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Wednesday
January 12, 1983

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Alcohol, Tobacco and Firearms Bureau

Classified Information
Central Intelligence Agency

Coal
Land Management Bureau

Community Development
Farmers Home Administration

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

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Presidential Documents

Title 3—
The President

Proclamation 5012 of January 10, 1983

Public Employees' Appreciation Day, 1983

By the President of the United States of America

A Proclamation

January 1983 marks the one hundredth anniversary of the signing of the Pendleton Act which created the Federal civil service system. The Act established the principle of hiring according to merit in the Federal service, and although the system has been modified and refined through the years, it continues to play an essential role in ensuring the stability of the world's largest and most successful democracy. Our ability to function effectively in times of trial and upheaval and to prosper when various national crises have passed depends in no small degree upon the contributions of those who make up our civil service system.

The American civil service system succeeds because of several factors. It is built upon the concept that selection of career government employees must be based upon merit principles, the goal being to hire the most capable and qualified people to do the public's work. It also provides for a vital partnership between political leaders, who bring with them policies and programs endorsed by the electorate, and career civil servants, who provide the expertise and continuity which are essential to the effective operation of a government as large and varied as ours.

To commemorate the Centennial and to show our appreciation to Federal employees past and present, public agencies and private groups throughout America will sponsor events highlighting the history and accomplishments of the civil service system during January 1983 and in succeeding months.

In recognition of the tremendous contributions of public employees to our Nation's government, the Congress, by House Joint Resolution 619, has designated January 17, 1983, as "Public Employees' Appreciation Day" and has requested the President to issue a Proclamation in observance of that day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, in recognition of the Centennial of the Federal civil service system, do hereby proclaim January 17, 1983, as Public Employees' Appreciation Day.

I urge all Americans to join with members of the Federal civil service system, and the many professional associations and employee unions which represent them, in commemorating the centennial anniversary of the institution to which they belong and in appreciation of the countless contributions they have made on behalf of all Americans over the past one hundred years.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of January, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-1040
Filed 1-11-83; 10:58 am]
Billing code 3195-01-M

Editorial Note: A memorandum for heads of executive departments and agencies, dated Jan. 10, 1983, on the centennial of the Federal civil service is printed in the *Weekly Compilation of Presidential Documents* (vol. 19, no. 2)

Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1942

Development Grants for Community Domestic Water and Waste Disposal Systems

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations pertaining to the method for determining grant assistance for water and/or waste disposal systems. The intended effect of this action is to provide grant assistance to communities based on the median family income in the applicant service area as a percentage of the nonmetropolitan median family income of the State, rather than based on fixed median family income categories. This action is necessary to establish a more equitable method of providing the greatest amount of grant assistance to low income communities that can least afford water and/or waste disposal services and to allow flexibility to make necessary median family income adjustments as updated income data becomes available.

DATES: January 12, 1983. However, grants proposed for any application where the letter of conditions was issued prior to this effective date will continue to be processed under the regulations in effect on January 11, 1983.

FOR FURTHER INFORMATION CONTACT: Howard Henderson, Loan Specialist, Water and Waste Disposal Division, Farmers Home Administration, Room 6328, South Agricultural Building, 14th and Independence Avenue, SW., Washington, DC 20250, telephone (202) 382-9586.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 which implements Executive Order 12291 and has been determined to be nonmajor. The reasons for this designation are that the rule will not have:

(a) An annual effect on the economy of $100 million or more; or

(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, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Charles W. Shuman, Administrator, Farmers Home Administration (FmHA), has determined that the rule will not have a significant economic impact on a substantial number of small entities, since FmHA is currently projecting that only 350 grants would be made a year.

Clearinghouse Review

The FmHA programs and projects which are affected by this instruction are subject to State and local clearinghouse review in the manner delineated in FmHA Instruction 1901-H.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that the action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Programs Affected

CFDA No. 10.418, Water and Waste Disposal Systems for Rural Communities.

Background

The objective of the FmHA water and waste disposal grant program is to provide the greatest amount of grant assistance to low income communities that can least afford water and/or waste disposal services in order to reduce user costs to a reasonable level. This present method for accomplishing this goal is to consider applicants for grant assistance only when the debt service portion of the average annual user cost exceeds an established percentage of median family income in the service area. This percentage varies depending on which fixed median family income category the community falls into. Specifically, grant assistance will be considered only when the debt service portion of the average annual user cost exceeds the following percentages of median family income (MFI) in the service area:

(1) 0.75 percent when the MFI is under $6,000.

(2) 1.00 percent when the MFI is $6,000-$10,000.

(3) 1.25 percent when the MFI is over $10,000.

In no case may FmHA grants exceed 75 percent of eligible project development costs, according to statutory limitations. With the reduction in the water and waste disposal grant program allocation, an equitable method of assisting those communities most in need is essential. The grant determination method described above became obsolete as a result of using outdated fixed median family income categories for determining the amount of assistance. These fixed median family income categories were developed based on 1970 census data. When FmHA State and District Offices were instructed recently to begin using 1977 updated census information in determining median family incomes for communities, the substantial increases in the median family incomes since 1970 resulted in a high percentage of communities falling into only one category, the category that would provide the least grant assistance. Thus, varying levels of assistance were not provided as effectively as had been previously.

Alternatives

The major alternatives considered and a brief evaluation of each are as follows:

1. Update the fixed median family income levels of the three categories now in use. The less than $6,000, $6,000-$10,000, and over $10,000 could be

increased to less than $10,000, $10,000–$15,000, and over $15,000. This alternative would require periodic updates as income levels rose and would result in inequalities on an area by area basis since national standards are set.

2. Abolish the present grant determination method entirely and substitute a similar system user cost method. Using such a method, FmHA would provide grant funds in an amount necessary to reduce average annual user costs of a system to a reasonable level, as determined by the applicable FmHA State Director. This alternative was rejected because there would be no objective criteria to determine a reasonable user rate. In addition, there would be no assurance that grant funds would be directed to those communities most in need.

3. Replace the fixed median family income categories with categories based on the median family income in the applicant service area as a percentage of the nonmetropolitan median family income of the State. This alternative would provide three levels of grant assistance using identical criteria as the present three-tiered interest rate structure for community program loans. Thus, grant assistance would be considered only when the debt service portion of the average annual user cost exceeded the following percentages of median family income (MFI) in the service area:

(a) 0.50 percent when the MFI of the service area is below the poverty line.

(b) 1.00 percent when the MFI of the service area is not more than 85 percent of the nonmetropolitan median family income (NMFI) of the State.

(c) 2.00 percent when the MFI of the service is more than 85 percent of the NMFI of the State.

This alternative would not need to be updated as median family incomes change since the categories are based on percentages. However, it would still not ensure that grant assistance would be delivered to low income communities that can least afford water and/or waste disposal services.

4. Establish the same debt service percentages as in the first two categories of Alternative 3, but prohibit the use of grant funds in any project where the median family income of service area is more than 85 percent of the nonmetropolitan median family income of the State. With this alternative, grant assistance would be considered only when the debt service portion of the average annual user cost exceeded the following percentages of median family income (MFI) in the service area:

(a) 0.50 percent when the MFI of the service area is below the poverty line.

(b) 1.00 percent when the MFI of the service area is not more than 85 percent of the nonmetropolitan median family income (NMFI) of the State.

(c) No FmHA grant funds will be used in any project when the MFI of the service area is more than 85 percent of the MFI of the State.

This alternative would not need to be updated as median family incomes change since the categories are based on percentages. Moreover, with the limited amount of FmHA grant funds, it would ensure compliance with the Conference Report to the Omnibus Budget Reconciliation Act of 1981 which intends that 75 percent of all water and waste disposal grant funds be used in communities in which a significant percentage of the persons to be served are of low income.

Comments

A proposed rule based on selection of Alternative 4 was published in the **Federal Register**, (47 FR 13364) dated March 30, 1982. During the 60 day comment period, 74 letters of comments were received. Eleven additional letters were received later, making a total of 85 comment letters that have been considered in the development of this final rule. The major issues contained in the comment letters are summarized as follows:

Twenty-nine commentors recommended another grant determination formula. A grant determination method other than one of the alternatives presented in the proposed rule was suggested by 15 commentors. These formulas were reviewed and found to be too subjective in nature, or would be too difficult to administer. The other 14 commentors recommended one of the proposed alternative methods or continuance of the existing method. The limitations of these alternative methods have already been pointed out.

Fourteen commentors felt that the threshold income figure of 85 percent of Statewide nonmetropolitan median family income for eligibility for grant consideration was too low. Suggested alternative threshold figures were 100 percent and 125 percent of Statewide nonmetropolitan median family income. FmHA selected the 85 percent thereshold figure to ensure that grant funds would be directed to lower income communities.

Eleven commentors thought that the criterion for assessing need for a community, median family income, used alone was inadequate. Other need factors were suggested, such as unusually high construction costs, population, and other social and economic factors. It is felt that use of other need factors would be too arbitrary and that objective criteria would not be possible to develop.

Ten commentors believed that use of the Statewide nonmetropolitan median family income as a comparison against community median family income would unfairly benefit certain States or regions of the Country. FmHA believes that community needs can be better evaluated against State standards. Such an evaluation would be more relevant and would include any unique situation within a State.

Seven commentors suggested that a similar system rule be applied to communities with incomes above 85 percent of the Statewide nonmetropolitan median family income. That is, if a reasonable user cost could not be provided, FmHA could proceed with a grant to reduce user costs to not below reasonable level. FmHA believes that such an exception would become the rule in actual practice, thus circumventing the intent of excluding higher income communities from grant consideration in order to provide grant assistance to the lowest income communities.

Five commentors believed that eligibility for grant assistance should be based on a comparision of the community's median family income to a Nationwide standard rather than the Statewide nonmetropolitan median family income. FmHA believed the use of a Nationwide standard creates unfair disadvantages for communities in States with higher-overall incomes, construction costs, operating costs, and living expenses.

List of Subjects in 7 CFR Part 1942

Community development, Grant programs—Housing and community development, Rural areas, Waste treatment and disposal—Domestic, Water supply—domestic.

PART 1942—[AMENDED]

Accordingly, FmHA amends Subpart H of Part 1942, Chapter XVIII, Title 7, Code of Federal Regulations as follows:

1. Section 1942.355 is amended by adding a new paragraph (a)(12) to read as follows:

§ 1942.355 Grant limitations.

(a) * * *

(12) Pay any costs of a project when the median family income of the service area is more than 85 percent of the

nonmetropolitan median family income of the State.

* * * * *

2. Section 1942.356 is amended by redesignating paragraphs (b)(3) through (b)(7) to (b)(4) through (b)(8) respectively, by adding a new paragraph (b)(3), and by revising paragraphs (a), (b)(2), (b)(5), (b)(6), and (b)(7) to read as follows:

§ 1942.356 Determining the need for development grants.

(a) FmHA District Directors are responsible for determining applicant eligibility for grants and the amount of such grants. Form FmHA 1942–51, "Water and Waste Disposal Development Grant Summary," will be used to determine the amount of FmHA grant assistance for which the applicant qualifies. A separate form will be used to record the determination of FmHA grant assistance for each water, sewer collection and treatment, solid waste, and storm drainage project. A copy of each such form along with the letter of conditions and Form FmHA 1942–45, "Project Summary—Water and Waste Disposal and Other Utility-Type Projects," will be submitted to the National Office, Attention: Water and Waste Disposal Division by the State Director not later than the time of issuance of the letter of conditions.

(b) * * *

(2) Ordinarily, an applicant will be considered for grant assistance only when the debt service portion of the average annual user cost for either water or waste service, for only those users in the applicant service area, exceeds the following percentage of median family income (MFI):

(i) .5 percent when the MFI of the service area is below the poverty line. The poverty line will be that income prescribed by the Office of Management and Budget for a nonfarm family of four, as adjusted under Section 624 of the Economic Opportunity Act of 1964 (42 U.S.C. 2971d).

(ii) 1.0 percent when the MFI of the service area is not more than 85 percent of the nonmetropolitan median family income (NMFI) of the State.

(iii) No FmHA grant funds will be used in any project when the MFI of the service area is more than 85 percent of the NMFI of the State.

(3) The median family income of the service area and the nonmetropolitan median family income for the State will be determined in accordance with paragraph (b)(7) of this section. Except as provided for in paragraphs (b), (b)(5), and (b)(6) of this section, the grant will not exceed an amount necessary to reduce the debt service portion of the average annual user cost to the applicable percent level listed above. This procedure shall not be used to result in a rate below that deemed to be reasonable as defined in paragraph (b) of this section. However, an exception to the reasonable user rate may be authorized by the FmHA National Office in accordance with paragraph (b) of this section.

* * * * *

(5) If, after applying the formula described in paragraph (b)(2)(i) or (b)(2)(ii) of this section, FmHA determines that a reasonable user cost has not been achieved due to unusually high operation and maintenance costs, construction or water acquisition costs, or other factors, FmHA may proceed with a grant in an amount necessary to reduce the user cost to not below a reasonable level as defined in paragraph (b) of this section. However, an exception to the reasonable user rate may be authorized by the FmHA National Office in accordance with paragraph (b) of this section.

(6) If, after applying the formula described in paragraph (b)(2)(i) or (b)(2)(ii) of this section, FmHA determines that a reasonable average annual cost to the applicant for delivery of service to residential type users has not been achieved, FmHA may proceed with a grant in an amount necessary to reduce such cost to not below a reasonable user rate as defined in paragraph (b) of this section, provided this option is only available to an applicant that imposes uniform user charged for similar classes of service throughout their service area. Reasonable average annual cost to the applicant is defined as that which is not less than existing prevailing costs in communities, being served by an established system, having similar economic conditions.

(7) The income data used to determine median family income should be that which most accurately reflects the income of the service area. The service area is that area reasonably expected to be served by the facility being financed by FmHA. The median family income of the service area or those reference communities used in comparing the proposed system with similar systems, and the nonmetropolitan median family income for the State will be determined from the U.S. Department of Commerce, Bureau of Census, Publication PC (1)–C Series, or from unpublished Bureau of Census data for individual enumeration districts. If there is reason to believe that the census data is not an accurate representation of the median family income within the area to be served, the reasons will be documented and the applicant may furnish, or FmHA may obtain, additional information regarding such median family income. Such information will consist of reliable data from local, regional, State or Federal sources or from a survey conducted by a reliable impartial source. The nonmetropolitan median family income of the State should be updated, using reliable data from State or Federal sources as such data becomes available.

