(d)(7)(iii)(A)) V-D (§ 122.53(d)(7)(iv)) VII (§ 122.53(d)(11)) VIII (§ 122.53(d)(12)) IX (§ 122.6(d))	Form 1, Items (§ 122.4) I-X XII XIII Form 2c, Items— I (§ 122.53(d)(1)) II-B&C (§ 122.53(d)(3), (4)) IX (§ 122.6(d))

NOTE.—For Items V-B and V-C indicate only whether the pollutants listed are believed to be present or absent.

to the proposed action, including alternative sites or not constructing the discharging source at all. Those objecting to the ban have argued that the Clean Water Act regulates discharges, not construction, and that EPA is without authority to adopt a prohibition against construction in its regulations.

EPA has carefully considered these arguments and has decided to rescind the ban. In contrast to other federal regulatory statutes (such as the Atomic Energy Act, 42 U.S.C. 2011 *et seq.*), the Clean Water Act does not regulate construction of facilities, only discharges from them. See Section 301. Accordingly, if an applicant began construction in defiance of EPA's ban, the enforcement remedies under Section 309 of the Clean Water Act would not apply.

EPA therefore proposes to suspend this provision pending final Agency action on the proposal to eliminate the "construction ban". For a more detailed explanation of this decision, refer to the **Federal Register** notice proposing deletion of this provision found elsewhere in today's publication.

Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirement of a Regulatory Impact Analysis. These proposed suspensions make the regulations more flexible and less burdensome for affected permittees. They do not satisfy any of the criteria specified in section 1(b) of the Executive Order and, as such, do not constitute major rulemakings. This regulation was submitted to the Office of Management and Budget (OMB) for review.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, EPA must submit a copy of any proposed rule which contains a collection of information requirement to the Director of OMB for review and approval. These amendments contain no new information collection requests but rather propose to suspend existing information collection requests. Therefore the Paperwork Reduction Act is not applicable.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to prepare a Regulatory Flexibility Analysis to assess the impact of rules on small entities. No regulatory flexibility analysis is required, however, where the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of

C. Construction Ban

Elsewhere in today's **Federal Register**, the Agency has proposed to eliminate the "construction ban" imposed on "new sources" prior to issuance of an NPDES permit. See 40 CFR 122.66(c)(4).

In issuing permits to "new sources" (see § 122.3 for definition) in States without approved NPDES programs, EPA must comply with the National Environmental Policy Act (NEPA), 42 U.S.C. § 4231 *et seq.* NEPA requires, among other things, the preparation of an environmental impact statement (EIS) on any major federal action significantly affecting the environment. Existing § 122.66(c) (4) and (5) prohibits the construction of a new source, for

which an environmental impact statement is required, before EPA completes its review of environmental impacts under NEPA, unless the applicant signs an agreement to comply with appropriate NEPA-based requirements or the Regional Administrator makes a finding that such construction will not cause significant or irreversible adverse environmental impact.

Many dischargers and applicants have questioned EPA's legal authority to adopt and enforce a ban on construction. The ban was originally intended to ensure that EPA was not deprived, at the time of issuing a permit, of the ability to consider all alternatives

entities. Today's proposed suspensions would make the regulations more flexible and less burdensome for all permittees. Accordingly, I hereby certify, pursuant to 4 U.S.C. 605(b), that these amendments will not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 122

Administrative practice and procedures, Air pollution control, Hazardous materials, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Confidential business information.

(Clean Water Act, 33 U.S.C 1251 *et seq.*)

Dated: November 8, 1982.

Anne M. Gorsuch,
Administrator.

PART 122—[AMENDED]

The following regulations and, where appropriate, corresponding permit application provisions are proposed to be suspended:

1. Section 122.15(a)(5)(ix).
2. Section 122.62(e)(1)(ii).
3. Section 122.66(c)(4) and (c)(5).
4. For all NPDES existing manufacturing, commercial, mining and silvicultural dischargers, the

requirements of § 122.53 (d)(9) and (d)(10) (Item VI of consolidated permit application form 2c, EPA Form 3510-2c).

5. For NPDES point source storm water discharges under 40 CFR 122.57 that are (a) subject to specific effluent guidelines of toxic pollutant effluent standards, (b) designated as significant contributors of pollution, or (c) located at industrial facilities in areas immediately adjacent to the industrial plant or in plant associated areas, if there is a potential for significant discharge of storm water contaminated by contact with raw materials, process wastes, toxic pollutants, or hazardous substances listed in Table V of Appendix D to 40 CFR Part 122, the requirements of § 122.53(d)(7)(iii), and corresponding Items V-B and V-C of consolidated permit application form 2c (EPA Form 3510-2c), that quantitative data be reported.

6. For all other NPDES point source storm water discharges required to be permitted under § 122.57, the requirements of § 122.4(d)(7) (Item XI of the consolidated permit application form 1 (EPA Form 3510-1)), and § 122.53 (d)(2), (d)(5), (d)(6), (d)(7), (d)(9), (d)(10), (d)(11) and (d)(12) and corresponding Items II-A, III, IV, V (all subparts), VI, VII, and VIII of consolidated permit application form 2c (EPA Form 3510-2c).

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Registered Federal Trade

Thursday
November 18, 1982

Part V

Department of Health and Human Services

Office of Human Development Services

Availability of Financial Assistance for
Native American Social and Economic
Development Projects

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Office of Human Development Services****[Program Announcement 13612-832]****Availability of Financial Assistance for Native American Social and Economic Development Projects****AGENCY:** Office of Human Development Services, DHHS.**ACTION:** Announcement of Availability of Fiscal Years 1983 and 1984 Financial Assistance for Native American Social and Economic Development Projects.**SUMMARY:** The Administration for Native Americans (ANA) announces that applications are being accepted for financial assistance under Section 803 of the Native American Programs Act of 1974, Pub. L. 93-644, as amended. Regulations covering this program are published in the Code of Federal Regulations, in 45 CFR Part 1336.**DATES:** The two closing dates for receipt of all applications under this program announcement are January 31, 1983 and May 31, 1983.**ANA Mission**

The purpose of the Administration for Native Americans is to promote economic and social self-sufficiency for American Indians, Alaska Natives, and Native Hawaiians. Self-sufficiency for purposes of the program announcement is the level of development and degree to which a Native American community can provide for the needs of its community members and pursue its own social and economic goals.

ANA Program Goals

ANA has three program goals:

- A. To develop or strengthen tribal governments and Native American institutions and local leadership to assure local control and decision making over all resources.
- B. To foster the development of stable, diversified local economies and economic activities which provide jobs, promote economic well-being, and reduce dependency on welfare services.
- C. To support local assess to and coordination of services and programs which safeguard the health and well-being of Native Americans and which are essential to a thriving and self-sufficient community.

In FY 1982, the Administration for Native Americans implemented a new program direction that moved from the previous emphasis on core administration and filling service gaps to a community-determined social and

economic development strategy (SEDS). For FY 1983, ANA continues this broader focus which promotes self-determination and local decision-making through support for balanced social, economic and governmental development of Native American communities.

Consistent with ANA's mission of promoting self-sufficiency, the goal of the ANA program is to provide financial assistance to Indian tribes and Indian, Alaska Native and Hawaiian Native organizations to enable them to create and implement effective local social and economic development strategies for their communities. The implementation of these strategies is expected to result in sustained improvement in the social and economic conditions of Native Americans within their communities, as well as an increased effectiveness and efficiency of the Indian tribe or Native American organization in defining and achieving its own economic and social goals.

The local community has primary responsibility for determining its own needs and priorities and for planning and implementing its own programs. A balanced and interrelated approach to social and economic development is believed to be the most workable and appropriate way in which self-sufficiency can be attained. Only the local community is in a position to consider its own cultural values, and weigh the trade-offs in deciding on various strategies and programs which have socio-cultural as well as economic consequences.

The local community can best determine the appropriate activities required to accomplish its own balanced social and economic development. Therefore, it is ANA's policy to strengthen tribes and Native American organizations in providing direction to social and economic development and in coordinating all resources, Federal and non-Federal, toward locally determined priorities. It is also ANA's policy to support the development of local leadership, on and off the reservation, in planning and implementing local programs which meet community needs.

Purpose of This Program Announcement

The purpose of this program announcement is to provide financial assistance development grants to Indian tribes and Native American organizations to support locally determined social and economic development objectives that promote self-sufficiency for Native American communities. The applicant should describe what self-sufficiency means to its particular community. The proposed

project(s) must directly relate to social and/or economic development in the community in keeping with local needs, resources and cultural values. The application must identify and address community specific goals and objectives that fall within the parameters of one or more of ANA's three program goals.

The applicant must clearly identify the expected impact of achievement of the proposed objectives in the community in terms that are measurable. Some examples are: number of jobs created, payroll to be generated, number of children de-institutionalized, investments leveraged, needed services established, new tribal government responsibilities assumed, reduction of need for publicly supported services. (This is not intended to be an all inclusive list. There are many other definitive results that can accrue from a SEDS project. The major emphasis is that ANA resources are to be used to create a definite impact in the community.)

Development funds may be used for obtaining specialized outside assistance necessary to achieve local project objectives. The specialized assistance must be sufficiently detailed in the work plan to make clear its relationship to specific project activities and to demonstrate how it will facilitate achievement of the applicant's objectives.

Contact Person

Applicants who wish further clarification of this announcement may call Janice B. Phalen, ANA, (202) 245-7727.

Eligible Applicants

This program announcement is a solicitation of new grants.

- The following groups which are not FY '82/'83 grantees of ANA are eligible to apply for a grant award under this announcement: Federally recognized Indian tribes, consortia, non-Federally recognized tribes, multi-purpose community-based Indian organizations and Native Hawaiian organizations.

- Additionally, FY '82 grantees of ANA who have submitted an application to ANA for FY '83 funding (under the announcement No. 13612-831, published June 14, 1982 in the **Federal Register** and have received notice of disapproval are eligible to apply under this announcement.

- Organizations representing a community already being served by an ANA grantee are not eligible to apply, except for individual members of a consortium.

• Individual consortia members may apply for direct funding from ANA, even though its consortium organization is an ANA grantee, providing the application indicates that the consortium organization has been notified of the individual member's intent to apply for a grant award from ANA. The consortium must recognize that if one of its members receives direct funding from ANA, the grant award to the consortium may be renegotiated.

• *Please Note:* ANA expects to publish a Fiscal Year 1983 Program Announcement specifically for social and economic development projects in Alaska. Therefore, Alaska Native organizations are *not* eligible for this current Program Announcement (13612-832).

Available Funds

ANA expects to award approximately \$1.8 million for each of the two closing dates under this program. It is anticipated that a total of approximately 30 grant awards will be made.

The budget period for each grant award will be twelve (12) months. However, the project period for each grant may be up to three (3) years. Refunding after the first year will depend upon the grantee's satisfactory progress, the availability of funds, the grantee's compliance with the Native-American Programs Regulations, and the submission of a quality application in response to ANA's FY '84 Funding Guidance.

Grantee Share of Project

Grantees must provide at least 20% of the total approved cost of the project which may be in cash or in kind. The contributions must be project related and must be allowable under the Department's applicable regulations in 45 CFR Part 74, Subparts G and Q.

Under certain circumstances, some or all of the non-Federal share may be waived by ANA. Further explanation is contained in § 1336.52 of ANA's regulations (45 CFR Part 1336), which will be provided in the application kit.

The Applicant Process

Availability of application forms. In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ANA. The application kit containing the necessary forms may be obtained from: Department of Health and Human Services, Administration for Native Americans, Room 5300, North Building, 330 Independence Avenue, SW., Washington, D.C. 20201, Attention:

No. 13612-832, Ms. Romilda Jones, (202) 245-7727.

Application submission. One signed original and the appropriate number of copies of the grant application, including all attachments, must be submitted to the address specified in the application kit. The application shall be signed by an individual authorized to act for the applicant agency and to assume for the agency the obligations imposed by the terms and conditions of the grant award, including Native American Programs Rules and Regulations.

A-95 notification process. In compliance with the Department of Health and Human Services implementation of the Office of Management and Budget Circular No. A-95 Revised (procedures at 41 FR 2052, January 13, 1976), applicants, with the exception of Federally recognized tribes, must notify both the State and Areawide Clearinghouses of their intent to apply for Federal financial assistance prior to applying. Some State and Areawide Clearinghouses provide their own forms and others use the facesheet (SF-424) of the application form. Contact the appropriate Clearinghouses (listed at 42 FR 2210, January 10, 1977) for information on how your organization can meet the A-95 requirements. The A-95 circular is required only for those applications submitted prior to April 30, 1983.

Application consideration. The commissioner of ANA determines the final action to be taken with respect to each grant application for this program. Applications which do not conform to this announcement or are not complete will not be accepted for review, and applicants will be notified in writing accordingly. Applications which are complete and conform to the requirements of this program announcement are subjected to an objective, competitive review and evaluation process by qualified persons. The results of the review assist the Commissioner in the consideration of competing applications. The Commissioner's consideration also takes into account the comments of the A-95 Clearinghouse, ANA staff, and other interested parties. The Commissioner makes grant awards consistent with the purpose of the Act, the regulations, and program announcement within the limits of funds available. After the Commissioner has reached a decision to disapprove, defer or fund a grant application, unsuccessful applicants will be notified in writing. Successful applicants will be notified through an official Notice of Financial Assistance Awarded. This notice states the amount of funds awarded, the

purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period, and the amount of grantee participation.

Criteria for Review

Applications which are complete and on time will be evaluated against the following criteria:

(1) Overall application specifies community goals, priority objectives and definitive results based on a local social and economic development strategy (SEDS) and demonstrates how the project would help achieve social and economic self-sufficiency for the Native American community within the framework of ANA's three goals. (30 points)

(2) Application contains objectives which are results oriented, measurable, can be evaluated and directly contribute to meeting local priority needs and goals. The results expected or the impact in the community is clearly and definitively stated. (20 points)

(3) Application identifies a work plan of proposed activities which are clearly defined, sufficiently detailed and in logical order to explain the tasks to be done, to reach each objective and provide a basis for project monitoring. (20 points)

(4) Application presents a detailed budget, with complete explanations and justifications of line items, including specialized assistance if needed, and directly related to the activities set forth in the work plan. The budget must be of reasonable cost to the government for the benefit expected. (10 points)

(5) Application identifies all proposed key personnel by position or role and the consultant/contractors and demonstrates their qualifications to achieve project objectives by resumes, position descriptions or capability statements. (5 points)

(6) Application provides sufficient evidence of the necessary management and administrative capabilities to ensure accountability and to justify receipt of Federal funds. (5 points)

(7) Application describes a plan for a coordinated use of resources from sources other than ANA which will support continued social and economic development for the community during the project period and in the future. (10 points)

Closing Date for Receipt of Application

The closing dates for receipt of all applications under this program announcement are January 31, 1983 and May 31, 1983. Applications received

after January 31, 1983 will be held until the May 31, 1983 competitive review.

Mailed applications. Applications mailed through the U.S. Postal Service shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or,

2. Sent by first class mail, postmarked on or before the deadline date, and received in time for submission to the independent review group (one week after closing date). (Applicants are cautioned to request a legible U.S. Postal Service postmark or to use

express mail or certified or registered mail and obtain a legibly dated mailing receipt from the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing).

Applications submitted by other means. Applications submitted by any means except mailing first class through the U.S. Postal Service shall be considered as meeting the deadline only if they are physically received before close of business on or before the deadline date.

Late applications. Applications which do not meet these criteria are

considered late applications and will not be considered in the current competition.

(Catalog of Federal Domestic Assistance Program Number 13.612 Native American Programs)

Date: October 19, 1982.

A. David Lester,

Commissioner, Administration for Native Americans.

Approved: November 12, 1982.

Dorcas R. Hardy,

Assistant Secretary, for Human Development Services.

[FR Doc. 82-31589 Filed 11-17-82; 8:45 am]

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United States Federal Register

Thursday
November 18, 1982

Part VI

Committee for Purchase From the Blind and Other Severely Handicapped

Procurement List 1983; Notice of
Establishment

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1983; Notice of Establishment

The Committee for Purchase from the Blind and Other Severely Handicapped was established by Pub. L. 92-28, June 23, 1971 (85 Stat. 77, 41 U.S.C. 46-48c) (hereinafter the Act) for the purpose of directing the procurement of selected commodities and services by the Federal Government to qualified workshops serving blind and other severely handicapped individuals with the objective of increasing the employment opportunities for these individuals. The Committee is required to establish and publish in the Federal Register a procurement list of:

- (1) Commodities produced by any qualified nonprofit agency for the blind or by any qualified nonprofit agency for other severely handicapped, and
- (2) The services provided by any such agency

which the Committee determines are suitable for procurement by the Government pursuant to the Act.

The Act further provides that any entity of the Government which intends to procure any commodity or service on the procurement list, shall procure such commodity or service, at the price established by the Committee, from a qualified nonprofit agency for the blind or such agency for the other severely handicapped if the commodity or service is available within the normal period required by that Government entity. However, this requirement shall not apply to the procurement of any commodity which is available from Federal Prison Industries, Inc.

A Government entity is defined as any entity of the legislative branch or judicial branch, any executive agency or military department (as such agency and department are respectively defined by Sections 102 and 105 of Title 5, United States Code), the U.S. Postal Service, and any nonappropriated fund instrumentality under the jurisdiction of the Armed Forces.

Notice is hereby given pursuant to Section 2 of the Act that Procurement List 1983 is established as set forth below. Procurement List 1983 supersedes Procurement List 1982, November 12, 1981 (46 FR 55740) and subsequent changes thereto through November 13, 1982.

Any proposed additions or deletions to Procurement List 1982 pending on this date shall be considered as pending and applicable to Procurement List 1983.

By the Committee.
C. W. Fletcher,
Executive Director.

ASSIGNMENT CODES

Central Nonprofit Agency	Code
National Industries for the Blind.	IB.
National Industries for the Severely Handicapped.	SH.

Commodities

CLASS 1005

- Sling, Adjustable, Small Arms (IB)
1005-00-167-4336
- Sling, Padded, Adjustable (IB)
1005-00-312-7177
- Swab, Small Arms Cleaning (IB)
1005-00-912-4248
1005-00-288-3565

CLASS 1095

- Scabbard, Bayonet-Knife (IB)
1095-00-508-0339

CLASS 1220

- Case, Carrying (IB)
1220-00-765-5870
1220-00-937-8286

CLASS 1140

- Circuit Card Assembly (SH)
1430-00-409-7997
1430-00-421-4036

CLASS 1660

- Harness Assembly (SH)
1660-00-066-2078

CLASS 1670

- Message Dropper (SH)
1670-00-797-4495

CLASS 1680

- Wire Bundle Assemblies (SH)
1680-00-881-4215
1680-00-884-0409
- Wire Bundle Assemblies (SH)
1680-00-894-3991
1680-01-125-9648
1680-00-919-3706
1680-00-883-4487
1680-00-222-3876
1680-00-826-7752
1680-00-974-5275
1680-00-974-5276
1680-00-998-8594

CLASS 1730

- Chock Assembly, Wheel Unpainted (IB)
1730-00-294-3694
1730-00-063-4095
1730-00-294-3696
1730-00-294-3695
1730-00-945-8450
1730-00-163-8317 (4x6x24")
1730-00-NIB-001A 2"x4"x8" (std)
1730-00-NIB-001B 6"x8"x18" (std)
1730-00-NIB-001C 6"x8"x76" (std)
1730-00-NIB-001D 8"x12" (U-shaped)
1730-00-NIB-001E 10"x20" (U-shaped)
Chock Assembly, Wheel Painted (IB)

- 1730-00-294-3694
- 1730-00-063-4095
- 1730-00-294-3696
- 1730-00-294-3695
- 1730-00-945-8450
- 1730-00-163-8317 (4x6x24")
- 1730-00-NIB-001A 2"x4"x8" (std)
- 1730-00-NIB-001B 6"x8"x18" (std)
- 1730-00-NIB-001C 6"x8"x76" (std)
- 1730-00-NIB-001D 8"x12" (U-shaped)
- 1730-00-NIB-001E 10"x20" (U-shaped)
- Chock Assembly, Wheel, Codit Reflecting (IB)
1730-00-294-3694
1730-00-063-4095
1730-00-294-3696
1730-00-294-3695
1730-00-945-8450
1730-00-163-8317 (4 x 6 x 24")
1730-00-NIB-001A 2" x 4" x 8" (std)
1730-00-NIB-001B 6" x 8" x 18" (std)
1730-00-NIB-001C 6" x 8" x 76" (std)
1730-00-NIB-001D 8" x 12" (IU-shaped)
1730-00-NIB-001E 10" x 20" (IU-shaped)
Chock Assembly, Wheel Reflective Tape (IB)
1730-00-294-3694
1730-00-063-4095
1730-00-294-3696
1730-00-294-3695
1730-00-945-8450
1730-00-163-8317 (4 x 6 x 24")
1730-00-NIB-001A 2" x 4" x 8" (std)
1730-00-NIB-001B 6" x 8" x 18" (std)
1730-00-NIB-001C 6" x 8" x 76" (std)
1730-00-NIB-001D 8" x 12" (U-shaped)
1730-00-NIB-001E 10" x 20" (U-shaped)

CLASS 2090

- Weight, Canvas Bag (IB)
2090-00-845-9150

CLASS 2540

- Belt, Automobile, Safety (IB)
2540-00-894-1273
2540-00-894-1274
2540-00-894-1275
2540-00-894-1276
- Cushion Assembly, Back Rest (SH)
2540-00-737-3308
- Cushion Assembly, Seat Back (SH)
2540-00-878-2965
2540-00-808-3811
- Cushion Seat, Vehicular (SH)
2540-00-808-3811

CLASS 3510

- Net, Laundry (IB)
3510-00-273-9738
3510-00-273-9739

CLASS 3920

- Truck, Hand (IB)
3920-00-847-1305

CLASS 3990

- Pallet, Material Handling (SH)
3990-00-222-1051
3990-00-555-0458—Sharpe Army Depot, Lathrop, CA only
3990-00-599-5328—Mechanicsburg, PA depot only
3990-00-935-7826—Pine Bluff Arsenal only
Pallet, Warehouse (SH)

3990-00-NSH-0011 40 x 48"—Army and Air Force Exchange Service, Oakland Army Base, CA only
 Pallet, Wood (SH)
 3990-00-366-6806
 3990-00-X77-1721—New Cumberland Army depot only
 3990-00-NSH-0001 [48 x 40 x 36"—Social Security Administration, Baltimore, MD only
 3990-00-NSH-0005 (24 x 20")—New Cumberland Army depot only

CLASS 4130

Filter, Air Conditioning (IB)
 4130-00-870-8796 Rgns 4 and 5
 4130-00-274-7800 Rgns 4 and 5
 4130-00-541-3220 Rgns 4 and 5
 4130-00-756-1840 Rgns 4 and 5
 4130-00-720-4143 Rgns 4 and 5
 4130-00-249-0966 Rgns 4 and 5
 4130-00-203-3318 Rgns 4 and 5
 4130-00-203-3321 Rgns 4 and 5
 4130-00-542-4482 Rgns 4 and 5
 4130-00-959-4734 Rgns 4 and 5
 4130-00-756-0978 Rgns 4 and 5
 4130-00-951-1208 Rgns 4 and 5

CLASS 4240

Bag, Waterproofing (IB)
 4240-00-377-9401
 Harness, Head (SH)
 4240-00-690-8765

CLASS 4910

Creeper, Mechanic's (SH)
 4910-00-251-6981
 4910-00-106-7834
 4910-00-NSH-0001

CLASS 5120

Screwdriver, Cross-Tip (SH)
 5120-00-820-2995
 5120-00-060-2004
 5120-00-224-7370
 5120-00-529-3101
 5120-00-227-7293
 5120-00-234-8913
 5120-00-542-3438
 5120-00-224-7375
 5120-00-596-0866
 5120-00-237-8174
 5120-00-580-2361
 Screwdriver Set, Cross-Tip (SH)
 5120-00-357-7175
 5120-00-580-0334
 Screwdriver, Flat-Tip (SH)
 5120-00-278-1269
 5120-00-289-9662
 5120-00-287-2504
 5120-00-287-2505
 5120-00-278-1267
 5120-00-541-3004
 5120-00-288-7803
 5120-00-236-2127
 5120-00-278-1270
 5120-00-227-7356
 5120-00-260-4837
 5120-00-227-7334
 5120-00-278-1268
 5120-00-293-0314
 5120-00-337-2465
 5120-00-540-0563
 5120-00-180-0708
 5120-00-222-8866
 5120-00-596-8502

5120-00-278-1273
 5120-00-062-0813
 5120-00-293-3311
 5120-00-222-8852
 5120-00-596-9364
 5120-00-293-0315
 5120-00-293-3309
 5120-00-227-7377
 5120-00-180-3490
 5120-00-236-2140
 5120-00-062-8454
 5120-00-720-4969

CLASS 5140

Bag, Tool (IB)
 5140-00-772-4142
 Bag, Tool (SH)
 5140-00-473-6256
 Tool Box, Portable (SH)
 5140-00-289-8911
 5140-00-289-8910

CLASS 5350

Mat, Abrasive (IB)
 5350-00-967-5089
 5350-00-967-5093
 5350-00-967-5092

CLASS 5440

Stepladder (IB)
 5440-00-514-4483
 5440-00-514-4485
 5440-00-514-4487
 5440-00-171-9836
 5440-00-227-1592
 5440-00-227-1593
 5440-00-227-1594
 5440-00-227-1595
 5440-00-227-1596
 5440-00-531-2589