* * * * *

(7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70)

Dated: December 3, 1982.

Frank W. Naylor, Jr.,

Under Secretary for Small Community and Rural Development.

[FR Doc. 83-813 Filed 1-11-83; 8:45 am]

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CIVIL AERONAUTICS BOARD

14 CFR Part 389

[Amdt. No. 30; Docket Nos. 30586, 30816]

Fees and Changes for Special Services

Correction

In FR Doc. 83–228, beginning on page 635, in the issue of Thursday, January 6, 1983, on page 642, in the third column, correct line 5 to read "1. The authority for Part 389 is:"

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 4

[Docket Nos. RM82–2–000, RM82–2–001, RM82–2–002, and RM82–2–003]

Case-by-Case Exemption From All or Part of Part I of the Federal Power Act for Small Hydroelectric Power Projects With an Installed Capacity of 5 Megawatts or Less

Issued: December 29,1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order denying rehearing, denying leave to add party on rehearing, and denying stay of final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing an order that denies three petitions for rehearing of Order No. 255. Order No. 255 is the final rule amending the definition of "small hydroelectric power project" to provide the criteria for a natural water feature project, a type of

small hydroelectric power project, that may be exempted from certain provisions, including licensing provisions, of Part I of the Federal Power Act. The order also denies the requests for a stay of the final rule and the request for leave to add a party on rehearing. The reasons for this action are detailed in the Commission's order.

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

Order No. 255-A.—Order Denying Rehearing, Denying Addition of a Party on Rehearing, and Denying Stay of Final Rule.

I. Introduction

On August 27, 1982, the Federal Energy Regulatory Commission (Commission) issued a final rule amending the definition of "small hydroelectric power project" to provide specific guidance on what constitutes a "natural water feature" project.[1] Under the 1980 amendments to the Public Utility Regulatory Policies Act (PURPA),[2] any small hydroelectric power project that utilizes, for electric power generation, a natural water feature may be exempted from certain provisions of Part I of the Federal Power Act, including licensing requirements. As provided in the final rule, these natural water feature projects must meet certain criteria to qualify for exemption under existing case-specific exemption procedures.[3]

II. Petitions for Rehearing, Stay of Final Rule, and for Leave To Add a Party

The Commission has received timely petitions for rehearing of the final rule from the following petitioners: Tulalip Tribes of Washington, (Docket No. RM82-2-000); Upper Skagit Indian Tribe, Swinomish Tribal Community, Sauk-Suiattle Indian Tribe, Skagit System Cooperative, and Point No Point Treaty Council (Docket No. RM82-2-002); and National Wildlife Federation, Idaho Wildlife Federation, Montana Wildlife Federation, Natural Resources Defense Council, Inc., Friends of the River, Trout Unlimited, Inc., Tulalip Tribes of Washington, and Columbia River Inter-Tribal Fish Commission (Docket No. RM82-2-003). The rehearing petitions in Docket Nos. RM82-2-001 and RM82-2-002 also contained requests for stay of the final rule pending final action, ostensibly including judicial review if any.

The Commission also received a Petition for Leave to Add Friends of the Earth, Inc. as a party to the rehearing petition filed in Docket No. RM82-2-003. The petition to add this additional party was filed after the 30-day statutory period for requesting rehearing had elapsed. The Commission cannot alter the 30-day jurisdictional parameters set by statute.[4] For that reason, the Commission is not permitting the inclusion of Friends of the Earth, Inc. as a party on rehearing.

III. Discussion

A. *Implementation of the Energy Security Act of 1980 (ESA).* All three rehearing petitions take issue with the manner in which the final rule implements, in part, the exemptions provided for in the 1980 ESA amendments to PURPA. Petitioners argue that the Commission has exceeded its statutory authority under the ESA by defining a natural water feature project to allow it to include a diversion structure. Petitioners also argue that the final rule, in considering the "gradient of a natural stream" as a type of natural water feature under sections 405 and 408 of PURPA, makes diversion-type hydroelectric projects eligible for exemption contrary to the intent of Congress.

1. *Statutory Framework.* When the 1980 amendments to PURPA were enacted, Congress did not provide guidance on the meaning of the term "natural water feature." Instead, Congress authorized the Commission, in its discretion, to determine by rule or order which projects may be exempted.[5] In doing so, the Commission is directed by the ESA to ensure that a natural water feature project generates electricity "without the need for any dam or impoundment" in a manner that will achieve the purposes of Title IV of the Energy Security Act and in a manner which will do so "without any adverse effect upon such natural water features."

2. *Nature of the Exemption Process.* The case-specific exemption procedures that the Commission adopted on November 7, 1980, did not define the term "natural water feature." Absent experience with specific natural water feature project proposals at that time, the Commission could not provide generic guidance on what types of natural water feature projects should be exemptible. The Commission instead elected to consider applications for natural water feature projects on an *ad hoc* basis under the case-specific exemption procedures. This rule is intended to provide the generic guidance on natural water feature projects that has not heretofore been included in these exemption procedures.

Under these procedures, of which this final rule is a part, any exemption (including one for a natural water feature project) that is granted will contain appropriate terms and conditions prescribed by the relevant state and federal fish and wildlife agencies.[6] This is a statutory requirement.[7] These types of terms and conditions can address the various environmental considerations raised in the rehearing petitions. These include, among other things, fish migration, fish habitat, spawning gravel, stream flows, sediment and other natural bedload movement, water quality, and water temperature.

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[1] Docket No. RM82-2-000, Order No. 255, 47 FR 38,506 (Sept. 1, 1982). The final rule also contains a number of procedural clarifications for filings related to small hydroelectric power projects. These procedural elements of the final rule are not at issue on rehearing.

Also, the final rule inadvertently bore an erroneous order number (No. 225) when it was issued. This was corrected on September 10, 1982. In keeping with the petitioners' request, the Commission is treating all references to Order No. 225 in the rehearing petitions as being references to Order No. 255.

[2] Sections 405 and 408 of PURPA, 16 U.S.C. 2705, 2708, were amended by section 408 of the Energy Security Act of 1980 (ESA), Pub. L. 96-294, 94 Stat. 611.

[3] The procedures for case-specific exemption were established in Final Rule, "Exemption From All or Part of Part I of the Federal Power Act of Small Hydroelectric Power Projects With an Installed Capacity of Five Megawatts or Less," issued November 7, 1980, Docket No. RM80-0-65, Order No. 106, 45 FR 76,115 (Nov. 18, 1980).

[4] The courts have held that the 30-day filing requirement is jurisdictional and that the Commission is without authority to extend the time period. *E.g.*, Boston Gas Company v. FERC, 575 F.2d 975 (1st Cir. 1978); Southern Union Gathering Company v. FERC, NO. 81-4464, 5th Cir., Slip Opinion (September 27, 1982). To permit the addition of a party after 30 days is to confer upon that party the ability to seek rehearing and judicial review when the governing statute would otherwise foreclose such rights.

[5] Section 408(b) of the ESA states that:

The Commission may in its discretion (by rule or order) grant an exemption in whole or in part from the requirements (including the licensing requirements) of part I of the Federal Power Act to small hydroelectric power projects having a proposed installed capacity of 5,000 kilowatts or less, on a case-by-case basis or on the basis of classes or categories of projects * * *.

In addition, section 408(c) of the ESA states, in pertinent part, that "small hydroelectric power projects" are to include:

* * * any project which utilizes or proposes to utilize natural water features for the generation of electricity, without the need for any dam or impoundment, in a manner which (as determined by the Commission) will achieve the purposes of this title and will do so without any adverse effect upon such natural water features.

[6] 18 CFR 4.105(b)(3), 4.106(b), 4.107(e)(3).

[7] *See* section 30(c) of the Federal Power Act, 16 U.S.C. 823a(c); section 405(d) of PURPA, 16 U.S.C. 2705(d).

In any case, each exemption application is examined by the Commission to determine whether the project will cause any adverse environmental effects not otherwise remedied by terms and conditions proposed by the state and federal fish and wildlife agencies. If potential adverse impacts are identified, the Commission includes in the exemption additional environmental terms and conditions designed to avert those adverse impacts.[8]

3. *The "Natural Water Feature" Rule.* The final rule at issue here provides specific criteria for determining whether a project that uses a "natural water feature" for electric power generation qualifies for consideration under the case-specific exemption procedures. The rule, in practical terms, restricts the eligibility of projects for exemption by imposing criteria on natural water feature projects where no generic limitations previously existed in the exemption procedures. These criteria mandate, among other things, that a small hydroelectric power project, to qualify for exemption as a natural water feature project: (1) Must use a natural water feature such as a waterfall, natural lake, or gradient of a natural stream without the need for a dam or man-made impoundment; (2) must not retain water behind any structure for storage and release operations; and (3) must not have a diversion structure which is higher than two times the diameter of the penstock or intake pipeline (not to exceed ten feet in height), which retains over two acre-feet of water, and which increases the naturally-occurring head more than five percent.

The rehearing petitions misconstrue the procedural nature of this final rule. Apparently, petitioners believe the final rule, by itself, leads inevitably to the approval of many more natural water feature projects. This is not the case. The various criteria for natural water feature projects are standards used in determining whether a project can be exempted from licensing, assuming that all the other substantive and procedural requirements in 18 CFR 4.101–4.108 are met. Under this final rule, falling within the physical or operational criteria does not ensure the approval of any project on its merits.

[8] This may include any terms and conditions necessary to protect legally recognized treaty rights of Indian tribes, particularly with respect to anadromous fish. *E.g.*, United States v. Washington (Phase II), 506 F. Supp. 187 (W.D. Wash. 1980). The Commission's review is not, however, limited solely to environmental matters. It includes, for example, the subjects mentioned in 18 CFR 4.105(b)(6).

The petitioners also do not provide adequate support for their claims that the environmental analyses attendant to the exemption process are insufficient. To the extent that petitioners' general assertions reflect their apprehension about the environmental consequences of projects that may qualify for exemption, it is important to consider the following aspects of the exemption process: (1) The pre-application consultation between the applicant and appropriate state and federal fish and wildlife agencies [§ 4.107(e)(3)]; (2) the environmental impact information submitted as Exhibit E is an exemption application [§ 4.107(e)]; (3) the post-application opportunity for any appropriate state and federal fish and wildlife agency to recommend further environmental terms and conditions for a proposed project [§ 4.105(b)(3)]; (4) the Commission's environmental analysis for each project, based upon the environmental information submitted by the applicant and upon the comments of state and federal fish and wildlife agencies [§§ 4.105(b)(3) and (6), 4.106(b)]; and (5) the mandatory compliance with the environmental terms and conditions contained in the order granting exemption [§ 4.106].

The petitioners' objections to the rule are directed at matters of statutory interpretation rather than specific shortcomings in the rule or its application. The petitioners argue that the rule, by including diversion structures among those acceptable in natural water feature projects, ignores the statutory language requiring that natural water feature projects generate electricity "without the need for any dam impoundment." Therefore, petitioners claim, the Commission has exceeded its authority under the ESA.

The terms "dam" and "impoundment," as used in the ESA and its legislative history, are viewed by the Commission as referring to structures that perform the conventional role of a dam or impoundment—the artificial creation or increase of hydraulic head needed to generate electricity or needed for the storage and release of water.[9] There are fundamental differences between a project requiring the artificial creation of head to generate electricity and a project located at a site where the gradient of a natural stream is itself steep enough to provide the necessary hydraulic head. In the case of this latter type of project, only a diversion structure is needed to direct a portion of the natural stream flow into an intake pipe or penstock. The diversion structure's purpose is not to create a hydraulic head at the dam or impoundment. Moreover, no scheme of periodic storage and release of water is involved. The criteria in the final rule are drafted to incorporate this important distinction between dam projects and diversion-type projects. The Commission adheres to the view that diversion structures which meet the criteria in the final rule are not dams or impoundments in the conventional sense.[10]

Nothing in the ESA or its legislative history indicates that the water feature at which natural hydraulic head most frequently occurs—"the gradient of a natural stream"—should not be included among those natural water features that can be used in projects otherwise eligible for exemption. Consequently, any definition of natural water feature projects should include diversion-type projects that are capable of utilizing this type of natural hydraulic head.[11]

The distinction between natural water feature projects and those other types of projects using artificially-created head exists also as a matter of engineering and economics. While all streams have some degree of natural gradient, the use of a diversion structure for electrical generation is economically infeasible absent a precipitate gradient. In addition, projects on lowhead streams

[9] This view of "dam" and "impoundment" under the ESA versus "diversion stucture" is consistent with other definitions of "dam," which stress that the use and effect of the structure are important elements of any definition. For example, one preferred definition of a dam states that it is a "barrier * * * built across a watercourse to *confine and keep back flowing water.*" *Webster's Third New International Dictionary* 571 (1976) (emphasis added). Diversion-type structures are not built for these purposes.

Petitioners cite Lake Ontario Land Dev. & Beach Prot. Ass'n v. FPC, 212 F.2d 227, 232 (D.C. Cir. 1954) for the proposition that a barrier that extends only partially across a stream is a "dam". The court's dictum on this point is inapposite since it was offered merely as an analog to the real issue before the court: whether the FPC could license only part of the structures that extend completely across the St. Lawrence River into Canada. The dams in *Lake Ontario* are, in fact, the kinds of structures designed to create hydraulic head artificially and to store and release water on a periodic basis.

[10] The petitioners' suggestions that flumes, simple intake boxes, or Raney wells could be used at natural water feature sites, rather than diversion structures, are not feasible from an engineering point of view for the vast majority of small hyrdoelectric power projects. In addition, limiting exemptions only to waterfall sites and elevated natural lakes would significantly affect the Commission's ability to carry out the mandate in section 402 of the ESA to encourage hydropower development.

[11] To ensure the distinction between natural water feature projects and those using hydraulic head that is artificially created by a dam or impoundment, the final rule contains a limitation on any increase in the naturally-occurring hydraulic head at the site of a natural water feature project. 18 CFR 4.102(1)(2)(iii)(C).

could not use diversion structures under ten feet in height and still be within the other ctriteria established in this rule, such as the five percent limitation on the increase in the naturally-occurring head at the site. These natural limitations and the other safeguards in the final rule help to ensure that exemptions are available only to a select group of natural water feature projects and not, as petitioners imply, to a variety of conventional projects that use dams and man-made impoundments.