CLASS 5510

Lath, Wood (SH)
 5510-00-NSH-0002 ($\frac{3}{4}$ x $1\frac{1}{2}$ x 36")
 5510-00-NSH-0003 ($\frac{3}{4}$ x $1\frac{1}{2}$ x 48")—Bureau of Land Management and U.S. Forest Service in Washington and Oregon only
 Stake, Wood (SH)
 5510-00-NSH-0001—Bureau of Land Management at 5 Oregon locations only
 U.S. Forest Service in Washington and Oregon only
 Stakes, Wood, Location (SH)
 5510-00-171-7701
 5510-00-171-7700
 5510-00-171-7734
 Stakes, Wood, Hub (SH)
 5510-00-171-7733
 5510-00-171-7732
 Wedge, Wood (SH)
 5510-00-640-9237

CLASS 5826

Circuit Card Assembly (SH)
 5826-00-237-9949

CLASS 5940

Adapter, Battery Terminal (SH)
 5940-00-549-6583
 5940-00-549-6581

CLASS 6150

Cable Assembly, Power (SH)
 6150-00-935-8799
 6150-00-507-8852

CLASS 6230

Flashlight (SH)
 6230-00-163-1856
 Lantern, Electric, Head (SH)
 6230-00-643-3562
 Light, Desk (SH)
 6230-00-299-7771
 6230-00-682-3423
 Light, Marker, Distress (SH)
 6230-00-892-5192
 Light, Marker, Distress (with pouch) (SH)
 6230-00-067-5209
 Light, Marker, Distress (without pouch) (SH)
 6230-00-938-1778

CLASS 6505

Ammonia Inhalant Solution, Aromatic (SH)
 6505-00-106-0875
 Iodine Ampoules, NF (SH)
 6505-00-664-1408
 Thimerosal Tincture, NF (SH)
 6505-00-664-6911

CLASS 6510

Bandage, Muslin, Compressed, Camouflaged (SH)
 6510-00-201-1755

CLASS 6515

Case, Ear Plug (SH)
 6515-00-299-8287
 Kit, Suture Removal (IB)
 6515-00-690-6911
 Tourniquet, Non-Pneumatic (IB)
 6515-00-383-0565

CLASS 6520

Toothbrush, Aspiration (SH)
 6520-01-085-3438

CLASS 6530

Bag, Urine Collection (SH)
 6530-00-761-0932
 6530-00-761-0936
 Cover, Litter (IB)
 6530-00-784-1035
 6530-00-784-1250
 Drape, Surgical (IB)
 6530-00-299-9608
 6530-00-299-9607
 6530-00-299-9605
 6530-00-299-9604
 Kit, Shaving Surgical Preparation (IB)
 6530-00-676-7372
 Litter, Folding (IB)
 6530-00-783-7905
 Pad, Cooling, Chemical (SH)
 6530-00-133-4299
 Pad, Examining Table (IB)
 6530-00-960-6616
 Pad, Hospital Stretcher (IB)
 6530-00-269-0004
 Pad, Litter (IB)
 6530-00-137-3016
 Strap, Webbing Patient Securing (IB)
 6530-00-784-4205
 Surgical Pack, Disposable (IB)
 6530-00-103-6659
 Urinal, Incontinent (IB)
 6530-01-004-8969
 6530-00-290-8292
 6530-01-081-5304
 6530-01-081-5303
 Urinary Drainage Set (SH)

6530-01-056-3659
 Wrapper, Sterilization (IB)
 6530-00-299-9603
 6530-00-197-9223
 6530-00-197-9228
 6530-00-197-9283
 6530-00-926-4902
 6530-00-926-4903
 6530-00-926-4904
 6530-00-926-4905

CLASS 6532

Cap, Operating, Surgical (IB)
 6532-00-299-9614
 6532-00-299-9613
 6532-00-299-9612
 Cap, Operating, Surgical (SH)
 6532-00-250-5042
 6532-00-083-6545
 6532-00-250-5041
 6532-00-122-0468
 Clothing, Operating Room (SH)
 6532-00-261-9005
 6532-00-290-1887
 6532-00-172-3509
 6532-00-172-3507
 6532-00-172-3506
 6532-00-158-9890
 6532-00-009-7174
 Dress, Operating, Surgical (SH)
 6532-00-149-0464
 6532-00-149-0465
 6532-00-149-0466
 6532-00-149-0467
 6532-00-149-0472
 6532-00-149-0473

Gown, Hospital (SH)

6532-00-104-9895
 Gown, Hospital, Patient's Bedshirt (SH)

6532-01-005-8411

6532-01-044-8412

Gown, Hospital Personnel (SH)

6532-01-045-5380

6532-01-045-5381

Gown, Operating, Surgical (SH)

6532-00-009-2034

6532-00-009-2035

Gown, Patient Examining (SH)

6532-00-421-7828

Pajamas, Ladies (SH)

6532-00-NSH-0001

6532-00-NSH-0002

6532-00-NSH-0003

6532-00-NSH-0004

Pillowcase, Disposable (IB)

6532-01-125-3269

Robe, Dressing, Nomex (SH)

6532-00-003-3057

6532-00-006-3482

Robe, Ladies (SH)

6532-00-NSH-0005

Shirt, Operating, Surgical (SH)

6532-00-149-0322

6532-00-149-0323

6532-00-149-0324

6532-00-149-0325

Smock, Man's Dental Operating (SH)

6532-00-159-4881

6532-00-926-9964

6532-00-926-9975

6532-00-926-9976

Suit, Convalescent (SH)

6532-01-076-8684

6532-01-076-8683

6532-01-076-7369

6532-01-076-9769

Trousers, Operating, Surgical (SH)

6532-00-149-0327

6532-00-149-0328

6532-00-149-0329

6532-00-149-0330

CLASS 6540

Case, Spectacles (IB)

6540-00-735-5157

6540-00-042-8752

CLASS 6545

Surgical Dressing Set (IB)

6545-00-105-5826

CLASS 6625

Test Set, Lead (SH)

6625-00-553-1442

CLASS 6630

Micro Bleeder (IB)

6630-01-NIB-0002

Tube, Bleeding (IB)

6630-01-NIB-0001

CLASS 6645

Clock, Wall (IB)

6645-00-514-3523

6645-00-530-3342 Rgn 4, 6, 7

6645-01-046-8848

6645-01-046-8849

CLASS 6695

Sampling Kit, Spectrometric Oil Analysis (IB)

6695-01-045-9820

CLASS 6840

Disinfectant, Detergent (IB)

6840-00-687-7904

6840-00-584-3129

6840-00-551-8346

CLASS 7105

Frame, Picture (SH)

7105-00-053-0170

7105-00-061-5834

7105-00-052-8697

7105-00-052-8695

7105-00-465-6199

7105-00-149-1277

7105-00-297-3398

7105-00-903-1842

7105-00-903-1843

7105-00-149-1282

7105-00-149-1281

7105-00-641-4385

7105-00-986-7356

7105-00-297-3397

7105-00-052-8696

7105-00-149-1276

Mirror, Glass (SH)

7105-00-260-1390

CLASS 7110

Blackboard (SH)

7110-00-132-6651

Bookcase, Wood, Executive (SH)

7110-00-973-5127

Credenza (SH)

7110-00-762-5513

Table, Wood (SH)

7110-00-958-0780

7110-00-823-7675

7110-00-903-3061

7110-00-902-3052

Tables, Steel (SH)

7110-00-113-0448

7110-00-113-0454

7110-00-149-2044

7110-00-149-2045

7110-00-149-2046

7110-00-149-2047

CLASS 7195

Bulletin Board (IB)

7195-00-989-2370

7195-00-844-9036

7195-00-989-2371

7195-00-844-9037

7195-00-989-2372

7195-00-844-9038

7195-00-990-0615

7195-00-843-7938

Costumer, Wood (SH)

7195-00-132-6643

CLASS 7210

Bedsprad (IB)

7210-00-728-0186

7210-00-728-0187

7210-00-728-0188

7210-00-728-0189

7210-00-728-0190

7210-00-728-0191

7210-00-728-0173

7210-00-728-0175

7210-00-728-0176

7210-00-728-0177

7210-00-728-0178

7210-00-728-0179

7210-00-408-2800

Bedspring (IB)

7210-00-582-7540

7210-00-582-0984

7210-00-110-8104

7210-00-582-7541

7210-00-110-8105

Cover, Bed (IB)

7210-01-116-7860

7210-01-120-0679

7210-01-116-7858

7210-01-116-7859

7210-01-118-4085

7210-01-116-7855

7210-01-116-7856

7210-01-116-7857

7210-01-116-7854

7210-01-116-7853

7210-01-120-8015

7210-01-124-7626

7210-01-120-8013

7210-01-120-8014

7210-01-120-8011

7210-01-120-8010

7210-01-122-5015

7210-01-120-8012

7210-01-125-9250

7210-01-120-8009

7210-01-123-5148

7210-01-120-8017

7210-01-120-8021

7210-01-120-8022

7210-01-120-8018

7210-01-124-8303

7210-01-120-8019

7210-01-120-8020

7210-01-123-5149

7210-01-120-8016

Cover, Mattress (IB)

7210-00-291-8419

7210-00-205-3083
 7210-00-205-3082
 7210-00-067-7969
 7210-00-998-7745
 7210-00-883-8492
 7210-00-140-4231
 7210-00-140-4234
 7210-00-543-6001
 7210-00-171-1091
 7210-00-935-6619
 7210-00-230-1041
 7210-00-241-9718
 Insect Bar, Nylon (SH)
 7210-00-266-9736
 Mattress, Cotton-Felt (IB)
 7210-00-139-6517
 7210-00-139-6555
 7210-00-139-6538
 Mattress, Foam (IB)
 7210-00-290-8300
 7210-00-275-5873
 7210-00-275-5874
 7210-00-290-8298
 7210-00-290-8297
 7210-00-052-7327
 7210-00-889-3733
 7210-00-290-8299
 7210-00-682-6503
 7210-00-682-6504
 Mattress, Innerspring (IB)
 7210-00-205-3585
 7210-00-139-6424
 7210-00-716-0706
 7210-00-139-6411
 7210-00-205-3534
 7210-00-139-6434
 7210-00-139-6428
 7210-00-110-8102
 7210-00-110-8103
 7210-38-75-100 38 x 75"
 7210-53-75-100 53 x 75"
 Mattress, Innerspring, Plastic-Coated (IB)
 7210-00-995-1093
 7210-00-682-7146
 7210-00-529-3709
 7210-00-NIB-0001 36 x 75"—Veterans
 Administration requirements only
 Pad, Mattress (IB)
 7210-00-227-1526
 7210-00-753-3042
 Pillow, Bed (IB)
 7210-00-619-8262
 7210-00-205-3205 (Regions 1 thru 7 only)
 7210-00-753-6228
 7210-00-035-3342
 7210-00-894-1144
 7210-01-015-5190 (96,000 each annually)
 7210-00-119-5358
 Pillow, Passenger, Headrest (IB)
 7210-00-682-6601
 Pillowcase (IB)
 7210-00-054-7910
 7210-00-259-9005
 7210-00-259-9006
 7210-00-119-7356
 7210-00-231-2373
 7210-00-259-9004
 7210-00-259-8897
 7210-00-081-1380
 Pillowcase (SH)
 7210-00-119-7357
 7210-01-030-5311
 Pillowcase, Disposable (IB)
 7210-00-883-8494
 7210-00-852-3417
 Protector, Hospital Bed, Mattress (IB)

7210-00-761-1471
 7210-00-761-1470
 Protector, Hospital Bed, Pillow (IB)
 7210-00-958-9118
 Sheet, Bed (IB)
 7210-00-299-9611
 Tablecloth (SH)
 7210-00-492-8381
 Towel, Bath, Disposable (IB)
 7210-01-029-0370
 Washcloth (IB)
 7210-01-013-2824

CLASS 7220

Mat, Floor (IB)
 7220-00-205-3099
 7220-00-224-6487
 7220-00-238-8852
 7220-00-224-6486
 7220-00-238-8854
 7220-00-165-7020
 7220-01-023-9487
 7220-01-023-9489
 7220-01-024-5997
 7220-01-023-9496
 7220-01-023-9490
 7220-01-023-9491
 7220-01-023-9493
 7220-01-023-9494
 7220-01-023-9495
 Mat, Floor (SH)
 7220-00-205-3192
 7220-00-205-3182
 7220-00-457-6057
 7220-00-457-6063
 7220-00-151-6519
 7220-00-151-6518
 7220-00-151-6517
 7220-00-477-3063
 7220-00-194-1609
 7220-00-457-6046
 7220-00-457-6054

CLASS 7230

Curtain, Shower (IB)
 7230-00-205-1762
 7230-00-247-1280

CLASS 7290

Cover, Ironing Board (IB)
 7290-00-130-3271

CLASS 7330

Pad, Bakery (IB)
 7330-00-379-4439 (Rgn W, 3, 5, 6, 8)
 Tongs, Food Serving (SH)
 7330-00-616-0997
 7330-00-616-0998
 7330-00-616-1000

CLASS 7340

Flatware, Plastic, Heavy Duty (IB)
 7340-00-022-1315
 7340-00-022-1316
 7340-00-022-1317
 7340-00-401-8041
 Flatware, Plastic, Picnic (IB)
 7340-00-170-8374
 7340-00-205-3187
 7340-00-205-3342
 Spoon, Picnic, Plastic (IB)
 7340-00-119-1300