The Commission believes that the final rule meaningfully implements the Energy Security Act, taking into account the purpose of Congress in establishing the natural water feature project exemption and the actual statutory language of section 408 of the ESA. The petitioners have not raised any arguments on rehearing with respect to the provisions of the ESA that demonstrate that the rule exceeds the authority granted to the Commission in the ESA.

B. *National Environmental Policy Act (NEPA).* The petitioners also argue that the Commission has failed to meet its responsibilities under NEPA[12] to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) prior to the promulgation of this rule. As stated above, this rule is procedural in nature. It does not constitute any proposed action by the Commission with respect to any exemptible project.[13]

On the other hand, Commission approval of an exemption for a natural water feature project may constitute a "major federal action" that could significantly affect the quality of the human environment. The "proposal" for such action is the actual filing of a project application by a project developer.[14] Thus, the Commission's approval of exemptions for small hydroelectric power projects are, of course, subject to NEPA. Therefore, under the procedures established to administer the exemption process, the Commission examines such exemption applications when filed, both in terms of their individual environmental impacts and, to the extent necessary, in terms of any cumulative impacts. However, the actual establishment of those exemption procedures is not the type of action which requires an EA or EIS, given the procedural nature of that "action" and the environmental analyses which are performed in connection with the exemption applications that are actually filed.

Under NEPA, therefore, the appropriate state for environmental analysis in connection with natural water feature project exemptions is after an application is filed with the Commission. To attempt to invoke NEPA at an earlier point would be meaningless since it would, at best, involve pure speculation on where potential developers might decide to build these types of projects. This would also divert Commission resources away from the critical project-related environment analyses.[15] The Commission, therefore, declines to accept petitioners' contention that a programmatic environmental assessment is required for this procedural regulation.[16]

C. *Waiver Provision.* Petitioners also object that the waiver provisions in 18 CFR 4.103(d) in the final rule are open-ended and too ambiguous. Section 4.103(d)(2) permits a developer to file for an exemption where the project in question exceeds, to some degree, specific criteria which would otherwise apply. Given the limitations specifically enumerated in § 4.103(d)(2), the waiver provision cannot, in any way, be construed to absolve a potential developer from taking either the necessary fish and wildlife protection measures mandated by the state or federal agencies involved or the other terms and conditions imposed by the Commission.

The Upper Skagit Indian Tribe, *et al.* argue that the waiver provisions in §4.103(d)(1) can be used to waive any part of the regulations, including the specific waiver provisions in § 4.103(d)(2). This is not so. Various statutes provide definite parameters within which the Commission must act. Section 4.103(d)(1) expressly recognizes this restriction and requires that any waiver must be consistent with the ESA. Obviously, the Commission cannot waive other statutorily-based obligations, including those arising under NEPA. Finally, the waiver provisions of § 4.103(d)(2) are specific in nature and the general provisions of § 4.103(d)(1) are not to be used to undo what the Commission has accomplished in this rule. As stated in the final rule and its preamble, waivers will be granted only where a petitioner can demonstrate both that it is reasonable to waive otherwise applicable criteria and that the waiver would not cause new, significant environmental impacts.

Based upon the arguments in the rehearing petitions, the Commission cannot agree that providing a degree of procedural flexibility through the limited waiver provisions in § 4.103(d)(2) will precipitate adverse effects on the environment, given the other protective measures built into the exemption process.

D. *Other Arguments.* Petitioners present a number of other arguments in their rehearing petitions with respect to the adequacy of notice, the sufficiency of the administrative record, and delegation of certain NEPA obligations. The Commission believes that the rulemaking procedures used in this proceeding and the final rule itself sufficiently meet all such other arguments without the need for further explication or amendment of the regulations.

E. *Requests for Stay of Final Rule.* Both the Tulalip Tribes of Washington and the Upper Skagit Indian Tribe, *et al.* (Docket Nos. RM82-2-001 and RM82-2-002 respectively) request a stay of the final rule. In their requests, neither petitioner has met the burden of demonstrating that such extraordinary action is warranted. Petitioners, in summary fashion, allude to the expense of intervention with respect to exemption applications that are filed and to the "expanded class" of projects that can qualify for exemption.

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[12] 42 U.S.C. 4321 *et seq.* Since the petitioners also cite regulations of the Council on Environmental Quality, the Commission would note that, as an independent regulatory agency, it is not bound by such regulations.

[13] A major federal action must be proposed before NEPA applies. *See, e.g.*, Andrus v. Sierra Club, 442 U.S. 347 (1979); Kleppe v. Sierra Club, 427 U.S. 390 (1976).

[14] The Supreme Court has recognized a distinction between agencies which license the activities of other persons and agencies which themselves put forth a program for development. *E.g.*, Kleppe v. Sierra Club, 427 U.S. 390, 399-404, 419 n.1 (1976); Flint Ridge Dev. Co. v. Scenic River Ass'n, 426 U.S. 776, 791 n.13 (1976). As Justice Marshall, author of the *Flint Ridge* opinion, stated in *Kleppe*:

"In *Flint Ridge*, in considering whether an agency should begin work on an impact statement arguably necessary for federal approval of certain private action by a real estate developer, we rejected the claim that the agency should begin work before the private action was submitted to the agency. 'The agency could not fruitfully begin the impact statement until the developer's plans were fully or largely worked out.' "

390 U.S. at 419, n.1 (separate opinion concurring in part and dissenting in part).

[15] *Kleppe, supra* note 14; *Flint Ridge, supra* note 14.

[16] Only on rehearing has the issue of NEPA been raised. In that regard, the Upper Skagit Tribe petition claims that they were not informed of the "real environmental impacts" of the rule. The tribes can only be informed of the real environmental impacts of this rule in the context of the projects which are sought to be developed through the procedures established. Conceivably, there would be very little impact if very few applications for exemptions are filed. On the other hand, where a massive number of applications are filed, the environmental impacts would become more obvious. There is nothing inherent in this procedural rule that would reveal, by any length of study, what the "real environmental impacts" would be for future projects that are now known only to potential developers.

The decision on whether to grant a stay of a final rule is a matter within the sound discretion of the Commission.[17] As discussed earlier, a natural water feature project exemption will become effective only after state and federal environmental reviews. Even then, the exemption will be subject to the standard terms and conditions set forth in § 4.106 and may contain other terms and conditions imposed under section 30(c) of the Federal Power Act. In the absence of a more concrete demonstration by petitioners that there is a reasonable potential for actual and irreparable harm from this procedural rule and that the balance of equities favors such a stay, the Commission declines to exercise its discretion and order a stay.

For the foregoing reasons, the Commission orders that:

(1) The Petitions for Rehearing in Docket Nos. RM82-2-001, RM82-2-002, RM82-2-003 are hereby denied;

(2) The Petition for Leave to Add Friends of the Earth, Inc. as a Party is hereby denied; and

(3) The two requests for a stay of the final rule are also hereby denied.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-375 Filed 1-11-83; 8:45 am]

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18 CFR Parts 154, 270, 273, 284, and 340

[Order No. 273; Docket No. RM77-22-000]

Rate of Interest on Amounts Held Subject to Refund for Oil Pipelines, and Eliminating the Undertaking Requirements for Gas Pipelines and Producers

Issued: December 28, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is establishing regulations at 18 CFR Part 340 for oil pipeline companies under its jurisdiction. These regulations (1) provide requirements for refund payments, with interest that is tied to the prime rate charged by banks for short-term commercial loans, (2) require quarterly compounding of interest on the funds held subject to refund, and (3) provide for the sharing of a refund obligation by carriers which operate under a joint tariff. The Commission is establishing these regulations under the authority of section 402(b) of the Department of Energy Organization Act which transferred to this Commission from the Interstate Commerce Commission the authority respecting the establishment of rates and charges for the transportation of oil by pipeline and the establishment of the valuation of such pipelines.

The Commission is also eliminating the undertaking requirements in 18 CFR 154.67 and 154.102 for gas pipelines and producers. This is because the Commission no longer needs these requirements to assure that refunds will be made as prescribed by the Commission.

EFFECTIVE DATE: This final rule is effective February 11, 1983.

FOR FURTHER INFORMATION CONTACT: Cathy Ciaglo, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol St. N.E., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

The Federal Energy Regulatory Commission (Commission) is amending its regulations to provide the requirements for refund payments, with interest, by oil pipeline companies under the Commission's jurisdiction. The refund interest rate is the prime rate charged by commercial banks for short-term business loans. It applies to all amounts held on or after the effective date of this final rule including those in the *Trans Alaska Pipeline System* (*TAPS*) case (Docket No. OR78-1). In addition, this final rule provides for the compounding of interest rates on a quarterly basis and provides the procedures for refunds in the case of joint tariffs. In regard to natural gas pipelines and producers, the final rule revises the requirements for a motion and eliminates the requirements for an undertaking that must be complied with before a suspended rate may become effective.

The Commission's authority to establish refunds with interest for oil pipelines is provided in section 402(b) of the Department of Energy Organization Act (DOE Act) (42 U.S.C. 7172(b)) and Executive Order No. 12009 (issued September 13, 1977, 42 FR 46267 (September 15, 1977)). Section 402(b) of the DOE Act provides that all functions and authority of the Interstate Commerce Commission (ICC) relating to the establishment of rates and charges for the transportation of oil by pipeline, or the valuation of oil pipelines, is vested in this Commission. Included in this transfer of functions and responsibilities is the authority to compel refunds, with interest, of unjustified rates or charges for such transportation, as required in section 15(7) of the Interstate Commerce Act (49 U.S.C. 15(7))[1]

Section 705(a) of the DOE Act provides that all rules and regulations relating to functions transferred to this Commission and all orders in effect at the time the DOE Act takes effect shall continue in effect until otherwise altered by the Commission. Pursuant to section 705(a), the Commission, on October 1, 1977, issued a final rule providing that the ICC regulations in Title 49 of the Code of Federal Regulations (CFR) that related to jurisdiction over oil pipelines would remain in effect until modified by the Commission (Order No. 1, "Order Providing for the Continuation of Functions Vested in, or Delegated to, the Federal Energy Regulatory Commission", Docket No. RM78-1, 42 FR 55450 (October 17, 1977)). By a final rule issued on December 19, 1980, the Commission transferred these ICC regulations from Title 49 of the CFR to Title 18 of the CFR (Order No. 119, "Regulations of Interstate Oil Pipelines", Docket No. RM81-8 (46 FR 9043, January 28, 1981)). The Commission is hereby modifying its regulations respecting its oil pipeline jurisdiction by adding a new Part 340 to specifically provide requirements for refunds with interest for oil pipeline companies.[2]

On September 10, 1979, the Commission issued a final rule in this docket which established, for natural gas pipelines and producers and electric utilities, *inter alia*, a new, self-adjusting interest rate on refunds that would be compounded quarterly (Order No. 47, 44 FR 53493, September 14, 1979). This interest rate was based on the prime rate for short-term business loans.[3] Both Order No. 47 and this final rule were preceded by a Notice of Proposed Rulemaking issued on March 9, 1979 (44 FR 18046, March 26, 1979). That notice proposed to revise the interest rate on carrying charges and refunds paid by jurisdictional electric utilities and gas

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[17] Under the Administrative Procedure Act, the Commission may grant a stay when it determines that "justice so requires." 5 U.S.C. 705.

[1] Pursuant to Pub. L. 95-473 (October 17, 1978, 92 Stat. 1337), the Interstate Commerce Act was re-codified under Subtitle IV of Title 49. Section 15(7) is now section 10708(b) in pertinent part. Section 15(8)(e), which is referenced in Part II. A. of this rule, appears in pertinent part as section 10707(d)(1).

[2] Because the notice in this docket was issued prior to the 1980 transfer of regulations from 49 CFR to 18 CFR, the notice provided for refunds by oil pipelines at 49 CFR Part 1065. These regulations appear at 18 CFR Part 340 in this final rule.

[3] Order No. 47 was reaffirmed by the United States Courts of Appeals in *United Gas Pipe Line Company* v. *FERC*, 657 F.2d 790 (5th Cir. 1981).

pipelines and producers to reflect the prime interest rate charged by commercial banks for short-term business loans, require monthly compounding of interest on funds held subject to refund, reduce certain reporting requirements, and impose definitive refund obligations on jurisdictional oil pipelines, including an interest rate equivalent to the prime rate.[4]

Certain commenters to the notice suggested that, because of important differences between them, a different refund interest rate should be applied to oil pipelines than to gas and electric companies. However, the Commission stated in Order No. 47 that it was not persuaded that the circumstances surrounding the transportation of oil by pipeline warranted treatment different from that accorded other utilities. Nevertheless, because the regulation of oil pipelines was still a relatively new endeavor for the Commission at that time, it decided to postpone the issuance of any oil pipeline refund regulations until it acquired more information on the subject. The Commission stated in Order No. 47 that it would provide for an oral argument on the issue.

The notice of the oral argument, issued September 10, 1979 (44 FR 53538, September 14, 1979), requested the participants to specifically address why oil pipeline refund interest rates and procedures should or should not be identical to those applicable to gas pipelines and producers and electric utilities. The notice also requested suggestions for changes to the final rule respecting oil regulation in contrast to provisions in Order No. 47 for electric and gas companies. The oral argument was held at the Commission on October 9, 1979. Following is a summary and analysis of the comments made at the oral argument and other written comments concerning the oil pipeline refund interest rate that were submitted in response to the Notice of Proposed Rulemaking.[5]

[4] The notice also provided that the requirements would apply to all pending and future petroleum pipeline proceedings within the Commission's jurisdiction, including the *Trans-Alaska Pipeline System* proceeding (Docket No. OR78-1).

[5] Participants in the oral argument were: The Association of Oil Pipelines, Williams Pipe Line Company, ARCO Pipe Line Company, and the State of Alaska and Mid-Continent Petroleum Shippers Group. Of these, the Association of Oil Pipelines filed a written statement of its position at the oral argument. Additional written comments were also filed by those named above, Shell Pipe Line Corporation, Butte Pipe Line Company, the owners of the Trans Alaska Pipeline System, the Artic Slope Regional Corporation, and the Oil Pipeline Board.

II. Summary and Analysis of Comments Applicable Generally to Pipeline Refunds.

Of the nine entities that submitted oral or written comments about the proposed rule to establish an oil pipeline refund interest rate, two generally favored the proposal and seven expressed concerns about various aspects of the rule.[6] The greatest concerns pertained to the actual rate of interest that the Commission would require from oil pipelines. The commenters also made suggestions concerning (1) the authority of the Oil Pipeline Board to prescribe an interest rate on refunds by oil pipelines, (2) the future and retrospective applicability of the refund provisions to oil pipelines, (3) the requirement to compound interest and the frequency of calculating compounded interest, (4) the application to oil pipelines of the undertaking requirements that apply to gas pipelines and producers, and (5) the application of a refund rule to pipeline carriers that operate under a joint tariff.

A. Appropriate Interest Rate for Oil Pipeline Refunds

1. *Comments on the Appropriate Rate.* The Association of Oil Pipelines (AOPL), Williams Pipeline Company (Williams) and ARCO Pipe Line Company stated that the refund interest rate (*i.e.*, prime rate) and procedures adopted in Order No. 47 for the other utilities should not be made applicable to oil pipelines. Rather, they urged that the Commission adopt the Treasury bill interest rate on refunds specified in section 15(8)(e) of the Interstate Commerce Act (49 U.S.C. 15(8)(e)). According to AOPL, it was the "intent of Congress" that this rate apply to all common carriers regulated under Part I of the Interstate Commerce Act, including oil pipelines. As support, AOPL noted that on April 14, 1977 the ICC adopted procedures applying the Treasury bill standard to all carriers under Part I.[7]

The Commission is not persuaded that section 15(8)(e) mandates the Treasury bill interest rate. First, the Treasury bill standard was specifically formulated by Congress for use in railroad rate cases. It was only one of many provisions incorporated in the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210, 90 Stat. 31) for the express purpose of regenerating and strengthening the troubled railway system. Although the railroad and oil pipeline industries are both governed by the Interstate Commerce Act, there is no evidence that Congress intended to apply the standard to oil pipelines.

Second, while the ICC's April 1977 notice applied the Treasury bill standard to oil pipelines, this is a similarly unconvincing reason to apply it here. The ICC adopted the Treasury bill procedures pursuant to section 15(8)(e) of the Interstate Commerce Act and stated that it would calculate refund interest rates in railroad cases in accordance with the new Treasury bill standard. It also announced that this policy would be applicable "in all other proceedings concerning carriers subject to Part I of the [Interstate Commerce] Act * * *" and this apparently included oil pipeline companies. The ICC, however, provided no reasons for its decision respecting oil pipelines.[8]

This Commission believes that it can and should make an independent determination of which interest rate should apply. In this regard, the Commission believes that it must address the same considerations for establishing a proper rate of interest on refunds for oil pipelines that it addressed in determining the interest rate in Order No. 47. Thus, the interest rate should: (1) Provide just compensation for the losses or costs imposed upon those who have paid excessive rates; (2) reflect the benefits available to companies which collected excessive rates; and (3) not provide incentives for any party to prolong litigation. (*See* 44 FR 53494.)

As part of their recommendation to apply the Treasury bill standard to oil pipeline refunds, AOPL, Williams and other commenters alleged several differences between the oil pipeline industry and the gas transmission, gas producing, and electric utility industries regulated by the Commission. These included a contrast of each of the industries' roles as sellers of service; a contrast of oil pipeline shippers in comparison to large corporate customers of the other two industries; and a contrast of the ultimate customers of each of the industries. According to the commenters, these differences support a refund interest rate for oil pipelines different from and lower than the prime rate proposed in the notice.

[6] Comments pertaining to the refund interest rate applicable to the Trans Alaska Pipeline System are discussed in Part III of this rule.

[7] "Revised Procedures to Calculate Interest Rates", 42 FR 20701 (April 21, 1977).

[8] The ICC adopted the Treasury bill standard by order in one oil pipeline case. "Investigation and Suspension Docket No. 9164", *TAPS*, 355 I.C.C. 80 (1977) (the forerunner of the Commission's Docket No. OR78-1) issued June 28, 1977. *See* the detailed discussion about the refund issues applicable to the *TAPS* case at Part III of this final rule.

a. The Oil, Electric, and Gas Industries as Sellers of Service. First, with respect to the sellers of service in the various industries, AOPL states that only oil pipelines are common carriers, with an obligation to provide service to all customers upon reasonable demand and upon nondiscriminatory terms. In addition, AOPL notes that oil pipelines are not suppliers of energy in that they do not own the commodity they transport. In contrast, AOPL argues that gas and electric utilities are not common carriers. They supply their energy to captive customers who are effectively locked in to their supplier. Moreover, gas and electric utilities are purchasers or providers of energy which, in turn, sell their energy directly to consumers or suppliers of consumers.

Even if AOPL's characterizations of the oil pipeline, gas and electric industries are true, they are distinctions without a difference as far as the refund interest rate is concerned. Ownership of the commodity or the common carrier status of the utility has no impact on the question of benefits which accrue to the collecting company or the costs which accrue to the shippers as a result of overpayments and, thus, should have no bearing on the Commission's decision about the refund interest rate. Rather, the benefits and costs in question here are related to the period of time during which the overpayments are held by the collecting company and the uses to which the overpayments may be or could have been put.

The benefits from excessive rate payments are virtually the same for oil pipeline carriers and for natural gas pipelines and electric utilities as discussed in detail in Order No. 47. (*See* 44 FR 53494.) One of these benefits is the ability to reduce the need for borrowings, both short- and long-term, and to eliminate the costs associated with them.

None of the commenters seriously argues that excessive rate payments could not be used as a substitute for short-term borrowing by the companies. (Oral Argument, at 61; Comments of AOPL, filed May 23, 1979, at 3–4) Although neither gas nor oil pipelines make extensive use of short-term borrowing, this type of borrowing is at least a part of the typical oil pipeline's financial picture. Short-term borrowing is generally achieved by issuing commercial paper (at three to six month prime commercial paper rates) or by borrowing from banks at rates equal to or higher than the prime rate. Moreover, as can be expected, many of the smaller oil pipelines, similar to smaller gas pipelines and electric utilities, can only borrow from the banks at relatively high rates of interest. (Oral Argument, at 106–107; Appendix A)

An oil pipeline's ability to reduce its dependence on longer-term, or higher-cost borrowings by using excessive rate payments is also similar to the situation for electric and natural gas companies. That is, the sellers in each of the industries may retain and use overpaid monies in place of amounts that they may otherwise have to borrow.

Oil pipelines, like electric and natural gas companies, may also use these excess funds for investment and for other purposes during the entire effective period of a rate case, which can amount to several months or years. The sellers also have an opportunity to use their surplus cash to make a variety of short-term investments, including U.S. Government and other marketable securities, time deposits, certificates of deposit, commercial paper and Eurodollar deposits.[9] The return on these investments can vary widely, but it will probably be equal to or better than the commercial paper rate, but less than the prime rate charged by commercial banks. (*See* Appendix B.)

b. Comparison of the Oil Pipeline Shippers to Other Large Corporate Customers. One difference cited by commenters as warranting an interest rate lower than the prime rate concerns the nature of shippers in contrast to large customers of the other industries.

AOPL states that oil pipeline shippers are unique in that they are not tied to any pipeline or supplier. Customers of electric utilities and gas transmission companies, on the other hand, are "locked in" to these companies, according to AOPL. However, this characterization represents another distinction without a difference. We see no necessary correlation between the presumed ability of a shipper to divert his oil shipments to other carriers and the losses incurred by that shipper or benefits received by the carrier as a result of charges which are later determined to be excessive.

AOPL also emphasizes that, unlike the residential customers of gas and electric utilities who may pay in excess of the prime rate on their borrowings, oil pipeline shippers are large corporations which can borrow at interest rates below the prime rate.[10] Again, the Commission does not believe that some shippers' ability to borrow at a rate below prime warrants an interest rate different from that for electric utilities and natural gas companies. Some wholesale customers of jurisdictional gas pipelines and electirc utilities can also borrow below the prime rate. On the other hand, many oil pipeline shippers, like some customers of natural gas companies and electric utilities, are unable to obtain funds at even the prime rate.

AOPL's argument is significant, however, in that it highlights the inadequacy of AOPL's proposed Treasury bill standard. Specifically, we note that 90-day commercial paper rates are generally always higher than the yield on 91-day Treasury bills.[11] Therefore, to the extent that shippers sell additional commercial paper (*i.e.*, borrow funds) due to increased oil pipeline tariffs, refunds based on the Treasury bill standard will consistently fail to compensate the cost of these borrowings.

Williams also recommends a lower interest rate based on the relationship between an increase in transportation costs of petroleum products charged by a pipeline company and the price that is ultimately received for the oil. According to Williams, if one considers pipeline transportation charges as a percentage of total commodity value, the amount per gallon is *de minimus*. Thus, says Williams, an increase in oil pipeline transportation charges would not force any shipper to go to the credit market for additional funds or forego use of the tranportation service and reduce production.

We do not, however, agree that pipeline transportation costs will always be insignificant. In the *TAPS* case, for example, the weighted average transportation tariff charged shippers was $6.20 per barrel.[12] That represented more than 28 percent of the April, 1980 delivered West Coast price of Alaskan North Slope oil of $21.71.[13] Moreover, although higher transportation charges may not, by themselves, cause a large shipper to issue new debt, the Commission believes that anything which increases the total pool of costs to a shipper may well result in higher overall levels of borrowings and correspondingly higher costs to the eventual consumers.

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[9] *See:* Comments on AOPL, filed May 23, 1979, at 4. In addition, Williams recognizes long-term bonds as a potential use for excessive rate payments. (Comments of Williams, filed May 3, 1979, at 3.)

[10] For example, according to AOPL, in early October, 1979, some shippers could borrow at commercial paper rates for unsecured 30–90 day notes of major corporations that ranged from 11.8–12.0 percent, as compared with a prime rate at that time of 13.5 percent. (Statement of AOPL at Oral Argument, dated October 9, 1979, at 10.)

[11] *See* Appendix B.

[12] Initial Decision in Docket No. CR78–1, issued February 1, 1980, at 2, n. 1.

[13] *Oil & Gas Journal*, April 21, 1980, at 27.

If, however, Williams is correct in its assumption that excessive transportation charges do not typically require shippers to go to the credit market or forgo production, the question arises as to where the money comes from to pay excessive tariffs. The only source remaining is the shipper' sretained earnings, *i.e.*, stockholder equity. Therefore, we should rightfully take into consideration the lost or foregone returns on that equity which had to be paid out in the form of an excessive transportation charge. As Appendix B indicates, earned returns on book equity for the intergated petroleum industry (of which most shippers are part) are consistently at or above the prime rate.

We believe, further, that the situation is not unlike that which exists for large corporate consumers of gas and electricity. There, as here, the focus of our attention is on the opportunity cost of the investments foregone, not the use to which the customer was forced to put his money.[14] A prudent company which has funds available that it does not have to pay out for higher transportation tariffs could make a low-risk, short-term investment expected to yield a return at the low end of the range of possible returns, or it could invest in a high-risk, long-term venture from which a yield at the high end of the range could be expected, or anything in-between.[15]

As with the customers of natural gas companies and electric utilities, it clearly would not be proper to limit the returns a shipper could expect from alternative investments to those earned on short-term, risk-free investments, as argued by AOPL and Williams. To do so denies management's prerogative to participate in, and expect the higher returns commensurate with, a wider variety of investments and risks.[16]

In view of the foregoing, it is not unreasonable to assume that excessive rate payments can result in investment income losses to the shippers at a rate at least as great as that earned by oil pipeline carriers on their various short- and long-term investments.

In contrast to some commenter's recommendations that the interest rate be set lower than prime, the State of Alaska and Mid-Continent Petroleum Shippers Group (Alaska/MCPS) states that an interest rate in excess of prime is warranted since many shippers, unlike gas and electric wholesale customers, are affiliates of oil pipelines. Alaska/MCPS contends that this factor is at least as important as the relative size of the transportation cost overcharge, because to the extent a non-owner shipper is paying excessive charges to an oil pipeline, the shippers affiliated with that pipeline will get a distinct competitive advantage over these non-owner shippers. According to the commenters, the larger the overcharge and the longer it remains in effect, the greater will be that competitive advantage. To compensate for that advantage, somewhat, the commenters recommend the adoption of an interest rate on refunds that is higher than the prime rate.[17] A higher interest rate would allegedly have a more positive economic effect on independent shippers than on the owner-shippers.

The Commission has considered these competitive issues in devising an equitable refund interest rate. Competition, however, is only one of many considerations that must be balanced with other cost and benefit considerations in determining the appropriate rate. Moreover, the Commission notes that similar effects may occur no matter what the interest rate is.

c. Comparison of the Ultimate Consumer in the Oil, Electric and Gas Industries. APOL and Williams further argue that a lower refund interest rate should be applied to oil pipelines than was applied to gas and electric utilities in Order No. 47 because the oil pipeline industry differs from the gas pipeline or electric utility industries with respect to the role of the ultimate customer. These commenters said that oil pipeline shippers are not required to flow refunds on to the ultimate consumer, and, as a result, the ultimate consumers of petroleum products will likely never see any refunds the Commission orders.[18]

The Commission realizes that its regulation of oil pipelines has a less significant effect on the ultimate consumer than does its regulation of the electric and gas industries.[19] That is, the ultimate consumer of natural gas and electricity is more likely to experience directly the effects of both jurisdictional rate increases and refunds than is the ultimate oil consumer. As a result, the Commission agrees that the ultimate consumer should play a less significant role in the Commission's determination of a refund interest rate for oil pipelines. However, the Commission does not believe, as discussed more fully below, that the fact of a lesser impact on the ultimate consumer necessarily means that an interest rate less than that imposed on natural gas companies and electric utilities is warranted. The Commission must still balance the benefits and costs of the excessive

[14] Even AOPL recognizes that the shippers could use the money paid by them in excessive rates to invest in capital projects or other speculative ventures and achieve rates of return perhaps in excess of the benefits which oil pipeline carriers could derive from those same funds. This is because the pipelines which face a possible refund order cannot prudently invest as freely as shippers which are not required to make refunds. The returns on such investments are often in excess of the prime rate. (Comments of AOPL, filed May 23, 1979, at 2.)

[15] Even though funds held subject to refund may not be considered by some to be risky, long-term investments in and of themselves, it is clear that excessive payments could force a shipper to delay or reduce other long-term or high risk investments (including the concomitant returns expected from such investments). As Appendix B indicates, the range of possible returns one could expect from various types of investments historically falls on both sides of the prime rate. In this context, we note that two of the oil pipeline tariffs before Commission, the *Williams Pipeline Company* and *Trans Alaska Pipeline System* cases, were in effect since 1971 and 1977, respectively, and proceedings with respect to other tariffs under investigation have been held in abeyance indefinitely until at least one of these two lead cases is determined. *See* Order Staying Proceedings and Terminating a Rulemaking Inquiry", issued on January 9, 1980 in *Association of Oil Pipelines, et al.*, Docket No. OR79-5, *et al.* The Commission issued a decision in *Williams* on November 30, 1982 (Opinion No. 154).