CLASS 7350

Cup, Plastic (SH)
 7350-00-721-9003

7350-00-082-5741
 7350-00-926-1661
 7350-00-145-6126
 7350-00-761-7467
 7350-00-914-5089
 7350-00-914-5088

CLASS 7360

Dining Packet (IB)
 7360-00-935-6407
 Dining Packet, Inflight (IB)
 7360-00-660-0526
 Flatware Set, Plastic (IB)
 7360-00-634-4800

CLASS 7510

Binder, Awards Certificate (IB)
 7510-00-115-3250
 7510-00-482-2994
 7510-01-056-1927
 Binder, Looseleaf (IB)
 7510-00-281-4309
 7510-00-281-4314
 7510-00-582-4201
 7510-00-281-4310
 7510-00-281-4311
 7510-00-281-4313
 7510-00-281-4315
 7510-00-286-7792
 7510-00-286-7794
 7510-00-582-5488
 7510-00-286-7791
 7510-00-582-3807
 7510-00-782-2663
 7510-00-409-8646
 7510-00-409-8647
 7510-00-984-5787
 Binder, Looseleaf, Presentation (IB)
 7510-00-582-5398 Rgn W, 2, 3, 4
 7510-00-582-5399 Rgn W, 2, 3, 4
 7510-00-582-5400 Rgn W, 2, 3, 4
 Binder, Note Pad (IB)
 7510-00-286-6954
 7510-00-145-0296
 7510-00-728-8060
 7510-01-053-5591
 Board, Wall Calendar (IB)
 7510-00-789-2455
 Calendar Pad (SH)
 7510-01-118-5489 (1983)
 7510-01-117-7710 (1984)
 Clip, Paper (SH)
 7510-00-161-4292
 Envelope, Crystal Clear Vinyl (IB)
 7510-00-NIB-0003
 7510-00-NIB-0004
 7510-00-NIB-0005
 7510-00-NIB-0006
 Envelope, Transparent (IB)
 7510-00-782-6274
 7510-00-782-6275
 7510-00-782-6276
 Eraser, Mechanical Pencil (IB)
 7510-00-307-7885
 File Back (IB)
 7510-00-NIB-0002
 File Backer, Paper (IB)
 7510-00-285-2567
 File Front (IB)
 7510-00-NIB-0001
 Pad, Typewriter (IB)
 7510-00-257-2576
 7510-00-530-6412
 7510-00-849-1137
 Paperweight, Shotfired (IB)

7510-00-286-6985

Pencil (IB)

7510-00-286-5757

7510-00-281-5234

7510-00-281-5235

Pencil, Woodcased, with Imprinting (IB)

7510-050-8LP-6521

Pocket Planning Set (SH)

7510-00-119-6368 (1983)

7510-00-119-6369 (1984)

Portfolio (IB)

7510-00-558-1572

7510-00-616-7241

7510-00-551-9813

7510-00-558-1573

7510-00-616-7239

7510-00-558-1571

7510-00-995-4856

7510-00-995-4857

7510-00-995-4854

7510-00-995-4852

7510-00-995-4853

7510-00-995-4850

7510-00-584-2489

7510-00-584-2490

7510-00-584-2491

7510-00-584-2492

Refill, Ballpoint Pen (IB)

7510-00-543-6792

7510-00-543-6793

7510-00-754-2687

7510-00-543-6795

7510-00-754-2688

7510-00-754-2689

7510-00-754-2690

7510-00-754-2691

Refill, List Finder, Automatic (SH)

7510-00-285-2800

Refill, Pocket Planning Set (SH)

7510-01-113-2079

CLASS 7520

Arch Board File (IB)

7520-00-240-5498

7520-00-191-1075

7520-00-255-7081

Ballpoint Pen (IB)

7520-00-935-7136

7520-00-935-7135

7520-00-543-7149

Ballpoint Pen, Stick-type (IB)

7520-01-058-9978

7520-01-058-9977

7520-01-058-9976

7520-01-059-4125

7520-01-060-5820

7520-01-058-9975

7520-01-060-8513

7520-01-060-5821

Ballpoint Pen, with Imprinting (IB)

7520-050-8LP-6520

Book Ends (IB)

7520-00-264-5479

7520-00-139-6158

Box, Filing (SH)

7520-00-285-3147

7520-00-285-3143

7520-00-285-3144

7520-00-285-3145

7520-00-285-3146

7520-00-285-3148

Case, Maintenance and Operational Manuals (IB)

7520-00-559-9618

Clipboard, File (IB)

7520-00-281-5918

7520-00-254-4610

7520-00-240-5503

Easel, Display & Training (IB)

7520-00-579-7013

Holder, Desk Memorandum (IB)

7520-00-139-3802

7520-00-290-6445

Marker, Tube Type (IB)

7520-00-973-1059

7520-00-973-1060

7520-00-079-0285

7520-00-973-1061

7520-00-079-0286

7520-00-079-0287

7520-00-973-1062

7520-00-079-0288

7520-00-558-1501

7520-00-904-1265

7520-00-904-1268

7520-00-935-0979

7520-00-904-1267

7520-00-935-0981

7520-00-935-0982

7520-00-904-1266

7520-00-935-0980

7520-00-051-5031

7520-00-051-5035

7520-00-116-2888

7520-00-051-5036

7520-00-116-2886

7520-00-116-2889

7520-00-051-5033

7520-00-116-2887

7520-00-904-4476

Pen Set, Desk (IB)

7520-00-106-9840

Pencil, Mechanical (IB)

7520-00-223-6672

7520-00-223-6673

7520-00-268-9913

7520-00-223-6675

7520-00-223-6676

7520-00-285-5826

7520-00-285-5822

7520-00-285-5823

7520-00-161-5664

7520-00-164-8950

7520-00-268-9915

7520-00-285-5818

7520-00-268-9916

7520-00-724-5606

7520-00-590-1878

7520-01-132-4996

Perforator, Paper, Desk (SH)

7520-00-139-4101

7520-00-263-3425

Stand, Calendar Pad (IB)

7520-00-162-6153

7520-00-139-4341

Tray, Desk (SH)

7520-00-232-6828

7520-00-286-5801

7520-00-285-5043

Trimmer, Paper (IB)

7520-00-224-7620 Rgn 2, 7

7520-00-224-7621

7520-00-163-2568

7520-00-634-4675

7520-00-282-2137

CLASS 7530

Card, Guide, File (IB)

7530-00-989-0184

7530-00-989-2425

7530-00-988-6541

7530-00-988-6542

7530-00-988-6543

7530-00-988-6549

7530-00-988-6550

7530-00-988-6551

7530-00-988-6544

7530-00-988-6545

7530-00-988-6546

7530-00-988-6547

7530-00-988-6548

7530-00-988-6515

7530-00-988-6516

7530-00-988-6520

7530-00-988-6521

7530-00-988-6517

7530-00-988-6518

7530-00-988-6522

Card-Set, Guide, File (IB)

7530-00-989-0698

7530-00-989-0697

7530-00-989-0683

7530-00-082-2635

7530-00-989-0684

7530-00-989-0686

7530-00-989-0692

7530-00-989-0694

7530-00-989-0693

7530-00-989-0695

Envelope, Wallet (IB)

7530-00-281-5976

7530-00-281-4844

7530-00-281-4846

Folder, File, Military Personnel Records

Jacket (IB)

7530-DA Form 201

Folder, File (IB)

7530-00-889-3555

7530-00-559-4512

7530-00-281-5907

7530-00-281-5908

7530-00-926-8978

7530-00-273-9845

7530-00-926-8980

7530-00-286-6924

7530-00-286-8571

7530-00-286-7286

7530-00-926-8982

7530-00-926-8984

7530-00-043-1194

Folder-Set, File (IB)

7530-00-286-6923

7530-00-286-7080

7530-00-286-7244

7530-00-286-7253

7530-00-286-7287

7530-00-286-8570

7530-00-286-6925

Jacket, Filing, Wallet (IB)

7530-00-285-2915

Notebook, Stenographer's (IB)

7530-00-223-7939

Pad, Writing Paper (IB)

7530-00-285-3090 Rgn 1, 5 & 6

7530-00-239-8479 All Regions

7530-01-131-1889 All Regions

7530-01-124-5660 Rgn W, 1, 3, 4, 5, 6, 7, 8

7530-01-056-0889 Rgn W, 1, 3, 4, 5, 6, 7, 8

7530-01-124-7632 Rgn W, 1, 2, 3, 5, 7

Pad, Writing Paper (Easel) (IB)

7530-00-619-8880

Paper Set, Manifold and Carbon (IB)

7530-00-880-9154 Rgn W, 6, 7

7530-00-401-6910 Rgn W, 6, 7

7530-01-072-2536 Rgn W, 6, 7

7530-01-072-2537 Rgn W, 6, 7

7530-01-072-2538 Rgn W, 6, 7

7530-01-072-2539 Rgn W.6,7
7530-00-205-0511 Rgn W.6,7
Paper, Looseleaf, Blank (IB)

7530-00-286-5777
7530-00-286-5778
7530-00-286-5782
7530-00-286-5780
7530-00-286-5781
7530-00-286-5779

Paper, Looseleaf, Ruled (IB)

7530-00-286-6366
7530-00-286-4332
7530-00-286-4331
7530-00-286-4333
7530-00-286-4334
7530-00-286-4335
7530-00-198-6265
7530-00-286-4336
7530-00-286-4337
7530-00-286-4338
7530-00-286-4339

Paper, Teletypewriter, Roll (IB)

7530-00-223-7966
7530-01-056-2900
7530-00-721-9691
7530-00-223-7969
7530-00-262-9178
7530-00-142-9037
7530-00-943-7076

Paper, Writing (IB)

7530-00-285-5836
7530-01-047-3738

Refill, Appointment Book (SH)

7530-01-115-1526 (1983)
7530-01-115-1527 (1984)

Tape, Paper, Computing Machine (IB)

7530-00-286-9052
7530-00-222-3455
7530-00-286-9053
7530-00-286-9054
7530-00-238-8352
7530-00-222-3456
7530-00-286-9055

CLASS 7690

Decalcomania NO SMOKING (SH)

7690-00-857-9662
7690-00-857-9574
7690-00-857-9700
7690-00-857-9613
7690-00-858-3403
7690-00-858-3365
7690-00-310-6627
7690-00-311-7272
7690-00-328-9517
7690-00-329-0205

Decalcomania U.S. ARMY (SH)

7690-00-857-9575
7690-00-857-9663
7690-00-857-9614
7690-Code 600 USPSW
7690-Code 607 USPSW
7690-00-311-7276
7690-00-329-0206
7690-00-858-3405
7690-00-858-3366
7690-00-310-9208

Decalcomania MAX SPEED (SH)

7690-00-857-9572
7690-00-857-9660
7690-Code 633 USPSW
7690-00-857-9611
7690-00-857-9698
7690-00-328-9507
7690-00-329-0204

Decalcomania NO RIDERS (SH)

7690-Code 635 USPSW

7690-00-857-9573

7690-Code 636 USPSW

7690-00-857-9612

7690-00-857-9699

Decalcomania LIFT HERE (SH)

7690-Code 622-L-USPSW

Decalcomania FOR OFFICIAL USE ONLY (SH)

7690-Code 669-L-USPSW

7690-Code 666-L-USPSW

7690-Code 672-L-USPSW

7690-Code 667-L-USPSW

7690-Code 675-L-USPSW

7690-Code 668-L-USPSW

Decalcomania NUMBERS AND LETTERS (SH)

7690-00-1 1/2"

7690-2"

7690-00-311-7128

7690-4"

CLASS 7910

Pad, Floor Polishing Machine (IB)

7910-00-685-6686

7910-00-685-6687

7910-00-685-3908

7910-00-685-6671

7910-00-685-3909

7910-00-685-6672

7910-00-685-3910

7910-00-685-6656

7910-00-685-6657

7910-00-685-3912

7910-00-685-6659

7910-00-685-3915

7910-00-685-6660

7910-00-685-3914

7910-00-685-4239

7910-00-685-4240

7910-00-685-4242

7910-00-685-4243

7910-00-685-4241

7910-00-685-4244

7910-00-685-4245

7910-00-820-7991 Rgn 6,7,8,9,10

7910-00-820-7989 Rgn 6,7,8,9,10

7910-00-820-7990 Rgn 6,7,8,9,10

7910-00-820-9926 Rgn 6,7,8,9,10

7910-00-820-9925 Rgn 6,7,8,9,10

7910-00-820-9924 Rgn 6,7,8,9,10

7910-00-820-9896 Rgn 6,7,8,9,10

7910-00-820-7997 Rgn 6,7,8,9,10

7910-00-820-7996 Rgn 6,7,8,9,10

CLASS 7920

Broom, Push (IB)

7920-00-267-2967

Broom, Upright (IB)

7920-00-292-4371

7920-00-292-4375

7920-00-292-4372

7920-00-291-8305

Broom, Whisk (IB)

7920-00-240-6350

Brush, Chassis and Running Gear (IB)

7920-00-255-7536

Brush, Cleaning, Aircraft (IB)

7920-00-051-4384

Brush, Dusting (IB)

7920-00-178-8315

Brush, Floor Sweeping (IB)

7920-00-243-3407

7920-00-292-2363

7920-00-292-2367

7920-00-264-4638

7920-00-292-2362

7920-00-292-2365

Brush, Sanitary (IB)

7920-00-772-5800

7920-00-234-9317

Brush, Scrub (IB)

7920-00-240-7174

7920-00-951-8795

7920-00-282-2470 Tampico Fibers

7920-00-282-2470 Styrene Fibers

7920-00-297-1511

7920-00-619-9162

7920-00-061-0038

Brush, Shoe and Stove (IB)

7920-00-852-8170

Brush, Wire, Scratch (IB)

7920-00-291-5815

7920-00-282-9246

7920-00-246-8501

7920-00-223-7649

Brush, Wire, Stainless Steel (IB)

7920-00-958-1157

Brush—Set, Shoe and Stove (IB)

7920-00-205-0200

Cloth, Polishing (IB)

7920-00-205-1656

7920-00-205-3170

7920-00-664-0103

Handle, Mop (IB)

7920-00-205-1168

7920-00-267-1218

7920-00-205-1167

7920-00-550-9902

7920-00-550-9911

7920-00-550-9912

7920-00-998-2485

7920-00-998-2486

7920-00-851-0140

7920-00-851-0142

7920-00-246-0930

7920-00-205-1170

Handle, Paint Roller (IB)

7920-00-682-6512

Handle, Wood (IB)

7920-00-177-5106

7920-00-141-5452

7920-00-283-0328

Kit, Aircraft Cleaning (IB)

7920-00-490-6046

Mop, Dusting, Cotton (IB)

7920-00-205-0481

7920-00-205-0483

7920-00-205-0484

7920-00-245-8289

Mop, Wet (IB)

7920-00-224-8726

Mop, Wet, Cellulose, Complete (IB)

7920-00-432-7117

7920-00-728-1167

Mop, Wet, Cellulose, Sponge Refill (IB)

7920-00-471-2876

Mophead, Dusting, Cotton (IB)

7920-00-634-0201

7920-00-267-4921

7920-00-998-2482

7920-00-998-2483

7920-00-998-2484

7920-00-851-0141

7920-00-205-0485

7920-00-205-0487

7920-00-205-0488

Mophead, Wet (IB)

7920-00-205-0425

7920-00-205-0426

7920-00-141-5549

7920-00-171-1148
 7920-00-141-5550
 7920-00-141-5547
 7920-00-141-5548
 7920-00-141-5544
 7920-00-926-5492
 7920-00-926-5493
 7920-00-926-5494
 7920-00-926-5495
 7920-00-926-5496
 7920-00-926-5497
 7920-00-926-5498
 7920-00-926-5499
 7920-00-926-5501
 7920-00-926-5502
 Pad, Scouring (IB)
 7920-00-753-5242
 7920-00-151-6120
 Scraper and Squeegee (IB)
 7920-00-045-2556
 Sponge, Cellulose (IB)
 7920-00-161-6219
 7920-00-633-9928
 7920-00-240-2559
 7920-00-884-1116
 7920-00-884-1115
 7920-00-633-9905
 7920-00-240-2555
 7920-00-633-9906
 Sponge, Plastic (IB)
 7920-00-633-9908
 7920-00-633-9911
 7920-00-633-9915
 7920-00-685-4152
 Squeegee (SH)
 7920-00-224-8339
 Towel, Machinery Wiping (IB)
 7920-00-260-1279
 Towel, Paper (IB)
 7920-00-823-9772 Rgn 4, 6, 7
 7920-00-823-9773

CLASS 7930

Cloth, Filter (SH)
 7930-00-NSH-0001—Naval Supply Center,
 WA only
 Detergent, General Purpose (IB)
 7930-00-926-5280
 7930-00-357-7386
 7930-00-068-1669
 7930-00-055-6122
 7930-00-177-5243
 7930-00-985-6945
 7930-00-985-6946
 7930-00-530-8067
 7930-00-527-1207
 7930-00-527-1237
 Dishwashing Compound, Hand (IB)
 7930-00-880-4454 Rgn W, 1, 2, 3, 5, 10
 7930-01-055-6136 Rgn W, 1, 2, 3, 5, 10
 7930-00-899-9534 Rgn W, 1, 2, 3, 5, 10
 Glass Cleaner (IB)
 7930-00-664-6910
 Rinse Additive, Dishwashing (IB)
 7930-00-619-9573 (100% Govt rgmt)
 7930-00-619-9575

CLASS 8105

Bag, Assembly, Crew Relief (IB)
 8105-00-922-9469
 Bag, Cloth (IB)
 8105-00-282-8183
 Bag, Cotton (IB)
 8105-00-183-6981
 8105-00-281-3924
 8105-00-183-6982

8105-00-179-0089
 8105-00-271-1511
 8105-00-183-6985
 8105-00-174-0836
 8105-00-183-6989
 8105-00-290-3360
 Bag, Evidence (IB)
 8105-00-NIB-0001
 8105-00-NIB-0002
 8105-00-NIB-0003
 8105-00-NIB-0004
 8105-00-NIB-0005
 Bag, Lunch (SH)
 8105-00-664-3715
 Bag, Motion Sickness (IB)
 8105-00-835-7212
 Bag, Plastic (SH)
 8105-00-NSH-0001
 8105-00-NSH-0002
 8105-00-NSH-0003
 8105-00-NSH-0004—Requirements for
 Naval Weapons Support Center, Crane,
 Indiana
 Coin Bags (SH)
 8105-00-NSH-0005—50% of Gov't
 requirement
 8105-00-NSH-0006—50% of Gov't
 requirement
 8105-00-NSH-0007—50% of Gov't
 requirement
 8105-00-NSH-0008—50% of Gov't
 requirement
 8105-00-NSH-0009—50% of Gov't
 requirement
 8105-00-NSH-00010—50% of Gov't
 requirement
 8105-00-NSH-00011—50% of Gov't
 requirement
 8105-00-NSH-00012—50% of Gov't
 requirement

CLASS 8110

Tube, Mailing and Filing (SH)
 8110-00-412-4410

CLASS 8115

Box, Set-Up, Mailing Dental (IB)
 8115-00-511-5750
 Box, Shipping (IB)
 8115-00-787-2142
 8115-00-787-2147
 8115-00-101-7647
 8115-00-101-7638
 8115-00-787-2146
 8115-00-787-2148
 8115-01-019-4085
 8115-01-019-4084
 8115-01-057-1244
 8115-01-057-1243
 8115-01-057-1245
 Box, Wood (SH)
 8115-00-935-6526
 8115-00-935-6527
 8115-00-935-6532
 8115-00-935-6531
 Box, Wood, Nailed (SH)
 8115-00-NOO-0019—Requirements for
 Pine Bluff Arsenal, Pine Bluff, AR only

CLASS 8120

Cap, Compressed Gas Cylinder (IB)
 8120-00-178-9814
 8120-00-179-0076

CLASS 8135

Block, Currency Packing (IB)

BEP Stock number L-1391
 Chipboard (IB)
 8135-00-290-0336
 8135-00-782-3948
 8135-00-782-3951

CLASS 8315

Sewing Kit (SH)
 8315-01-096-4480
 8315-01-090-5823

CLASS 8340

Line, Tent (SH)
 8340-00-263-0255
 Pin, Tent, Aluminum (SH)
 8340-00-261-9749
 Pin, Tent, Wood (SH)
 8340-00-261-9750
 8340-00-261-9751
 Pole Section, Tent (SH)
 8340-00-223-7849
 Shelter Half, Tent (SH)
 8340-00-577-4168

CLASS 8345

Case, Flag, Interment (IB)
 8345-00-782-3010
 Flag, Signal (IB)
 8345-00-935-0588
 8345-00-935-0589
 8345-00-935-0590
 8345-00-935-0591
 8345-00-935-0592
 8345-00-935-0594
 8345-00-935-0595
 8345-00-935-0597
 8345-00-935-0598
 8345-00-935-0599
 8345-00-935-0602
 8345-00-935-0604
 8345-00-935-0607
 8345-00-935-0608
 8345-00-935-0633
 8345-00-935-1840
 8345-00-935-0634
 8345-00-935-0638
 8345-00-935-0639
 8345-00-935-0640
 8345-00-926-9977
 8345-00-926-9212
 8345-00-926-9978
 8345-00-926-6804
 8345-00-926-6806
 8345-00-926-9979
 8345-00-926-6807
 8345-00-926-6809
 8345-00-926-9980
 8345-00-926-9219
 8345-00-935-0582
 8345-00-926-9984
 8345-00-926-6003
 8345-00-926-9985
 8345-00-935-0619
 8345-00-935-1839
 8345-00-935-0620
 8345-00-935-0623
 8345-00-935-0409
 8345-00-935-0624
 8345-00-935-0445
 8345-00-926-6803
 8345-00-935-0446
 8345-00-926-6805
 8345-00-935-0447
 8345-00-926-9987
 8345-00-935-0448

8345-00-926-6810
 8345-00-926-9988
 8345-00-935-0450
 8345-00-935-0451
 8345-00-935-0453
 8345-00-926-6002
 8345-00-926-6814
 8345-00-935-0436
 8345-00-935-0437
 8345-00-935-0438
 8345-00-935-0408
 8345-00-935-0441
 8345-00-935-0442
 8345-00-935-0464
 8345-00-935-0465
 8345-00-935-0466
 8345-00-935-0467
 8345-00-935-0468
 8345-00-935-0470
 8345-00-935-0471
 8345-00-935-0473
 8345-00-935-0474
 8345-00-935-0475
 8345-00-935-0478
 8345-00-935-0480
 8345-00-935-0483
 8345-00-935-0484
 8345-00-935-0626
 8345-00-935-1838
 8345-00-935-0627
 8345-00-935-0407
 8345-00-935-0630
 8345-00-935-0631
 Flag, Signal, Vehicle, Danger Red (IB)
 8345-00-260-2724
 Pennant, Signal, and Special Flags (IB)
 8345-00-935-0420
 8345-00-935-0517
 8345-00-935-4755
 8345-00-825-1847
 8345-00-935-3201
 8345-00-935-4756
 8345-00-935-0522
 8345-00-914-6086
 8345-00-935-4753
 8345-00-935-4754
 8345-00-935-0404
 8345-00-935-0514
 8345-00-825-1868
 8345-00-935-0406
 8345-00-935-0509
 8345-00-926-5988
 8345-00-935-0512
 8345-00-921-4497
 8345-00-935-3199
 8345-00-825-1839
 8345-00-935-0526
 8345-00-914-6076
 8345-00-914-6080
 8345-00-914-6083
 8345-00-935-0524
 8345-00-926-5987
 8345-00-926-5989
 8345-00-935-0539
 8345-00-926-5991
 8345-00-825-1840
 8345-00-935-0521
 8345-00-914-6087
 8345-00-926-6026
 8345-00-935-0403
 8345-00-935-0536
 8345-00-926-9210
 8345-00-926-9213
 8345-00-926-6028
 8345-00-935-0508
 8345-00-935-0519

8345-00-935-0415
 8345-00-914-6085
 8345-00-926-9215
 8345-00-935-0411
 8345-00-926-9212
 8345-00-914-7411
 8345-00-914-6079
 8345-00-914-6082
 8345-00-935-0523
 8345-00-935-0417
 8345-00-926-5990
 8345-00-935-0421
 8345-00-926-9207
 8345-00-935-0542
 8345-00-935-0520
 8345-00-935-0492
 8345-00-935-0493
 8345-00-926-9214
 8345-00-935-0513
 8345-00-935-0490
 8345-00-935-0495
 8345-00-926-9208
 8345-00-935-0518
 8345-00-935-0511
 8345-00-914-6084
 8345-00-935-0405
 8345-00-935-0410
 8345-00-935-0525
 8345-00-914-6075
 8345-00-914-6077
 8345-00-914-6081
 8345-00-935-0419
 8345-00-935-0416
 8345-00-935-0537
 8345-00-935-0538
 8345-00-935-0540
 8345-00-935-0541
 8345-00-926-9211
 8345-00-935-0499
 8345-00-935-0500
 8345-00-935-0501
 8345-00-825-1818
 8345-00-935-0497
 8345-00-935-0504
 8345-00-935-1841
 8345-00-935-0418
 8345-00-825-1819
 8345-00-926-1551
 8345-00-935-0503
 8345-00-935-0534
 8345-00-935-1843
 8345-00-926-1548
 8345-00-926-1549
 8345-00-926-1552

CLASS 8405

Cover, Service Cap (IB)
 8405-01-046-8544
 8405-01-046-8545
 Strap, Chin (SH)
 8405-00-152-3952