[16] This is analogous to our determination in Order No. 47 that, while a portion of refunable monies replaces the seller's need to issue commercial paper, it is not unreasonble to assume that money held subject to refund also affects the timing and variety of all types of financing and investments made by the seller. (44 FR 5394) *See also United, supra* at 795.

[17] Alaska/MCPS advocate a refund interest rate for oil pipelines equal to the rate of return allowed by the Commission to the carrier or, in the alternative, the prime rate used by the Commission in Order No. 47. (Joint Comments of State of Alaska and Mid-Continent Petroleum Shippers, filed May 23, 1982, at 10.) However, the carrier's rate of return has nothing to do with the cost of equity to the shipper or the costs of overpayments to the shipper, which are the factors the Commission considers important in deriving an equitable interest refund rate.

[18] Alaska/MCPS correctly notes that at least some oil shippers belong to co-operatives which, by their very nature, pass all earnings and refunds through to their farmer/consumer owners. Alaska/MCPS also emphasizes that savings of all types and sizes are important to shippers because they reduce costs of production. In the competitive environment, it is logical to assume that lower operating costs will sooner or later be evidenced in increased productivity and generally lower prices to the consumer for the resulting products and services.

[19] As we stated in *Buckeye Pipe Line Company* (Docket Nos. IS80-76 & IS80-47, *et al.*, 13 FERC ¶ 61,267 (December 24, 1980, at 61,594):

> In electric power and natural gas we regulate the interstate wholesale aspects of industries whose intrastate and retail branches are subject to all-pervasive state regulation. (footnote omitted.) That regulation is "cost-based". So, as we have already noted, wholesale rate increases "flow through" to retail bills in short order. Conversely, a postponement of a wholesale increase delays the correlative price boost at retail.
>
> In oil, however, we deal with a relatively small regulated portion (pipeline transit) of a vast unregulated whole (oil). (footnote omitted.) Hence the prices people pay for gasoline, for heating oil, and for other petroleum-based products are determined not by regulatory concepts, but by market forces.

rates, including lost or foregone opportunities for investments of the funds that have to be used to pay the excessive transportation costs.

d. Effects of Taxes on Interest Rate. Williams also addressed the effect of federal and state taxes upon the consumers of each industry. Residential users of natural gas and electricity, who experience more directly the effects of gas and electric rate changes, cannot deduct their utility bills when computing taxes. Williams stated, however, that most oil pipeline shippers, who are more directly affected by rate changes, may deduct transportation expenses for income tax purposes. Thus, according to Williams, the oil pipeline shippers' income taxes are diminished by the effect of their actual costs for pipeline transportation, and if they receive interest on the full amount of the overcharge it will amount to a windfall. On the other hand, according to Williams, because the oil pipelines must pay income taxes on all revenues received, including those which are eventually refunded, they actually have the use of only approximately one-half of the money they eventually refund. In view of these tax implications, Williams suggests that the refund interest rate should apply only to those revenues received by the carrier on an after-tax basis.

As we said in Order No. 47, the Commission recognizes the effects of income taxes. However, these factors alone do not warrant applying the refund interest rate on an after-tax basis and giving the oil pipelines treatment different from that given gas and electric companies. The Commission notes that the tax impacts associated with oil transportation overcharges are no different from those which affect many customers of gas and electric companies.

B. The Commission's Determination of the Applicable Resulting Interest Rate

After fully considering the comments in this rulemaking proceeding, the Commission has determined that the appropriate rate of interest for refunds by oil pipelines in the prime rate charged by commercial banks for short-term business loans, the same rate applied to refunds by electric and gas utilities in Order No. 47.

As the Commission stated earlier, a determination of an interest rate for oil pipeline refunds necessarily requires a balancing of all of the cost and benefit considerations discussed in this rule. The Commission also adopted this balancing approach in Order No. 47, and this method was specifically approved by the court in the *United* case.[30]

A key to the balancing approach in Order No. 47 lay in the fact that the many different potential costs and benefits associated with the excessive charges created, in effect, a range of interest rates from which the Commission could choose. As in the analysis in Order No. 47, here there is also a range of interest rates which reflect the various benefits and costs of overcharges. At the low end of the range are short- and longer-term, low interest rates that may be available to certain shippers who are forced to finance the overcharges they pay the pipelines or other higher expenses that result, in part, from the overcharges. Other shippers will probably borrow at the prime rate if they are preferred customers of major banks. Smaller shippers may only be able to borrow at rates above prime. Finally, the ultimate oil customer may be forced to borrow at the highest rates.

The investment opportunities flowing from the pipeline's overcharging also cluster around the prime rate. They range from the return on short-term investments available to the pipelines for use of the overcharges generally at a rate below prime, to the rates at or above prime for longer-term, higher-risk investments. Also relevant are the foregone investment opportunities to the shippers and ultimate customers which can be at a rate above prime.

While the Commission agrees with some commenters that the overall range is somewhat narrower than in Order No. 47 because the ultimate consumer of petroleum products is not likely to be as affected by the Commission's jurisdictional ratemaking process as is the ultimate consumer of gas and electricity, this does not necessarily require the selection of a rate lower than prime. As we have shown, the range of possible interest rates falls on both sides of the prime rate.

Moreover, as was stated in Order No. 47, there are two factors the Commission must consider that affect all customers (shippers) to some extent, (1) the impact of inflation, and (2) the immediacy of a rate increase. The higher the inflation rate, the greater is the overall burden on a shipper as a result of an overcharge. However, a pipeline can use or invest amounts from overcharges to better weather periods of high inflation. These considerations must be balanced in arriving at a fair interest rate. Furthermore, it is the pipeline, not the shipper, which determines when and in what amount a rate increase will be filed. Presumably, such an increase will begin as a time that is most advantageous to the financial needs of the pipeline, but this may not be a time when the shipper will be able to withstand it easily. (*See* 44 FR at 53495.) The court in the *United* case also noted that the interest rate is only applied to excessive charges that are determined to be unlawful, and that the Commission must constantly keep in mind that it is dealing with unlawful charges. (657 F.2d at 795) In consideration of all of these factors, the Commission believes that it is equitable for the burdens associated with excessive charges to weigh heavily on the pipeline, which decides the amount of a particular rate increase, since the shipper has little choice but to pay the excessive charges until they are determined to be unjustified.

On balance, the Commission does not believe that these industries are so different as to require the application of a refund interest rate to oil pipelines that is different from the prime rate applied to gas and electric utilities in Order No. 47. As the Commission stated in Order No. 47, and the court reiterated in the *United* case, no one standard can perfectly reflect all of the costs and benefits associated with excessive payments. However, we believe that the prime rate comes as close as possible to providing just compensation to shippers and consumers, reflecting the benefits to the pipelines for use of excessive charges, and avoiding an incentive to prolong the ratemaking proceeding.

The Commission noted in Order No. 47 that application of the prime rate to gas and electric refunds will generally understate the costs to the ratepayer and overstate somewhat the benefits to the company associated with excessive charges. (44 FR at 53495) This is also the case in applying the prime rate to oil refunds because of the overall similarities between customers in the gas and electric industries and in the oil industry. In any event, neither side should be unduly prejudiced or advantaged by the application of the prime rate.

C. Authority of the Oil Pipeline Board To Prescribe an Interest Rate on Refunds

Alaska/MCPS suggested that the proposed regulations in the notice could be interpreted to mean that oil pipelines currently operating under suspended tariffs have no obligation whatsoever to pay interest for the period between the time those suspended tariffs became

[30] 657 F.2d at 796–797.

effective and the effective date of a final rule in this proceeding.[21]

The Commission disagrees with this interpretation because the Commission has, through the Oil Pipeline Board (OPB), provided for the eventual refund with interest of overcharges collected in pending cases prior to the effective date of this final rule. As noted in Part I of this final rule, this Commission acquired authority under the DOE Act to regulate the rates and charges of oil pipeline companies. In 1978, the Commission issued a final rule to establish the OPB to which it delegated the authority to exercise its responsibility over oil pipeline companies.[22] In accordance with this delegation from the Commission, the OPB has reviewed oil pipeline rate filings to determine whether they meet statutory standards. However, early in 1980, the Commission directed the OPB to postpone scheduling hearings on any such rate filings until the Commission decided the *Williams Pipe Line Company* and *TAPS* cases.

Since that time, the OPB has accepted oil pipeline rate filings, suspended their effectiveness for a period of time, and allowed the rates to go into effect subject to refund. In its suspension orders, the OPB has routinely set forth the procedures which the oil pipeline companies are required to follow to implement a rate increase:

> [The company] shall keep accurate accounts of all amounts received by reasons of [the instant filing], specifying when, by whom, and in whose behalf such amounts are paid. The accounts shall be in sufficient detail so that refunds *with interest as prescribed in 18 CFR 154.67(d)* can be ordered of any portion of the rates ultimately found unjustified (emphasis added). *See e.g.* "Order Accepting for Filing and Suspending Proposed Rate Increase Subject to Refund", issued on January 17, 1980 in *Hydrocarbon Transportation, Inc. et al.*, (Docket Nos. IS80–10, *et al.*)

Thus, the OPB has ordered that any rates which have been allowed to go into effect and which are later determined to be unjustified will be refunded with an interest rate equal to that prescribed for gas pipelines and producers.

Several commenters also challenge the OPB's authority to require an interest rate other than the one adopted by the ICC. The OPB's authority prior to issuance of this final order is not in issue here, because this rule affects only overcharges held on or after its effective date. However, we believe it will be helpful to clarify the Commission's position on this matter.

First, the commenters assert that the appropriate interest rate for refunds is the rate established by section 15(8)(e) of the Interstate Commerce Act, which was made applicable to oil pipelines by the ICC in its notice of April 14, 1977.[23] The Commission has already stated that it does not believe that the Treasury bill rate should be applied to oil pipeline refunds. (*See* Part II. B., above.)

The commenters raise as their second argument that the savings provision of section 705(a) of the DOE Act continues the effectiveness of all orders, rules, and regulations of the ICC which were issued in the performance of the functions transferred to the Commission until acted upon in accordance with law by the Commission. They argue that, as yet, the Commission has taken no action to effect a different interest rate and has declined explicitly in Order No. 47 to adopt the rate established in § 154.67(d) for oil pipeline companies. They say that, by operation of the savings provision of section 705(a), the ICC notice regarding interest rates is the effective rate until changed by the Commission. Therefore, they conclude that, prior to a change in interest rate by a Commission rule, the OPB is without legal authority to impose an interest rate other than the rate established in the ICC notice.

The oil pipeline companies' assertion and supporting arguments are based on an incorrect assumption that the ICC notice carries the legal effect of a rule under section 4 of the Administrative Procedure Act (5 U.S.C. 551) (APA) and, therefore, is binding on the Commission until amended by a rulemaking proceeding. To the contrary, the ICC specifically provided that the purpose of the notice was no more than to clarify Commission policy with respect to interest rates for refunds applicable to regulated carriers. The ICC notice states the following with regard to its effect:

> Accordingly, pursuant to section 15(8)(e) of the Interstate Commerce Act and section 4 of the Administrative Procedure Act, 5 U.S.C. 553(b)(A), this notice is served to clarify Commission policy with respect to interest rates. (42 FR 20701)

This notice can be interpreted either as a policy statement or an interpretive rule under section 553(b)(A). However, it is clearly not a rulemaking[24] and, thus, it has no binding effect on this Commission.

Because the ICC said that notice was designed to clarify the ICC's "policy" lends evidence that it was intended to be a policy statement. The courts have held that policy statements issued under section 553(b)(A) have no legal binding effect.[25] In addition, the Attorney General's Manual on the Administrative Procedure Act, which is the interpretative tool for the APA, states that the effect of a general statement of policy is "to advise the public prospectively of the manner in which the agency proposes to exercise a discretionary power." (Manual, p. 30, n. 3) The notice could also be termed an interpretive rule because it stated that it was designed to "clarify" the ICC's policy. However, an interpretive rule likewise does have any binding effects.[26]

Therefore, because the ICC notice is not legally binding on this Commission, the Commission (through the OPB) had the authority to order in each case whatever interest rate it found appropriate.

The commenters also argue that the Commission explicitly declined in Order No. 47 to establish the interest rate in §154.67(d) as the rate for oil pipeline refunds. The Commission, however, did not rule out the adoption of this or any other rate. We merely declined to consider the adoption of a rule setting an interest rate for all oil pipeline refunds at the time Order No. 47 was issued. Prior to and during this rulemaking, however, the OPB has had the authority, as delegated by the Commission, to prescribe any interest rate it found appropriate. The decision by the OPB to prescribe the same interest rate as that applicable to gas pipelines under §154.67(d) comports with direction given by the Federal judiciary to consider the Commission's long history of regulating rates in establishing a regulatory scheme for oil pipeline companies.[27]

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[21] Similar questions have been raised in petitions for rehearing from numerous oil pipeline companies in their individual rate proceedings.

[22] Docket No. RM78–5, Order No. 3 (issued February 10, 1978, 43 FR 6765, February 16, 1978). The regulations implementing this final rule were at 18 CFR 3.4(d) and 3.5(e). The delegation regulations were transferred to § 375.306 in a final rule issued on March 28, 1980 (Docket No. RM80–45, Order No. 73, 45 FR 21216 (April 1, 1980)).

[23] *See* n. 7.

[24] The general rulemaking provisions of the APA (5 U.S.C. 553) require an agency to provide notice (subsection (b)) and an opportunity for public comment, and to consider the relevant matters presented in the comments during its preparation of the rulemaking (subsection (c)). Subsection 533(b)(A) specifically exempts "general statements of policy" and "interpretive rules" from these procedures. The fact that the ICC did not follow these general rulemaking procedures when it issued its notice is further evidence that the ICC did not consider its notice to be a rule.

[25] *E.g., American Bus Ass'n* v. *United States*, 627 F.2d 525 (D.C. Cir. 1980); *Pacific Gas and Electric Co.* v. *FPC*, 506 F.2d 33 (D.C. Cir. 1974).

[26] *Eastern Kentucky Welfare Rights* v. *Simon*, 506 F.2d 1278, 1290 (D.C. Cir. 1974), rev'd. on other grounds (426 U.S. 26, 1976) (plaintiff lacked standing to sue); *National Helium Corp.* v. *FEA*, 569 F.2d 1137 (Em. Ct. App.; 1977).

[27] *Farmers Union Central Exchange* v. *FERC*, 584 F. 2d 408 (D.C) Cir.) *cert. denied, sub nom., Williams Pipe Line Co.* v. *FERC*, 439 U.S. 955 (1978).

D. The Applicability of the New Refund Rule

AOPL suggests that because of the "uncertainty" currently surrounding the regulation of oil pipelines, no new refund interest rate standard should be allowed to become effective until after the Commission has determined which ratemaking principles will apply to oil pipelines. This would include resolving the *Williams* and *TAPS* cases. The Commission notes, however, that a determination of the appropriate refund interest rate for oil pipelines is based on our evaluation and balancing of the costs and benefits associated with excessive charges as expressed in the Notice of Proposed Rulemaking and in Order No. 47, adjusted, as necessary, for those unique circumstances surrounding the oil pipeline transportation industry. Ratemaking principles such as those in the *TAPS* and *Williams* cases do not affect the accuracy of that determination.Therefore, it was not necessary for all ratemaking principles to be resolve before a new refund interest standard could become effective.[28]

AOPL also argues that the aforementioned "uncertainty" puts oil pipelines at an unfair disadvantage when preparing rate filings and does not permit them to follow a "more conservative approach" to such filings as recommended by the Commission in Order No. 47.[29] Our reference to a "more conservative approach" is little more than a general axiom that is true for every rate filing (*i.e.*, gas, electric or oil) accepted by the Commission, subject to refund. Whether a company follows a more or less conservative approach is that company's choice and risk. The axiom itself should have no impact on the number or size of rate filings made with the Commission. Again, the Commission believes that so long as the oil refund interest rate that is chosen reflects a fair balancing of the costs and benefits associated with oil pipeline overcharges, it would be unfair to postpone the application of such a rate until decisions are made about the other ratemaking principles. Thus, the Commission will apply the new interest rate upon the effective date of this final rule.

AOPL suggests that the Commission apply the provisions of this final rule only to new filings made after the date of its issuance. The only justifications given by AOPL for such prospective application are that the Treasury bill standard has been applied by the ICC to the *TAPS* case, and that this standard conforms to the Commission's own "no profit" and "no incentive" objectives. However, as the Commission has already noted in this rule in Part II. A. and B., it does not believe the Treasury bill rate is the appropriate rate for oil pipeline refunds. Because this rate has been applied to the *TAPS* case [30] is not sufficient reason to apply it to other pending oil refund cases for prospective overcharges. Moreover, the OPB has already ordered in all other pending oil pipeline rate cases a refund interest rate equal to that for natural gas companies, (*i.e.*, the prime rate). Since this final rule addresses only the overcharges held on and after the effective date of this rule, it does not affect the earlier OPB orders for the period of time prior to this rule's effective date.

E. Compounded Interest

While Williams generally supported the Commission's proposal to compound refund interest rates, [31] AOPL objected to the compounding concept. AOPL raised the same arguments as those addressed in Order No. 47 (44 FR 53495–53496).[32] As the Commission stated in Order No. 47, compounding has been accepted as a reasonable means of allowing interest on accumulated interest. The Commission finds no differences between the oil industry and the gas and electric industries to warrant different treatment for oil pipelines with respect to compounding. Therefore, a compounding feature is retained in this final rule. However, in order to reduce the burden associated with the frequency of calculating compounded interest, the Commission here, as in Order No. 47, is adopting a quarterly compounding requirement instead of the monthly compounding requirement that was proposed.

F. Motion and Undertaking Requirements

In the Notice of Proposed Rulemaking in this docket, we proposed that oil pipeline carriers be required to comply with undertaking requirements that are similar to those in effect for gas piplelines and producers.[33] However, in Order No. 47, the Commission stated that it was considering deleting the motion and undertaking requirements for gas pipelines and producers. This is because of the consistency with which gas pipelines and producers have made their required refunds over the years, which led the Commission to believe that these requirements are no longer necessary to assure that refunds will be made as prescribed by the Commission. (44 FR. 53498)

The Commission requested written comments on this proposal to delete the requirements for the gas industry in that final rule. As expected, the comments received in response to the proposal were favorable. Thus, the Commission is deleting entirely the undertaking requirements from its regulations. This should result in a reduction in the reporting burden of the gas pipelines and producers as part of their rate applications. With respect to the motion requirement, however, some commenters expressed concern over the Commission's authority to eliminate it since section 4(e) of the Natural Gas Act appears to give the Commission no discretion to do so.[34] In contrast to the undertaking requirement, which the Commission "may" require, these comments suggest that the Commission has no choice but to require some form of motion before suspended rates may go into effect.

One commenter suggested that the Commission permit the company the option of filling a "conditional" motion, simultaneously with the filing of its request for a change in rates, requesting that the increased rates be effectuated at the end of any suspension period. Another commenter suggested that the regulations be revised to provide that the filing of any proposal under section

[28] *See* n. 15.

[29] The full context of our remarks in Order No. 47 is as follows:

[O]ur selection of a rate of interest on refunds represents a compromise of all the cost and benefit considerations. We believe it is of importance to note that it is the filing company which makes the determination as to what rates it will propose. A more conservative approach will expose it to less risk of refunds, therefore, less risk of loss due to the effects of income taxes, and vice versa. (44 FR. 53495)

[30] *See* Part III for a discussion of the *TAPS* case.

[31] Comments on Williams filed May 3, 1979, at 4.

[32] Comments of AOPL, filed May 23, 1979, at 5. Essentially, AOPL alleged that compounding only adds costs and economic penalty to the carrier without any compensation, thereby increasing the refund burden.

[33] Section 154.67 and 154.102 of the Commission's regulations require jurisdictional gas pipelines and producers, respectively, to file a motion to put a suspended rate into effect and an undertaking to comply with the refund and reporting procedures described in the refund regulations, before the suspended rate may become effective. Only the undertaking requirement would have been applied to oil pipelines.

[34] Section 4(e) of the Natural Gas Act provides, in pertinent part, that

"If the proceeding has not been concluded and an order made at the expiration of the suspension period, on motion of the natural-gas company making the filing, the proposed change of rate, charge, classification, or service shall go into effect. Where increased rates or charges are thus made effective, the Commission may, by order, require the natural-gas company to furnish a bond, to be approved by the Commission to refund any amounts ordered by the Commission * * *." (15 U.S.C. 717c(e))

4(e) of the Natural Gas Act would constitute the required motion.

In response to these comments, the Commission is retaining a motion requirement for gas pipelines and producers. However, the Commission is providing that the motion may be filed at the same time as a proposed rate change. This will eliminate the necessity for companies to submit the motion as a separate document and should reduce their filing burden.

AOPL responded negatively to the proposal in the notice to apply the undertaking requirements to oil pipelines. AOPL argued at length that these provisions are inconsistent with the express terms of section 15(7) of the Interstate Commerce Act and cannot be used to bar the effectiveness of tariffs at the end of the statutory suspension period.[35] In addition, numerous oil pipeline companies expressed opposition to the oil undertaking requirements in their petitions for rehearing of individual rate proceedings.

The Commission does not believe that there are any unique circumstances warranting treatment for the oil industry that is different from that afforded the gas industry with respect to the undertaking requirements. Nor does the Commission have any reason to expect that the oil pipelines will be any less diligent than the gas pipelines and producers in their payment of refunds. Therefore, we are not adopting the proposed undertaking requirement in this final order.

G. Refunds Under Joint Tariffs

Williams stated that it is common in the oil pipeline industry for two or more carriers to operate under a joint tariff, although only one carrier actually publishes the tariff and collects it.[36] Williams recommends that, where increased revenues that are subject to refund are shared between carriers, all the sharing carriers should be required to refund according to the portion shared, along with the appropriate interest. Williams suggested that the refunds be made to the issuing carrier, not less than five days prior to the refund date ordered by the Commission. According to Williams, the issuing carrier would, in turn, make refunds to the appropriate shippers.

This proposal appears to be a reasonable and equitable means of dealing with the joint tariff situation. Therefore, the Commission adopts regulations in this final rule to provide that rates or charges shared by two or more carriers must be proportionately refunded to the pipeline company that filed the tariff, not less than five days prior to the refund date ordered by the Commission. We point out that this requirement will shift the burden of paying interest for the last five days before the end of the refund period entirely to the issuing carrier.

III. The Interest Rate Applicable to Refunds in the Trans Alaska Pipeline System Case

The owners of the Trans Alaska Pipeline System, AOPL, the State of Alaska and the Arctic Slope Regional Corporation (ASRC) submitted comments with respect to the applicability of the Commission's general refund interest rate regulations to the *TAPS* case (Docket No. OR78–1). As discussed in Part II. B. of this final rule, the ICC applied the Treasury bill standard in section 15(8)(e) of the Interstate Commerce Act to TAPS tariffs in its suspension order of June 28, 1977. Some of the commenters challenged whether the Commission may now change the rate of interest from that rate specified in the ICC's suspension order.

A. Background

In 1977, seven of the eight TAPS owners filed tariff schedules at the ICC to become effective in June, 1977. The schedules contained rates applicable to the transportation of crude oil through TAPS.[37] The initial rates were protested by the ICC Bureau of Investigations and Enforcement, the Department of Justice, State of Alaska, and ASRC. On June 27, 1977, oral argument was held before the ICC on the protests. In an order issued June 28, 1977, the ICC suspended the proposed tariffs and prescribed interim tariffs (to be effective during the seven-month suspension period) subject to certain conditions, including an interest rate on refunds in accordance with the section 15(8)(e) standard.[38] The ICC required the oil pipeline carriers in TAPS to file refund provisions applicable to both the interim and originally proposed tariffs in accordance with that standard. Jurisdiction over this proceeding and the governing regulation was transferred to this Commission in October, 1977 under the DOE Act.

B. Discussion

The State of Alaska and ASRC have petitioned the Commission to make the interest rate in Order No. 47 (*i.e.*, the prime rate) applicable to the TAPS owners.[39] However, the TAPS owners and AOPL oppose that petition, alleging, *inter alia*, that the Commission does not have the authority to change the interest rate set by the ICC and that the existing rate represents a contractual agreement between the owners and the Commission.[40] These comments raise essentially three issues respecting the interest rate on refunds in the *TAPS* proceeding.

1. Does the Commission have the legal authority to change the *TAPS* refund interest rates prospectively?

2. Was the refund interest rate specified in the ICC suspension order fixed permanently?

3. Does the Commission have the legal authority to change the *TAPS* refund interest rate retroactively?

1. *The Commission's Legal Authority To Change the Refund Interest Rate Prospectively.* The TAPS owners first argue that the interest rate on refunds for oil pipelines is statutorily mandated by section 15(8)(e) of the Interstate Commerce Act and that the transfer to the Commission of regulatory authority over oil pipelines was not intended to change the substantive rules governing oil pipelines, including the ICC rule on the applicable interest rate on refunds.[41] However, in Part II. A. of this final rule, we have noted that the refund interest rate mandated by section 15(8)(e) of the Interstate Commerce Act pertains solely to railroads and that this rate was applied to oil pipelines only by virtue of the ICC's notice of April 14, 1977. We have also stated that such a notice is not legally binding upon the Commission. However, even if the section 15(8)(e) rate and the corresponding ICC regulations had been legally enforceable with respect to oil pipelines prior to this rulemaking, the Commission, in this final rule, has formulated a new interest rate to be applied prospectively to oil pipeline refunds.

Their second argument, that a rule changing a prior rule cannot be made to apply prospectively, is directly contradicted by case law. The Supreme Court, in a landmark case that interpreted a Securities and Exchange Commission rule, found that:

[35] Comments of AOPL, filed October 9, 1979, at 15, and Attachment B to those comments.

[36] Comments of Williams, filed May 3, 1979, at 5.

[37] See "Joint Reply of TAPS Owners to the Petition of the State of Alaska and the Arctic Slope Regional Corporation For Declaratory Order Concerning TAPS Refund Interest Rates", Docket No. OR78–1 and Docket No. RM77–22, filed on February 19, 1981. (Hereinafter, Joint Reply of TAPS Owners).

[38] "Investigation and Suspension Docket No. 9164", *Trans Alaska Pipeline System*, 355 ICC 80 (hereinafter, "Investigation and Suspension").

[39] See "Renewal of the Petition of the State of Alaska for Declaratory Order Concerning TAPS Refund Interest Rates", filed May 28, 1982.

[40] Joint Reply of TAPS Owners at 2–3.

[41] Joint Reply of TAPS Owners at 9.

[t]he Commission, unlike a court, does have the ability to make new law prospectively through the exercise of its rulemaking powers * * *. In other words, problems may arise in a case which the administrative agency could not reasonably foresee, problems which must be solved despite the absence of a relevant general rule. Or the agency may not have had sufficient experience with a particular problem to warrant rigidifying its tentative judgment into a hard and fast rule.[42]

Aside from these general grants of authority, the savings provisions of the DOE Act (section 705(a)) states that the rules and regulations which existed at the time of the transfer of authority from the ICC to the Commission were expressly continued "in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law * * *." (42 U.S.C. 7295(a)). The Commission's adoption of a refund interest rate in this final rule which applies to all prospective overcharges by oil pipelines is made in compliance with that provision.

Thus, the Commission believes there is no legal bar to its decision to apply these refund obligations to amounts held after the effective date of this rule by the TAPS owners, as they are applied to other oil pipelines.

2. *Permanency of the Refund Interest Rate Specified in the ICC Suspension Order.* The TAPS owners further argue that, even if the Commission has the legal authority generally to change conditions, the ICC's *TAPS* suspension order cannot be amended. They state that, in oral argument before the ICC prior to the issuance of the suspension order, they offered to accept a higher refund interest rate than that provided for in section 15(8)(e) in return for an agreement by the ICC not to suspend the proposed tariffs.[43] They allege that the ICC's "rejection" of that offer constitutes evidence that the provisions of the suspension order were "bargained" for, and, therefore, cannot now be changed by the Commission in this rulemaking proceeding.