CLASS 8415

Apron, Construction Worker's (IB)
 8415-00-205-3895
 8415-00-257-4290
 Apron, Food Handling (IB)
 8415-00-255-8577
 8415-00-634-0205
 8415-00-051-1173
 8415-01-045-0587
 Apron, Impermeable (SH)
 8415-00-082-6108
 Band, Helmet, Camouflage (IB)
 8415-01-110-9981

Cap, Food Handler's (IB)
 8415-00-234-7677
 8415-00-234-7678
 8415-00-234-7679
 Cover, Helmet (IB)
 8415-00-105-0605
 Cover, Helmet, Camouflage Pattern (IB)
 8415-01-092-7514
 8415-01-092-7515
 Gloves, Cloth, Cotton, White (SH)
 8415-00-268-8354(Combined quantity of
 300,000 pairs annually)
 8415-00-268-8353
 Hood, Anti-Flash (SH)
 8415-00-275-3159
 Hood, Spray Painter's Protective (SH)
 8415-00-NSH-0001—Pearl Harbor Naval
 Shipyard, Hawaii only
 Pad, Helmet, Flight Deck Crewman's (IB)
 8415-00-178-6830
 8415-00-178-6831
 Socks, Extreme Cold Weather (SH)
 8415-00-177-7992
 8415-00-177-7993
 Traffic Safety Clothing (See Class 8465 also)
 (IB)
 8415-00-177-4978
 8415-00-177-4974

CLASS 8430

Footwear Cover (IB)
 8430-00-890-2079
 8430-00-580-1205
 8430-00-580-1206
 8430-00-591-1359
 Slide Fastener Unit, Laced Boot (IB)
 8430-00-465-1888
 8430-00-465-1889
 8430-00-465-1890

CLASS 8440

Neckerchief (IB)
 8440-01-076-0779
 Neckerchief, Camouflage, Desert (IB)
 8440-01-103-5981
 Necktie (IB)
 8440-00-216-6130
 8440-00-316-2519
 8440-00-555-7194
 Scarf, Man's, Wool (SH)
 8440-01-005-2558
 8440-00-160-6843
 8440-00-823-7520
 Suspenders, Trousers (IB)
 8440-00-221-0852

CLASS 8445

Belt, Trousers (IB)
 8445-01-068-8339
 8445-01-068-8340
 Scarf, Neckwear (IB)
 8445-00-549-5363

CLASS 8455

Holder, Identification (IB)
 8455-00-898-9730
 Scarf, Branch of Service (IB)
 8455-00-916-8398
 8455-00-405-2294
 8455-00-985-7336
 8455-01-078-0750
 8455-01-078-0751
 8455-01-078-0752
 8455-01-078-0746
 8455-01-078-0753

8455-01-078-0748
8455-01-078-0754
8455-01-078-0755
8455-01-078-0756
8455-01-078-0744
8455-01-078-0757
8455-01-078-0758
8455-01-078-0759
8455-01-078-0760
8455-01-078-0761
8455-01-078-0762
8455-01-078-0749

CLASS 8460

Kit Bag, Flyer's (IB)
8460-00-606-8366

CLASS 8465

Bag, Barrack (IB)
8465-00-530-3692
Bag, Laundry (SH)
8465-00-616-9576
Bag, Laundry, Self-Closing, Ropeless (SH)
8465-00-656-0816
Bag, Sleeping, Firefighter's (IB)
8465-00-081-0798
Bag, Soiled Clothes (SH)
8465-00-122-3869
Bag, Soiled Clothes, Submarine (IB)
8465-00-762-7671
Belt, Individual, Equipment, Nylon, LC-1 (IB)
8465-01-120-0674
8465-01-120-0675
Belt, M.P. (IB)
8465-00-527-8843
Carrier, Intrenching Tool (IB)
8465-00-001-6474
Case, Field, First Aid (IB)
8465-00-935-6814
Case, Maintenance Equipment, Small Arms (IB)
8465-00-781-9564
Case, Map and Note, Field (SH)
8465-00-634-1903
Clipboard, Pilot's (SH)
8465-01-012-9174
Clothes Stop (IB)
8465-00-377-5701
Cover, Field Pack, Camouflage (IB)
8465-01-103-0659
Cover, Water Canteen (IB)
8465-00-4956
Cover, Water Canteen Nylon (IB)
8465-00-860-0256
Fieldpack, Canvas (SH)
8465-00-205-3493
Hood, Sleeping Bag (IB)
8465-00-518-2769
Lanyard, Pistol (SH)
8465-00-262-5237
8465-00-965-1705
Necklace, Personnel, Identification (SH)
8465-00-261-6629
Pocket, Ammunition Magazine (IB)
8465-00-782-2239
8465-00-261-4983
Protector, Trousers, Pistol Holster (IB)
8465-00-682-6741
Strap, Waist, with Pad, LC-2 (IB)
8465-01-075-8164
Strap, Webbing, Cargo, Tie-Down (IB)
8465-00-001-6477
Strap, Webbing, Waist, LC-1 (IB)
8465-00-269-0481
Suspenders, Individual Equipment Belt (IB)
8465-00-001-6471

Traffic Safety Clothing (See Class 8415 also)
(IB)
8465-00-177-4977
8465-00-177-4976
8465-00-177-4975
Whistle, Ball, Plastic (IB)
8465-00-254-8803

CLASS 8470

Headband, Ground Troop, Helmet Liner (IB)
8470-00-153-6671—Mechanicsburg, PA and
Richmond, VA only
Headband, Ground Troops'/Parachutists'
Helmet (IB)
8470-01-092-8493
8470-01-092-8492
Neckband, G.T., Helmet Liner (IB)
8470-00-753-6186
Pad, Parachutists' Helmet (IB)
8470-01-092-8494
Strap, Chin, Ground Troops'/Parachutists'
Helmet (IB)
8470-01-092-7534
Strap, Chin, Parachutist Steel Helmet (IB)
8470-00-032-2737
Strap, Retention, Parachutists' Helmet (IB)
8470-01-092-7524
Strap, Soldier's Steel Helmet M-1 (IB)
8470-00-030-8003
Suspension Assembly, Liner, Helmet (IB)
8470-00-880-8814
Suspension Assembly, Ground Troops/
Parachutists' (IB)
8470-01-092-7516
8470-01-092-7517
8470-01-092-7518
8470-01-092-7519

CLASS 8520

Soap, Toilet (IB)
8520-00-228-0598
8520-01-058-7463
8520-00-141-2519

CLASS 8940

Condiment Packet (Dietetic) (IB)
8940-00-177-4958
8940-00-177-4959
8940-00-177-4960
8940-00-177-4961
8940-00-177-4962
8940-00-177-4963
8940-00-935-6416
8940-00-935-6417
8940-00-935-6420
8940-00-935-6421

CLASS 8950

Condiment Packet (IB)
8950-000-935-6408
8950-000-935-6409
8950-000-935-6410
8950-000-935-6411
8950-000-935-6412
8950-000-935-6413

CLASS 8970

Food Packet, Survival, Aircraft, Life Raft,
Indiv. (SH)
8970-01-028-9406

CLASS 9905

Plate, Marking, Blank (SH)
9905-00-473-6336
Sign-Kit, Vehicle (SH)
9905-00-565-6267

Tag, Key (SH)
9905-00-245-7826
Tag, Marker (SH)
9905-00-537-8954
9905-00-537-8955
9905-00-537-8956
9905-00-537-8957
Tree Shade (SH)
9905-00-NSH-0001 8" x 12"
9905-00-NSH-0153 8" x 16"—Bureau of
Land Management and U.S. Forest
Service in Washington and Oregon only

CLASS 9920

Ash Receiver, Tobacco (IB)
9920-000-682-6757

U.S. Postal Service Items

Divider, Separation (SH)
P.S. Item No. 01037-A
P.S. Item No. 01037-B
Lead Seal with Cord Attachment (SH)
P.S. Item No. 0815
Marker, I.D., Plastic (SH)
P.S. Item No. 01036
P.S. Item No. 01036-A
P.S. Item No. 01036-B
P.S. Item No. 01036-C
P.S. Item No. 01036-D
P.S. Item No. 01036-E
P.S. Item No. 01036-F
Pallet, Material Handling (SH)
3990-00-NSH-0008 (62" x 48")—Rqmts of the
U.S. Postal Service, Western Area
Supply Center
Pocket, Leather (SH)
P.S. Item No. D-1200-G
Safety Guard (SH)
P.S. Item No. 01075-B
Seal, Metal Band (SH)
P.S. Item No. 0816-A
P.S. Item No. 0816-B
Seat Assembly, Complete (SH)
P.S. Item No. 054-A
Seat Cover (SH)
P.S. Item No. 054-B
Strap, Tie, Mail Carrier's, with Buckle (IB)
P.S. Item No. D-1216-D
P.S. Item No. D-1216-E
P.S. Item No. D-1216-F

Military Resale Commodities

Procedures for ordering military resale
commodities are contained in Section 51-5.6,
Code of Federal Regulations, Title 41.

Stock No. and Item Name

050 Roller ball pen, red (Optional
packaging) (IB)
051 Roller ball pen, blue (Optional
packaging) (IB)
052 Roller ball pen, black (Optional
packaging) (IB)
053 Retractable pen, black (Optional
packaging) (IB)
054 Retractable pen, blue (Optional
packaging) (IB)
055 Ultra fine tip pen, red (Optional
packaging) (IB)
056 Ultra fine tip pen, blue (Optional
packaging) (IB)
057 Ultra fine tip pen, black (Optional
packaging) (IB)
060 Roller ball pen, red (IB)
061 Roller ball pen, blue (IB)
062 Roller ball pen, black (IB)

- 063 Retractable pen, black (IB)
 064 Retractable pen, blue (IB)
 065 Ultra fine tip marker, red (IB)
 066 Ultra fine tip marker, blue (IB)
 067 Ultra fine tip marker, black (IB)
 500 Room air freshener (IB)
 501 Deodorizer, toilet bowl (IB)
 510 Cleaner, all purpose (IB)
 541 Scrubber, bathroom, with handle (IB)
 542 Scrubber, kitchen, with handle (IB)
 543 Scrubber, grill & garage, with handle (IB)
 544 Scrubber, nylon net over polyurethane pad (IB)
 554 Scrubber, nylon, rectangular (IB)
 555 Scrubber, kitchen, 4% x 3% x 1% (IB)
 556 Scrubber, bathroom, 4% x 3% x 1% (IB)
 557 Scrubber, general household, 6% x 3% x 1% (IB)
 563 Scrubber, plastic, for teflon (IB)
 570 Clothespins, plastic (IB)
 574 clothesline, plastic, rayon reinforced, 100-ft. (IB)
 575 Sponge, cellulose, 5% x 3% x 1% (IB)
 576 Sponge, cellulose, 7% x 4% x 1% (IB)
 577 Sponge, cellulose, 5% x 3% x 1% (IB)
 578 Sponge, cellulose, 5% x 3% x 1% (IB)
 593 Sponge, bath, circular (IB)
 594 Swatter, fly, plastic (IB)
 596 Cutlery set, plastic, heavy duty (8 ea. knives, forks, spoons) (IB)
 597 Knives, plastic, heavy duty (IB)
 598 Forks, plastic, heavy duty (IB)
 599 Spoons, plastic, heavy duty (IB)
 600 Trowel, transplanter (IB)
 601 Trowel, regular (IB)
 602 Cultivator (IB)
 603 Weeder (IB)
 604 Grass shears (IB)
 605 Pruning shears (IB)
 720 Paint roller cover, economy, 7" (IB)
 721 Paint roller cover, economy, 9" (IB)
 722 Paint roller cover, all purpose, 7" (IB)
 723 Paint roller cover, all purpose, 9" (IB)
 724 Paint roller cover, for textured surfaces, 7" (IB)
 725 Paint roller cover, for textured surfaces, 9" (IB)
 726 Paint roller cover, high pile, 7" (IB)
 727 Paint roller cover, high pile, 9" (IB)
 728 Paint roller cover, for gloss or semi-gloss, 7" (IB)
 729 Paint roller cover, for gloss or semi-gloss, 9" (IB)
 730 Paint roller cover, for rough surfaces, 9" (IB)
 731 Paint roller cover, for rough surfaces, 7" (IB)
 732 Paint roller cover, mohair fiber, 7" (IB)
 733 Paint roller cover, mohair fiber, 9" (IB)
 735 Trimmer, paint roller, with frame, 3" (IB)
 736 Refill, trimmer, paint roller, 3" (IB)
 741 Paint roller, frame assembly, 7" (IB)
 742 Paint roller, frame assembly, 9" (IB)
 901 Broom, mixed fiber (IB)
 902 Broom, push, indoor/outdoor, 54" handle (IB)
 903 Broom, parlor, corn, medium weight (IB)
 904 Broom, corn, plastic cap (IB)
 905 Broom, plastic filament, flagged ends (IB)
 907 Broom, plastic filament, angle cut (IB)
 908 Broom, plastic filament, angle tilt (IB)
 909 Broom, whisk, corn (IB)
 910 Broom, whisk, plastic (IB)
 912 Brush, lint, plastic filament (IB)
 914 Brush, barbecue, with scraper (IB)
 915 Brush, counter, plastic (IB)
 916 Brush, bowl, sanitary, nylon filament (IB)
 918 Brush, scrub, household (IB)
 919 Brush, scrub, plastic block, vinyl filament (IB)
 920 Handle, mop, spring lever, for wet mopheads (IB)
 922 Applicator, wax, foam block (IB)
 923 Mop, automatic, block sponge (IB)
 924 Mop, block sponge, with scrub strip brush (IB)
 925 Mop, dusting, nylon (IB)
 926 Mop, stick, orlon/rayon yarn, wet (IB)
 927 Mop, stick, rayon yarn, wet (IB)
 928 Mop, stick, cotton yarn, wet (IB)
 933 Refill, mop, automatic, block sponge, for 923 (IB)
 934 Refill, mop, block sponge, for 924 (IB)
 936 Mophead, orlon/rayon yarn, wet (IB)
 937 Mophead, cotton yarn, wet (IB)
 941 Cloth, dish, knitted cotton (IB)
 945 Towel, kitchen, cotton (IB)
 946 Potholder, quilted, cotton (IB)
 949 Mitt, oven, quilted, cotton (IB)
 950 Mop, dish and bottle, wood handle (IB)
 951 Mop, glass and dish, plastic handle (IB)
 955 Brush, vegetable/utility, plastic filament (IB)
 956 Brush, bottle, nylon, filament (IB)
 957 Brush, dish and pan, nylon filament (IB)
 959 Brush, pastry and basting (IB)
 962 Cover, ironing board, silicone and pad, poly foam (IB)
 964 Cover, ironing board, silicone, double coated (IB)
 965 Cover, ironing board, color coated (IB)
 970 Bag, washing machine, nylon with zipper (IB)
 980 Cloth, all purpose, cotton (IB)
 983 Cloth, dusting (IB)
 986 Cloth, wash, face (IB)
 995 Dustpan, plastic (IB)
- Services**
 These services are identified by industrial group number as provided in the Standard Industrial Classification Manual prepared by the Technical Committee on Industrial Classification, Statistical Policy Division, Office of Management and Budget.
- SIC 0782**
Grounds Maintenance
Department of Air Force:
 Edwards Air Force Base, California, for Chapel Bldg. 2700, Hospital Bldgs. 3920, 5500, 5510, Veterinary Bldg. 5550; Recreational Fields Bldgs. 2201, 5201, 5208, 5213; Bldgs. 1200, 1220, 1400, 1440, 2650, 2656, 2800, 3940; P-1 Area (SH)
 Bergstrom Air Force Base, Texas, for the following AFRES units: Buildings: 1601, 4204, 4515, 4526, 4527, 4534, 4535, 4545, 4547, 4556, 4562, 4589, Apron "D"; Hospital Bldg. 2700; Veterinary Bldg. 914 (SH).
- Department of Army:**
 Fort Ord, California, for Silas B. Hays Army Hospital; Officer's Open Mess; Headquarters Area & Welcome Center; Golf Course (Mowing); Football Field; Multipurpose Field; Durham Field; Soper Field; Bowling Alley; Building #3015; Babe Ruth Field (SH)