There is no evidence on the record of a settlement between the pipelines and the ICC. In fact, the record shows that the so-called offer did not even have the unanimous support of the pipelines.[44] In addition, the ICC's deliberations on this matter are not recorded. Therefore, the only indication of its consideration of the issues is the suspension order itself. The order does not mention any negotiations, and it does not indicate which arguments the ICC found most persuasive, or which provisions may have been revised or deleted in favor of others. The Commission, therefore, does not believe this argument has merit.

The TAPS owners also argue that, once the ICC had issued its suspension order in the *TAPS* case, any conditions which were imposed in that suspension order could not be altered.[45] Two of the cases they cited to support this proposition are *United States* v. *Chesapeake of Ohio Railway Co., et al.*, and the *Trans Alaska Pipeline Rate Cases.*[46] According to the TAPS owners, these cases provide that the authority to set interest rates on refunds is ancillary to the suspension power and cannot be exercised apart from that power, as the Commission was attempting to do in this rulemaking.

However, the Commission does not interpret this case law as precluding it from changing conditions in a prior order. The Court in the *Chesapeake* case said that the purpose of the suspension power in section 15(7) of the Interstate Commerce Act is to protect the public from irreparable harm resulting from payments for unjustified transportation costs by giving the Commission the power to fully investigate the rates before the tariff becomes effective. (426 U.S. at 513) The Court also found that the Commission may, as a condition for not suspending and subsequently investigating the lawfulness of proposed rates, require certain uses of revenues by regulated entities. (*See* 426 U.S. at 514–515. *See also* 436 U.S. at 655–656.) The power to impose conditions on the implementation of the rate increase was described as a "legitimate, reasonable, and direct adjunct to the Commission's explicit statutory power to suspend rates pending investigation." (*See* 426 U.S. at 514. *See also,* 436 U.S. at 655.) Further, the Court specifically found that Congress did not intend the language of section 15(7) of the Interstate Commerce Act to limit the Commission's ancillary power. (436 U.S. at 656–57) There was no indication in the case that once the suspension power is exercised, an ancillary condition could not be changed. Therefore, the Commission is not barred from changing conditions, such as the refund interest rate, that are ancillary to the suspension order in the *TAPS* case.

3. *The Commission's Legal Authority to Change the TAPS Refund Interest Rate Retroactively.* The TAPS owners also objected to the State of Alaska and ASRC's recommendation that the revised interest rate should apply to refunds for any excess charges in the *TAPS* proceedings that were collected prior to the effective date of this final rule. The TAPS owners said that this is not a case of first impression, to which retroactivity could be applied. Rather, they say that a change in the interest rate applicable to refunds here would be an abrupt departure from established practice.[47] The TAPS owners also said that the current unsettled regulatory environment for oil pipelines does not support the retroactive application of refund requirements. Finally, they said that there is no statutory interest served in applying a new refund standard to the TAPS owners because the ICC tariff rates were filed in compliance with a well-established ratemaking methodology and the rates were reasonable under that methodology.

The applicable case law makes it clear that changes may be made retroactively in certain circumtances. In *SEC* v. *Chenery Corp.*,[48] the Supreme Court established the principle that administrative agencies may give retroactive effect to an overruling or subsequent decision. The Court established a balancing test for retroactivity, stating that:

> such retroactivity must be balanced against the mischief of producing a result which is contrary to a statutory design or to legal and equitable principles. If that mischief is greater than the ill effect of the retroactive application of a new standard, it is not the type of retroactivity which is condemned by law. (332 U.S. at 203)

The D.C. Circuit Court also examined the retroactivity issue in the case of *American Public Gas Association* v. *Federal Power Commission,* (546 F. 2d 983 (D.C. Cir. 1976)). The FPC had issued a final rule on October 10, 1974 (Docket No. RM74–18, Order No. 513, 39 FR 37357, October 21, 1974) which established a 9% refund interest rate on all natural gas refunds where the rate filings were made on or after October 10, 1974. The petitioner's primary objection to the final rule was that the order was unreasonable and discriminatory in providing that the lower 7% refund interest rate would continue to apply to all refunds in cases in which the rate increases were *filed before* the rule's effective date and that the 9% rate would be applied to only those rate increases *filed* by the company *on or after* the effective date. The petitioners also objected to the Commission's failure to apply the 9%

[42] *SEC* v. *Chenery*, 332 U.S. 194, 202–03 (1974).

[43] Joint Reply of TAPS Owners at 11–12.

[44] Tr. 165. There is also discussion on the record that eight percent interest rate would not, in fact, represent an increase over the interest rate that the ICC had previously applied. Tr. 175–178. *See also* "Investigation and Suspension" at 7.

[45] Joint reply of TAPS Owners at 10–11.

[46] 426 U.S. 500 (1976), and 436 U.S. 631 (1978), respectively.

[47] Joint reply of TAPS Owners at 17.

[48] *See* n. 42, above.

refund interest rate "retroactively", *i.e.*, to all refunds *ordered* after October 10, 1974, regardless of the date the increase was filed. The court upheld the Commission's decision not to apply the 9% interest rate retroactively, *i.e.*, to excess charges actually collected prior to October 10th. The court stated that:

> It was not unreasonable for the Commission to refrain from imposing a 9% refund interest rate on any excess charge which was collected prior to October 10, 1974, for any period prior to that date. Not until October 10, 1974, did the Commission determine that the fair and reasonable refund rate of interest should be 9%. Prior to October 10, 1974, the Commission had fixed the fair and reasonable refund at 7%. (546 F. 2d at 988)[49]

In balancing the considerations in favor of and against retroactive application of the new interest rate to the *TAPS* case, the Commission believes that applying the rule retroactively would be inappropriate here. Although the Commission has expressed its objections to the general application of an interest rate that is computed in accordance with section 15(8)(e) of the Interstate Commerce Act, this rate has already been applied specifically to the TAPS companies in the ICC's June 28, 1977 suspension order. The TAPS companies have acted in accordance with that ICC order, and they should not now be subjected to a new refund interest rate with respect to any excess charges held prior to this final rule. We find, therefore, that on balance, the unfairness of applying a higher interest rate retroactively to the companies in this particular case would be greater than the benefit of such an action.[50] The Commission stresses, however, that the new refund interest rate in this rule still applies prospectively to the TAPS companies for charges held on or after the effective date of this final rule which are later determined by the Commission to be unjustified.[51]

[49] *See also City of Chicago* v. *Federal Power Commission*, 385 F. 2d 629, 641–642 (D.C. Cir. 1967), *cert. denied*, 390 U.S. 945 (1968). ("The Commission acted sensibly and reasonably in making its new policy effective as of the date it was announced to the industry".)

[50] *See Lodges 743 and 1746, International Association of Machinists* v. *United Aircraft Corp.*, 534 F. 2d 422, 453 (2d Cir. 1975) citing the balancing test in *Retail Wholesale and Department Store Union*, 466 F. 2d at 390.

[51] The Commission notes that the court in *American Public Gas Association* agreed with the petitioners that the Commission's order was unreasonable because it retained the previously-required 7% rate of interest for overcollections occurring after October 10, 1974 in those cases where the company filed for the rate increase prior to the effective date of the rule.

IV. Summary of Changes to the Commission's Regulations

The Commission has adopted the proposed regulations respecting the interest rate on refunds by oil pipelines, except for the changes discussed in this final rule.[52] Essentially, these changes include (1) eliminating the proposed requirements for oil pipelines to file an undertaking before the suspended rate may become effective; (2) adding a provision respecting refunds in the case of joint oil pipeline tariffs, and (3) providing that oil pipeline interest rates shall be compounded on a quarterly basis. This final rule also eliminates the existing requirements for natural gas pipelines and producers to file an undertaking and revises the motion requirements that are prescribed pursuant to section 4(e) of the Natural Gas Act.

In addition to these revisions, Alaska/MCPS, the Oil Pipeline Board and AOPL suggested minor revisions to the oil pipeline refund regulations proposed in the notice to reflect more accurately the relationship between oil shippers and oil pipeline carriers and to clarify generally the extent of the refund obligation. These changes, which the Commission has adopted, include: (1) Revising § 340.1(a) to eliminate "unless otherwise ordered by the Federal Energy Regulatory Commission" (to correspond to the provisions of section 15(7) of the Interstate Commerce Act); (2) revising § 340.1(b) to change the word "customer" to "shipper"; (3) revising § 340.1(b)(1), (2) and (3) to provide that the Commission's regulation is applicable only to the transportation of oil, and not to its sale; (4) revising § 340.1(b)(1) to provide for keeping accounts on monthly billing determinants of petroleum or petroleum by-products transported to each *consignee* (instead of "purchaser") under the suspended *tariffs* (instead of "suspended agreements or tariffs"); and (5) revising § 340.1(c)(2) to provide that interest shall be "computed from the date of the collection until the date refunds are made" (instead of being "paid on all amounts to be refunded") to clarify that pipelines must pay interest for the period between the time they began collecting the additional revenues as a result of the expiration of the suspension period and the date refunds are actually made.

V. Effective Date

This final rule is effective February 11, 1983.

[52] As noted in Part I of this final rule, the regulations in 18 CFR Part 340 were provided in 49 CFR Part 1605 in the notice of proposed rulemaking.

(Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 43 CFR 142; Interstate Commerce Act, 49 U.S.C. 1, *et seq.*; Natural Gas Act, 15 U.S.C. 717–717w)

List of Subjects

18 CFR Parts 154, 273, and 284

Natural gas.

18 CFR Part 270

Natural gas wage and price controls.

18 CFR Part 340

Pipeline rates and tariffs.

In consideration of the foregoing, the Commission amends Part 154 of Subchapter E, Parts 270 and 273 of Subchapter H, Part 284 of Subchapter I and Part 340 of Subchapter P), Chapter I of Title 18 of the Code of Federal Regulations as set forth below, effective 30 days after date of publication in the **Federal Register**.

By the Commission.

Lois D. Cashell,

Acting Secretary.

PARTS 154, 270, 273, AND 284—[AMENDED]

§§ 154.38, 270.101, 273.302, and 284.2 [Amended]

1. In § 154.38(d)(iv)(c), all references to "§ 154.67(d)" including subdivisions of that paragraph should read as "§ 154.67(c)" including subdivisions of that paragraph. In § 270.101(e), all references to "§ 154.102(d)" should read as "§ 154.102(c)". In § 273.302, all references to "§ 154.102(d)" should read as "§ 154.102(c)". In § 284.2, all references to "§ 154.102(d)" should read as "§ 154.102(c)".

PART 154—[AMENDED]

2. In § 154.67, paragraph (a) is revised to read as follows:

§ 154.67 Suspended changes in rate schedules; motions to make effective at end of period of suspension; procedure.

(a) *Effect of suspended changes in rate schedules.* If a rate suspension proceeding initiated under section 4(e) of the Natural Gas Act has not been concluded and an order issued by the Commission at the expiration of the suspension period, the proposed change of rate, charge, classification, or service shall go into effect pursuant to motion of the pipeline company proposing the change, so long as the pipeline company complies with all requirements of this section. The pipeline company may file such motion concurrently with the proposed change of rate, charge, classification, or service, at which time the pipeline company may request that

the proposed change be effectuated at the expiration of the suspension period. The proposed rate, charge, classification, or service shall become effective as of the date of receipt of such motion by the Commission or the expiration of the suspension period, whichever is later. Three copies of the motion shall be filed with the Commission. (OMB Control No. 19020070)

* * * * *

§ 154.67 [Amended]

3. Section 154.67 is amended by removing paragraphs (b) and (d)(4), and by redesignating paragraphs (c) and (d) as paragraphs (b) and (c) respectively.

4. In § 154.102, paragraph (a) is revised to read as follows:

§ 154.102 Suspended changes in rate schedules; motions to make effective at end of period of suspension; procedure.

(a) *Effect of suspended changes in rate schedules.* If a rate suspension proceeding initiated under section 4(e) of the Natural Gas Act has not been concluded and an order issued by the Commission at the expiration of the suspension period, the proposed change of rate, charge, classification, or service shall go into effect pursuant to motion of the independent producer proposing the change so long as the independent producer complies with all requirements of this section. The independent producer may file such motion concurrently with the proposed change of rate, charge, classification, or service, at which time the independent producer may request that the proposed change be effectuated at the expiration of the suspension period. The proposed rate, charge, classification, or service shall become effective as of the date of receipt of such motion by the Commission or the expiration of the suspension period, whichever is later. Three copies of the motion shall be filed with the Commission. The Secretary, upon receipt of such motion, shall, if the motion is legally adequate for the purpose, notify the movant that the proposed rate change shall be effective as provided in this section: *Provided,* That the Secretary shall refer to the Commission any motion requesting that a change in rate, charge, classification, or service be made effective, if in his judgement the motion should receive the specific attention of the Commission. (OMB Control No. 19020070)

* * * * *

5. Section 154.102 is further amended by removing paragraphs (b) and (d)(4), and by redesignating paragraphs (c) and (d) as paragraphs (b) and (c), respectively.

6. Part 340, Subchapter P is added to 18 CFR Chapter I to read as follows:

SUBCHAPTER P—REGULATIONS UNDER THE INTERSTATE COMMERCE ACT

PART 340—RATE SCHEDULES AND TARIFFS

§ 340.1 Suspended rate schedules; procedure; refund requirement; administered by the Federal Energy Regulatory Commission

(a) *Effectiveness of suspended rate schedules.* If a rate suspension proceeding initiated under section 15(7) of the Interstate Commerce Act has not been concluded and an order has not been issued by the Commission at the expiration of the suspension period, the proposed rate, charge, classification, or service shall go into in effect so long as the pipeline company complies with all of the requirements of this section.

(b) *Recordkeeping.* Any pipeline company whose proposed rates or charges were suspended and have gone into effect pending final order of the Commission pursuant to section 15(7) of the Interstate Commerce Act shall keep accurate accounts in detail of all amounts received by reason of the rates or charges made effective as provided in the Commission's order, for each billing period, including the following information by billing period, and by shipper:

(1) The monthly billing determinants of petroleum or petroleum by-products transported to each consignee under the suspended tariffs;

(2) The revenues which would result from such transportation services if they were computed under the rates in effect immediately prior to the date the proposed change became effective, if applicable;

(3) The revenues resulting from such transportation services as computed under the proposed increased rates or charges that became effective after the suspension period; and

(4) The difference between the revenues computed in paragraphs (b)(2) and (3) of this section, if applicable.

(c) *Refunds.* (1) Any pipeline company that collects charges pursuant to this section shall refund at such time, in such amounts, and in such manner as may be required by final order of the Commission, the portion of any rates and charges found by the Commission in that proceeding not to be justified, together with interest as required in paragraph (c)(2) of this section.