Fort Lawton, Washington, for Cemetery Grounds (includes opening and closing of graves) (SH)

Department of Commerce:

National Oceanic and Atmospheric Administration, Seattle, Washington, for National Marine Fisheries Service, 2725 Montlake Boulevard East (SH)

Department of Energy:

Morgantown Energy Technology Center, Morgantown, West Virginia (SH)

Department of Interior:

National Park Service, Washington, D.C., for LBJ Memorial Grove; Constitution Gardens (SH)

Department of Navy:

Mare Island Naval Shipyard, California, for Coral Sea Village Bldg. 301D-4; Farragut South Bldg. 302D-3; Farragut Central Bldg. 303E-3; Farragut North; Combat Systems Technical School Command (SH)

Naval Air Station, Miramar, California, for Parcel Areas: A, B, C, E, I, J, K, L, M, N (SH)

Naval Postgraduate School, Monterey, California (SH)

Naval Ordnance Station, Indian Head, Maryland, for Nonindustrial Area (SH)

Naval Weapons Station, Yorktown, Virginia, for Kirkpatrick Park; Administration Bldg. No. 31 and Gate No. 1; Missile Park; Dispensary Area; Skiff Creek Area; Officer's Club Bldg. 58; Bldg. 380A, Bldg. 380B, Credit Union; Industrial Areas; Area 10 (Parkway Gate 18 and surrounding area); Area 11 (Chapel and Child Care area) (SH)

Naval Air Station, Whidbey Island, Washington (SH)

Department of Transportation:

Federal Aviation Administration, Ronkonkoma, New York, for Air Route Traffic Control Center (SH)

Federal Aviation Administration, Westbury, New York, for New York TRACON Facility (SH)

Federal Aviation Administration, Leesburg, Virginia, for Air Route Traffic Control Center (SH)

Department of Treasury:

U.S. Secret Service, Beltsville, Maryland, for Special Training Building and Complex (SH)

General Services Administration:

U.S. Custom House, 6 World Trade Center, New York, New York (SH)

Federal Building, 1002 N.E. Holladay, Portland, Oregon (SH)

Federal Building, 1220 S.W. Third, Portland, Oregon (SH)

Pioneer Courthouse, 520 S.W. Morrison, Portland, Oregon (SH)

U.S. Courthouse, 620 S.W. Main, Portland, Oregon (SH)

Federal Building, 500 West 12th, Vancouver, Washington (SH)

SIC 0851

Seedling Harvesting

Department of Agriculture:

Forest Service, McKinleyville, California, for Humboldt Nursery (SH)

SIC 5812**Food Service**

Department of Air Force:
Sheppard Air Force Base, Texas (SH)

SIC 7218**Laundry**

Department of Army:
U.S. Army Medical Materiel Agency, Fort Detrick, Maryland (SH)

Department of Navy:
Naval Training Center, Great Lakes, Illinois (SH)

SIC 7331**Mailing**

Department of Agriculture:
Washington, D.C. (Metropolitan area) (SH)

Department of Commerce:
National Oceanic and Atmospheric Administration, Rockville, Maryland, for National Marine Fisheries Service, Fisheries Development Division, F21; Procurement & Grants Management Division, 6010 Executive Boulevard; Public Affairs Administration, Public Affairs; Printing & Distribution Branch, 11400 Rockville Pike; Distribution Section, 12227 Wilkins Avenue (SH)
National Technical Information Services, 5285 Port Royal Road, Springfield, Virginia (SH)

Department of Defense:
Defense Supply Service, National Committee for Employer Support for Guard and Reserve, 117 N. 19th Street, Arlington, Virginia (SH)

Department of Education:
Office for Civil Rights, Office of Program Review & Assistance, 330 C Street, S.W., Washington, D.C. (SH)

Department of Energy:
Distribution, 12th & Pennsylvania Avenue, N.W., Washington, D.C. (SH)

Department of Health and Human Services:
Office of the Secretary, Washington, D.C. (SH)

National Institutes of Health, Bethesda, Maryland (SH)

Alcohol, Drug Abuse, and Mental Health Administration, Rockville, Maryland (SH)

Food and Drug Administration, Rockville, Maryland (SH)

Health Resources Administration, Rockville, Maryland (SH)

Health Services Administration, Rockville, Maryland (SH)

Office of Assistant Secretary for Health, Rockville, Maryland (SH)

Department of Housing and Urban Development:

Washington, D.C. (SH)

Department of Interior:
18th & C Streets, N.W., Washington, D.C. (SH)

U.S. Geological Survey, Reston, Virginia, for Publications Division, Branch of Technical Editing, Eastern Region; TOPO Division, 12201 Sunrise Valley Drive (SH)

Department of Labor:
200 Constitution Avenue, N.W., Washington, D.C. (SH)
Manpower Administration, Washington, D.C. (SH)

President's Committee on Employment of the Handicapped, Washington, D.C. (SH)

Department of Transportation:
National Highway Traffic Administration, 400 7th Street, S.W., Washington, D.C. (SH)

Office of the Secretary, Distribution Unit, 400 7th Street, S.W., Washington, D.C. (SH)

Department of Treasury:
Bureau of Engraving and Printing, 14th & C Streets, S.W., Washington, D.C. (SH)

Bureau of Public Debt, 14th & C Streets, S.W., Washington, D.C. (SH)

Architectural and Transportation Barriers Compliance Board:
330 C Street, S.W., Washington, D.C. (SH)

Environmental Protection Agency:
Specialized Procurement Unit, 401 M Street, S.W., Washington, D.C. (SH)

Federal Election Commission:
1325 K Street, N.W., Washington, D.C. (SH)

Federal Trade Commission:
Pennsylvania Avenue & 6th Street, N.W., Washington, D.C. (SH)

General Services Administration:
National Archives & Records Services, 7th & Pennsylvania Avenue, N.W., Washington, D.C. (SH)

International Communication Agency:
1717 H Street, N.W., Washington, D.C. (SH)

Library of Congress:
Washington, D.C. (SH)

Merit System Protection Board:
Office of Special Counsel, 1717 H Street, N.W., Washington, D.C. (SH)

National Credit Union Administration:
Printing Service, 1375 K Street, N.W., Washington, D.C. (SH)

Office of Personnel Management: 1900 E Street, N.W., Washington, D.C. (SH)

Smithsonian Institution: Supply Division, Washington, D.C. (SH)

U.S. Commission on Civil Rights: 1211 Vermont Avenue, N.W., Washington, D.C. (SH)

U.S. Consumer Product Safety Commission:
Washington, D.C. (SH)

U.S. Metric Board: 1815 N. Lynn Street, Arlington, Virginia (SH)

Tax Form Order Fulfillment

Department of Treasury:
Internal Revenue Service, Buffalo, New York (SH)

SIC 7332**Photocopying**

Department of Agriculture:
National Agricultural Library Building, Beltsville, Maryland (SH)

SIC 7349**Cardboard and Paper Scrap Recovery**

Department of Army:
New Cumberland Army Depot, Pennsylvania (SH)

Janitorial/Custodial

Department of Agriculture:
Forest Service, Sequoia National Forest, Porterville, California, for Supervisor's office, Smith Building (New Wing), 900 W. Grand Avenue; Warehouse Complex, 480 N. Henrahan Avenue (SH)

Forest Service, Coeur d'Alene, Idaho, for Coeur d'Alene Nursery, 3600 Nursery Road (SH)

Department of Air Force:
Bergstrom Air Force Base, Texas, for Buildings 713, 734, 2004, 2108 and 2600 (Chapel) (SH)

Ellsworth Air Force Base, South Dakota (SH)

Fairchild Air Force Base, Washington, for Alert Facility (Bldg. 2080); Alert Trailers; Post Office (Bldg. 644); Military Family Housing Office (Bldg. 2451B); Audit Agency Office (Bldg. 2245); 47th Air Division Headquarters (Bldg. 2285); Civilian Personnel and NAF (Room 209 of Bldg. 2245); Red Cross Office (Bldg. 2245); Base Library (Bldg. 716); Base Chapel (Bldg. 4200); Base Education Center (Bldg. 2365); Family Visitation Center (Bldg. 2092) OSI Bldg. 5025; Social Actions Bldg. 3509; Base Education Trailers; Air Recovery and Rescue Squadron (Bldg. 2036); SAC/MET Office (Bldg. 2001B) (SH)

Department of Army:

U.S. Army Reserve Center, Memorial Parkway, Huntsville, Alabama (SH)
Pentagon Officers Athletic Center, The Pentagon, Washington, D.C. (SH)
U.S. Army Reserve Center, John Williams Street, Attleboro, Massachusetts (SH)
U.S. Army Reserve Center, Belmont and Manley Streets, Brockton, Massachusetts (SH)

U.S. Army Reserve Center, 915 W. Chestnut Street, Brockton, Massachusetts (SH)

U.S. Army Reserve Center, Buildings 85 and 90, Hingham, Massachusetts (SH)

U.S. Army Reserve Center, 675 American Legion Highway, Roslindale, Massachusetts (SH)

U.S. Army Reserve Center, 130 Eldridge Street, Taunton, Massachusetts (SH)

U.S. Army Reserve Center, Fort Drum, New York (SH)

U.S. Army Reserve Center, 111 Finney Boulevard, Malone, New York (SH)

U.S. Army Reserve Center, Burrstone Road, Utica, New York (SH)

U.S. Army Reserve Center, Butler Farm Road, Hampton, Virginia (SH)

U.S. Army Reserve Center, Marcella Road, Hampton, Virginia (SH)

U.S. Army Reserve Center, Williamsburg, Virginia (SH)

Department of Defense:

DCASR Building B-95, Marietta, Georgia, for Lockheed Complex, 805 Walker Street; AF Plant 6, 612 Tinker Street (SH)

Department of Energy:

Computer Science Center; Technical Support Building; Technical Support Addition, 550 Second Street, Idaho Falls, Idaho (SH)

Morgantown Energy Technology Center, Morgantown, West Virginia (SH)

Department of Interior:

Bureau of Land Management, Roseburg, Oregon, for District Building (SH)

Bureau of Land Management, Salem, Oregon, for Salem District Office, 1717 Fabry Road, S.E. (SH)

Department of Navy:

Naval Air Station Miramar, California (SH)

- Naval and Marine Corps Reserve Center, Jackson, Mississippi (SH)
 Naval Air Station, Whidbey Island, Washington, for Buildings 12, 18, 22, 100, 103, 108, 110, 113, 116, 119, 124, 126, 180, 220, 243, 365, 369, 371, 374, 375, 376, 377, 380, 381, 385, 386, 960, 961, 975, 994, 2546, 2547, 2551 (SH)
- Department of Transportation:
 Federal Aviation Administration,
 Westbury, Long Island, New York, for TRACON Facility (SH)
 Federal Aviation Administration Facilities, Spokane, Washington, for Air Traffic Control Tower Building and adjacent TRACON Building including connecting enclosed walkway, FAA NAVAIDS Communication Building 1300, Spokane International Airport; Felts Field for Air Traffic Control Tower, Flight Service Station, General Aviation District Office (SH)
- Department of Treasury:
 Bureau of Engraving and Printing, Washington, D.C., for Public Debt Building (SH)
- General Services Administration:
 Federal Building and U.S. Courthouse, 15 Lee Street, Montgomery, Alabama (SH)
 Federal Building and Courthouse, 1340 West 6th Street, Los Angeles, California (SH)
 Food and Drug Administration Building, 1521-33 West Pico Boulevard, Los Angeles, California (SH)
 Federal Building, 801 I Street, Sacramento, California (SH)
 Denver Federal Center, Building 85, Denver, Colorado (SH)
 Federal Building, 275 Peachtree Street, Atlanta, Georgia (SH)
 U.S. Courthouse, Forsyth & Walton Streets, Atlanta, Georgia (SH)
 Federal Building, Moultrie, Georgia (SH)
 Federal Building, U.S. Post Office, and U.S. Courthouse, Thomasville, Georgia (SH)
 Federal Building, U.S. Post Office, Boise, Idaho (SH)
 OSHA Training Center, 1555 Times Drive, Des Plaines, Illinois (SH)
 Federal Building, 400 South Clinton, Iowa City, Iowa (SH)
 Federal Building (U.S. Post Office and Courthouse), 330 Shawnee, Leavenworth, Kansas (SH)
 U.S. Federal Building & Post Office, 212 Harlow, Bangor, Maine (SH)
 Springfield Federal Building, Main and Bridge Streets, Springfield, Massachusetts (SH)
 Waltham Federal Center, 424 Trapelo Road, Waltham, Massachusetts (SH)
 Gerald R. Ford Museum, 303 Pearl Street, N.W., Grand Rapids, Michigan (SH)
 Federal Building, U.S. Post Office, and U.S. Courthouse, Main and Poplar Streets, Greenville, Mississippi (SH)
 Federal Building, U.S. Post Office, 200 East Washington Street, Greenwood, Mississippi (SH)
 Federal Building, 100 West Capitol Street, Jackson, Mississippi (SH)
 Federal Building & U.S. Courthouse, Lincoln, Nebraska (SH)
 Social Security Administration District Office Building, 22 Morris Street, Hackensack, New Jersey (SH)
- Social Security Administration District Office Building, 686 Nye Avenue, Irvington, New Jersey (SH)
 Social Security Administration District Office Building, 396 Bloomfield Avenue, Montclair, New Jersey (SH)
 Federal Building, 3rd & Hill Avenue, Gallup, New Mexico (SH)
 Leo W. O'Brien Federal Building, Clinton Avenue & N. Pearl Street, Albany, New York (SH)
 Federal Building, 111 West Huron, Buffalo, New York (SH)
 U.S. Customs, 160-19 Rockaway Boulevard, Jamaica, New York (SH)
 Internal Revenue Service, 120 Church Street, New York, New York (SH)
 U.S. Courthouse Annex, 1 St. Andrews Plaza, New York, New York (SH)
 U.S. Courthouse, 40 Foley Square, New York, New York (SH)
 Federal Building, 45 Bay Street, Staten Island, New York (SH)
 U.S. Courthouse and Federal Building, Broad and Catherine Streets, Utica, New York (SH)
 Federal Building, 125 South Main Street, Muskogee, Oklahoma (SH)
 Federal Building, U.S. Courthouse, Eugene, Oregon (SH)
 Federal Building, 511 N.W. Broadway, Portland, Oregon (SH)
 Federal Building, Bonneville Power Administration, 1002 N.E. Holladay Street, Portland, Oregon (SH)
 Lloyd Group Buildings, Portland, Oregon, at following locations: 630 N.E. Holladay Street; 830 N.E. Holladay Street; 729 N.E. Oregon Street; 811 N.E. Oregon Street; 827 N.E. Oregon Street (SH)
 Federal Office Building, Cass & Stephens Streets, Roseburg, Oregon (SH)
 Federal Building, 6th & State Streets, Erie, Pennsylvania (SH)
 U.S. Courthouse and Federal Building, Rapid City, South Dakota (SH)
 J. Marvin Jones Federal Building and U.S. Courthouse, 295 E. 5th Street, Amarillo, Texas (SH)
 Border Stations, Bridge of the Americas, Paso Del Norte, Good Neighbor Bridge and Cotton Clasing Building, El Paso, Texas (SH)
 Forest Service Building, 507 25th Street, Ogden, Utah (SH)
 Administration Building, Salt Lake City, Utah (SH)
 The Charles Building, Salt Lake City, Utah (SH)
 Executive Terminal Building, Salt Lake City, Utah (SH)
 GSA Motor Pool Building, Salt Lake City, Utah (SH)
 The Maurice Building, Salt Lake City, Utah (SH)
 U.S. Post Office, Salt Lake City, Utah (SH)
 U.S. Customs House, 101 E. Main Street, Norfolk, Virginia (SH)
 Federal Building, 400 N. 8th Street, Richmond, Virginia (SH)
 GSA Center, Buildings 811 and 812, Auburn, Washington (SH)
 Federal Center, 25th & Dover Streets, Moses Lake, Washington (SH)
 Federal Building, U.S. Post Office, 403 West Lewis Street, Pasco, Washington (SH)
- Federal Building, Immigration and Naturalization Services, 815 Airport Way, Seattle, Washington (SH)
 Federal Building, U.S. Post Office, Spokane, Washington (SH)
 Federal Center, Corps of Engineers, Buildings 616, 617, 618, Walla Walla, Washington (SH)
 Smithsonian Institution:
 Smithsonian Institution Service Center, 1111 North Capitol Street, N.E., Washington, D.C. (SH)
 U.S. Postal Service:
 Mailbag Facility, 7600 West Roosevelt Road, Forest Park, Illinois (SH)
 Veterans Administration:
 Veterans Administration Medical Center, Building #32, Dublin, Georgia (SH)
 Janitorial/Elevator Operator
 General Services Administration:
 Veterans Administration Clinic Building, 17 Court Street, Boston, Massachusetts (SH)
 U.S. Federal Building & Courthouse, 436 Dwight Street, Springfield, Massachusetts (SH)
 Federal Building, 35 Ryerson Street, Brooklyn, New York (SH)
 Federal Building, 201 Varick Street, New York, New York (SH)
 Veterans Administration Building, 252 Seventh Avenue, New York, New York (SH)
- SIC 7369*
 Food Service Attendant
 Department of Army:
 Consolidated Enlisted Dining Facility, Building 61, Fort McPherson, Georgia (SH)
 Seneca Army Depot, Romulus, New York (SH)
 Commissary Shelf Stocking
 Department of Navy:
 Naval Station, Norfolk, Virginia (SH)
 Naval Air Station, Oceana, Virginia Beach, Virginia (SH)
 Commissary Shelf Stocking and Custodial Service
 Department of Air Force:
 Gunter Air Force Station, Alabama (SH)
 Maxwell Air Force Base, Alabama (SH)
 Little Rock Air Force Base, Arkansas (SH)
 Robins Air Force Base, Georgia (SH)
 Mountain Home Air Force Base, Idaho (SH)
 McConnell Air Force Base, Kansas (SH)
 Hanscom Air Force Base, Massachusetts (SH)
 Nellis Air Force Base, Nevada (SH)
 Lackland Air Force Base, Texas (SH)
 Sheppard Air Force Base, Texas (SH)
- SIC 7374*
 Key punch and Verification
 General Services Administration:
 GSA Region 2, Automated Telecommunication Service, Data Services Division (SH)
- SIC 7399*
 Assembly
 Department of Defense:
 Belt, Trousers (IB)
 Food Packet, Isolated Site (8 Menus) (IB)

Food Packet, Long Range Patrol (8970-00-926-9222) (SH)
 Food Packet, Survival, Abandon Ship (8970-00-299-1395) (IB)
 Food Packet, Survival, General-Purpose, Individual (8970-00-082-5665) (IB)
 Bursting and Packaging of Commemorative Stamps
 U.S. Postal Service:
 Washington, D.C. (SH)
 Currency Packaging
 Department of Treasury:
 Bureau of Engraving and Printing, Washington, D.C. (SH)
 Microfilming Contract Files
 Department of Navy:
 OICC Trident, Bremerton, Washington (SH)
 Microfilm Reproduction
 Department of Navy:
 Naval Submarine Base Bangor, Silverdale, Washington (SH)
 Packaging
 General Services Administration:
 Canteen, Water, Disposable (8465-01-062-5854), CSA Region 8, Denver, Colorado (SH)
 Parts Sorting
 Department of Air Force:
 Hill Air Force Base, Utah (SH)
 Repair of Air Cargo Pallet Top and Side Nets
 Department of Air Force:
 McChord Air Force Base, Washington (SH)
 Sewing
 Department of Army:
 Redstone Arsenal, Alabama (Provides specified end items produced through use of customized, heavy-duty sewing service) (SH)
 Shrink Wrapping Gift Packages
 U.S. Postal Service:
 Washington, D.C. (SH)

SIC 7542**Carwash****Department of Interior:**

Bureau of Land Management, Medford
 District Office, 3040 Biddle Road,
 Medford, Oregon (SH)

SIC 7641**Furniture Rehabilitation****General Services Administration:**

Altus Air Force Base, Oklahoma (SH)
 Lawton, Oklahoma including Fort Sill (SH)
 San Antonio, Texas, plus 40-mile radius (SH)

Wichita Falls, Texas, including Sheppard
 Air Force Base (SH)
 Spokane, Washington, plus 30-mile radius (SH)

Metal Furniture Rehabilitation**Department of Navy:**

Naval Ordnance Station, Louisville,
 Kentucky (IB)

SIC 7699**Mattress and box spring rehabilitation (IB)****General Services Administration:**

Orders for renovated mattresses may be arranged through GSA regional offices. IB will provide requirements for mattress and box spring renovation for GSA Regions W, 2, 3, 4, 5, 6, 7, and 8 only.

Pallet Repair**Department of Navy:**

Naval Supply Center, Norfolk, Virginia (SH)
 Naval Supply Center, Cheatham Annex, Williamsburg, Virginia (SH)
 Naval Supply Center, Puget Sound, Bremerton, Washington (SH)

Rebuilding of Typewriters**General Services Administration:**

GSA Self-Service Stores, Chicago, Illinois (SH)

Repair and Maintenance of Electric Typewriters Only**General Services Administration:**

Health and Human Services, 300 S. Wacker Drive, Chicago, Illinois (SH)
 Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois (SH)
 Social Security Administration, 600 W. Madison, Chicago, Illinois (SH)
 Syracuse, New York (including Onondaga County) (SH)

Repair and Maintenance of Manual Typewriters Only**General Services Administration:**

Federal Court House Building, Syracuse, New York (SH)

Repair of Rubberized Items**Department of Army:**

Mattress Pneumatic (Noninsulated 8465-00-254-8887), Fort Bliss, Texas (SH)
 Mattress Pneumatic (Insulated 8465-00-518-2781), Fort Bliss, Texas (SH)
 Ponchos (8405-00-935-3257), Fort Bliss, Texas (SH)
 Bag Clothing, Waterproof (8465-00-261-6909), Fort Bliss, Texas (SH)

Sponge Rubber Mattresses Rehabilitation**General Services Administration:**

Requirements for GSA Region 3 (IB)

SIC 9199**Administrative Services****Environmental Protection Agency:**

Marfair Building, Washington, D.C. (SH)
 Waterside Mall Complex, Washington, D.C. (SH)
 General Services Branch, 230 South Dearborn Street, Chicago, Illinois (SH)
 Beltsville Research Laboratory, Beltsville, Maryland (SH)
 6100 Executive Boulevard, Rockville, Maryland (SH)
 9100 Brookville Road, Silver Spring, Maryland (SH)
 26 Federal Plaza, New York, New York (SH)
 Crystal Mall Complex, Arlington, Virginia (SH)

[FR Doc. 82-31658 Filed 11-17-82; 8:45 am]

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Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
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