(2) Interest shall be computed from the date of collection until the date refunds are made as follows:

(i) At an average prime rate for each calendar quarter on amounts held on or after February 11, 1983. The applicable average prime rate for each calendar quarter shall be the arithmetic mean, to the nearest one-hundredth of one percent, of the prime rate values published in the *Federal Reserve Bulletin,* or in the Federal Reserve's "Selected Interest Rates" (Statistical Release G. 13) for the most recent three months preceding the beginning of the calendar quarter; and

(ii) The interest required to be paid under paragraph (2)(i) of this section shall be compounded quarterly.

(3) Any pipeline company required to make refunds pursuant to this section shall bear all costs of such refunding.

(4) If any rate or charge described in paragraph (a) that is found not to be justified by the Commission is shared between two or more pipeline companies, each pipeline company which shared in the unjustified rates or charges is required to refund to the pipeline company that published the tariff, not less than five days prior to the refund date ordered by the Commission under paragraph (c)(1) of this section,

(i) That portion of the unjustified rates or charges shared, and

(ii) The appropriate interest as required in paragraph (c)(2) of this section for the period during which the refundable amounts were held.

The pipeline company that published the tariff shall, on the date set by the Commission in its final order, make refunds with interest to the appropriate shipper for the full period during which the refundable amounts were held. (OMB Control No. 19020089)

(Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 43 CFR 142; Interstate Commerce Act; 49 U.S.C. 1, et seq.; Natural Gas Act, 15 U.S.C. 717–717w)

Note.—This Appendix A will not appear in the Code of Federal Regulations.

APPENDIX A.—ANALYSIS OF SHORT-TERM BORROWINGS AND INVESTMENTS FOR THE OIL PIPELINE INDUSTRY

	Notes payable	Notes payable [1] total assets (percent)	Temporary investments	Temporary investments [2] total assets (percent)
(1)	(2)	(3)	(4)	(5)
Number of companies	16	NA	46	NA
Percent of total studied	17	NA	49	NA
High	$153,901,000	71.0	$340,000,000	53
Low	$8,246	.2	$20,424	.04
Median	$6,750,000	28.0	$2,679,943	8
Mean	$26,946,308	28.0	$25,887,255	11

[1] The percentages in this column do not match the numbers in Column 2.
[2] The percentages in this column do not match the numbers in Column 4.
Source: 1981 Form P of 93 Oil Pipelines.

Note.—This Appendix B will not appear in the Code of Federal Regulations.

APPENDIX B.—SHORT- AND LONG-TERM INTEREST RATES AND EARNED RETURNS ON BOOK EQUITY

Year	3-mo Treasury bills	Prime commercial paper 4–6 mo	(3 mo) Certificates of deposit	(3 mo) Eurodollars	Bank prime rate
(1)	(2)	(3)	(4)	(5)	(6)
1970	6.458	7.72			7.91
1971	4.348	5.11			5.72
1972	4.071	4.69			5.25
1973	7.041	8.15			8.03
1974	7.886	9.87	10.27	10.96	10.81
1975	5.838	6.33	6.43	6.97	7.86
1976	4.989	5.35	5.26	5.57	6.84
1977	5.265	5.60	5.64	6.05	6.83
1978	7.221	7.99	8.22	8.74	9.06
1979	10.041	10.91	11.22	11.96	12.67
1980	11.506	12.29	13.07	14.00	15.27
1981	14.077	14.76	15.91	16.79	18.87
1982	12.895	13.70	14.24	14.98	16.27

Source: Federal Reserve Bulletin.

year	10-year constant maturity bonds [1] (percent)	Moody's Aaa corporate bonds [1] (percent)	Moody's Baa corporate bonds [1] (percent)	Value line petroleum industry [2] (integrated) (percent)	Compustat petroleum industry [3] (integrated) (percent)
1974	7.56	8.57	9.50	18.35	18.67
1975	7.99	8.83	10.61	12.89	12.83
1976	7.61	8.43	9.75	13.95	14.18
1977	7.42	8.02	8.97	13.76	13.73
1978	8.41	8.73	9.49	13.04	13.68
1979	9.41	9.63	10.69	23.02	21.61
1980	11.46	11.94	13.67	20.43	22.14
1981	13.91	14.17	16.04	16.44	18.88

[1] Source: Economic Report of the President, transmitted to the Congress, February 1982.
[2] Source: The Value Line Investment Survey, July 16, 1982, p. 401 (1978–1981).
[3] Source: Standard & Poor's Compustat Services, Inc.

[FR Doc. 83-131 Filed 1-4-83; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 7

[T.D. 83-7]

Customs Regulations Amendment Relating to Articles Imported From Insular Possessions of the United States Other Than Puerto Rico

Correction

In FR Doc. 83-46 beginning on page 228 in the issue of Tuesday, January 4, 1983, make the following correction:

On page 230, second column, paragraph (g) beginning with "Guam" and ending with "uninhabited." was incorrectly designated. It should have been designated footnote 5, the reference to which appears on page 229, third column, paragraph (a), seventeenth line.

BILLING CODE 1505-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 19

[T.D. ATF-123; Ref; T.D. ATF-62 and Notice No. 329]

Distilled Spirits Plants; Elimination of Marking Requirement for Devices Used as Alternatives To Strip Stamps

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Temporary rule; Treasury decision.

SUMMARY: This temporary rule revokes 27 CFR 19.613 to eliminate the requirement that alternative devices used in lieu of strip stamps be marked with the State and plant number of the bottler. This action is being taken to allow distilled spirits plant proprietors to use approved alternative devices without encountering the operational problems or cost of new equipment attendant with that coding requirement.

EFFECTIVE DATE: January 12, 1983.

FOR FURTHER INFORMATION CONTACT: Richard C. Langford, Rulings Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202–566–7531).

SUPPLEMENTARY INFORMATION: Public Law 94–569 amended 26 U.S.C. 6801 to permit the Secretary to authorize alternatives to strip stamps required by Sections 5205 and 5235. The Department published notices of proposed rulemaking 308 and 312 to implement this change in the law. Accordingly, temporary regulations, issued pursuant to the Distilled Spirits Tax Revision Act of 1979 and published as T.D. ATF–62 and a notice of proposed rulemaking No. 329, provided procedures and criteria for the approval of alternative devices in 27 CFR 19.663. Among the requirements for the approval of such devices is that it be marked in accordance with the provisions of 27 CFR 19.613, that is, with the State and plant number of the bottler.

Comments on the temporary rule have shown that compliance with this marking requirement causes various operational difficulties and necessitates the purchase of costly additional equipment on the bottling line of distilled spirits plants. Further, the Department has determined this coding requirement does not significantly contribute to the accountability of alternative devices. By this temporary rule, the Department therefore revokes that requirement in 27 CFR 19.613 and makes technical conforming amendments to the table of contents and 27 CFR 19.663.

Executive Order 12291

It has been determined that this temporary regulation is not a "major rule" within the meaning of Executive Order 12291, published February 17, 1981, in the **Federal Register**, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and, it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Further, this temporary regulation is liberalizing in nature and will aid in reducing industry costs.

Regulatory Flexibility Act

This temporary rule relates to a notice of proposed rulemaking published prior to January 1, 1981, and therefore, is not subject to the requirements of the Regulatory Flexibility Act. The applicable notice was published in the **Federal Register** on December 11, 1979, at 44 FR 71612.

List of Subjects in 27 CFR Part 19

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Claims, Chemicals, Custom duties and inspection, Electronic fund transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Reporting requirements, Research and Security measures, Spices and flavorings, Surety bonds, Transportation, U.S. possessions, Warehouses, Wine.

Effective Date

Because the Department has determined that the marking requirement on alternative devices is unnecessary and since this burden on the regulated industry should be eliminated as soon as possible, the 30-day delay of effective date of 5 U.S.C. 553(d) is found to be impracticable and contrary to the public interest.

Accordingly, the effective date of this rule is the date of publication. It will remain in effect until superseded by final regulations.

Drafting Information

The principal author of this document is Richard C. Langford, Rulings Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

Under the authority contained in 26 U.S.C. 7805 (68A Stat. 917, as amended) Title 27, Code of Federal Regulations is amended as follows:

PART 19—DISTILLED SPIRITS PLANTS

Paragraph 1. The table of contents for Part 19 is amended by removing the entry for § 19.613.

§ 19.613 [Removed]

Par. 2. Section 19.613 is removed.

§ 19.663 [Amended]

Par. 3. Section 19.663 is amended by removing paragraph (b)(2)(i) and by renumbering paragraphs (b)(2) (ii) and (iii) as paragraphs (b)(2) (i) and (ii), respectively.

Signed: December 2, 1982.

Stephen E. Higgins,

Acting Director.

Approved: December 15, 1982.

Robert E. Powis,

Acting Assistant Secretary, Enforcement and Operations).

[FR Doc. 83-673 Filed 1-11-83; 8:45 am]

BILLING CODE 4810-31-M

27 CFR Part 9

[T.D. ATF–124; Ref: Notice No. 395]

Establishment of Rocky Knob Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco, and Firearms, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: This final rule establishes a viticultural area in parts of Floyd and Patrick Counties in southern Virginia to be known as "Rocky Knob." The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of Rocky Knob as a viticultural area and its subsequent use as an appellation of origin on wine labels and in wine advertisements will allow wineries to better designate the specific grape-growing area where their wines come from and will enable consumers better to identify the wines they may purchase.

EFFECTIVE DATE: February 11, 1983.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226. (202–566–7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4 allowing the establishment of definite viticultural areas. These regulations also allow the name of an approved viticultural area to be used as an appellation of origin in wine labeling and advertising.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new Part 9 to 27 CFR for the listing of approved viticultural areas.

Section 9.11, Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical characteristics. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any

interested person may petition ATF to establish a grape-growing region as a viticultural area.

Woolwine Winery in Woolwine, Virginia, petitioned ATF to establish a viticultural area to be named "Rocky Knob."

In response to this petition, ATF published a notice of proposed rulemaking, Notice No. 395, in the Federal Register on November 19, 1981 (46 FR 56827), proposing the establishment of the Rocky Knob viticultural area.

Historical and Current Evidence of the Name

The name of the area, Rocky Knob, was well documented in the petition. Historical use of the name dated from 1770. The name is shown currently on maps of the area. The petitioner submitted evidence showing the Rocky Knob viticultural area has a unique identity because of the Rocky Knob Recreational Area in the boundary. Rocky Knob Recreational Area appears on State maps on both sides of the Blue Ridge Parkway which is the main highway through the scenic Blue Ridge Mountains.

Geographical Features

The proposed Rocky Knob viticultural area was approximately 15,000 acres. Woolwine Winery is the only winery in the area and has about 10 acres of grapes located in two locations within the area. While there was sufficient historical evidence for the viticultural area name, there was little evidence that the proposed area had geographical features to distinguish the area from the surrounding area. Since comments received did not give sufficient data on geographical distinctions, the petitioner was requested to review the geographical factors of the area to determine if this requirement in establishing a viticultural area could be met.

The petitioner submitted data to establish a geographically significant viticultural area by reducing the previously proposed area to about 9,000 acres. The new boundary is generally the mountainous area east of the Blue Ridge Parkway. This area is colder in the spring which forces a later bloom set and causes a growing season about one week later than the surrounding area. This later bloom set allows vines to survive the erratic early spring cold. Also, there is more wind in the revised area which reduces the chance of a severe frost accumulation. The soil in the revised area is mostly silt loam combined with gravel which provides the drainage necessary for good grape production. The soils in the area east of the revised boundary is mostly clay which does not provide drainage.

Comments

There were only three comments submitted during the comment period. The two comments supporting the Rocky Knob viticultural area came from the petitioner and an individual in Florida who has property in the area. The other commenter objected to the Rocky Knob viticultural area because of the potential for increased traffic on a private road and the possibility that Woolwine Winery would be entitled to Government grant money. ATF is not aware of Government grant money being available to an enterprise because a viticultural area is established. Also, we do not consider the potential of increased traffic on a private road to be a factor when evaluating the merits of a viticultural area.

Boundaries

As discussed earlier, the boundaries as originally proposed were reduced in size to delineate an area with similar characteristics from surrounding areas. ATF is not aware of any new vineyards being proposed outside of the Rocky Knob viticultural area boundary. However, because grape production is new to this area, it is possible the approved boundary could be expanded in the future by a petition with supporting geographical evidence.

Miscellaneous

ATF does not wish to give the impression by approving the Rocky Knob viticultural area that it is approving or endorsing the quality of the wine from this area. ATF is approving this area as being viticulturally distinct and not better than other areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Rocky Knob wines.

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 final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

It has been determined that this final rule is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Disclosure

A copy of the petition and the comments received are available for inspection during normal business hours at the following location: ATF Reading Room, Room 4405, Office of Public Affairs and Disclosure, 12th and Pennsylvania Avenue, NW, Washington, DC.

Drafting Information

The principal author of this document is James A. Hunt, Research and Regulations Branch, Bureau of Alcohol, Tobacco, and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Authority and Issuance

Accordingly, under the authority contained in Section 5 of the Federal Alcohol Administration Act (45 Stat. 981, as amended; 27 U.S.C. 205), 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to include the title of § 9.43 as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.43 Rocky Knob.

Par. 2. Subpart C is amended by adding § 9.43 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.43 Rocky Knob.

(a) *Name.* The name of the viticultural area described in this section is "Rocky Knob."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Rocky Knob viticultural area are two 1968 U.S.G.S. maps. The maps are entitled: "Willis Quadrangle Virginia" 7.5 minute series and "Woolwine Quadrangle Virginia" 7.5 minute series.

(c) *Boundaries.* The Rocky Knob viticultural area is located in Floyd and Patrick Counties in southern Virginia. The boundaries are as follows:

The starting point is the intersection of Virginia State Route Nos. 776 and 799 at Connors Grove. Follow State Route No. 799 south and east to the Blue Ridge Parkway and then south on the Parkway to its first intersection with State Route No. 758. Follow State Route No. 758 east to the intersection of State Route No. 726 at the southern boundary of the Rocky Knob Recreation Area. Follow the boundary of the Rock Knob Recreation Area south and then in a northeastern direction to where the boundary first intersects State Route No. 8. From that point at State Route No. 8, proceed northeast in a straight line to State Route No. 719 and Widgeon Creek at a point about 0.7 of a mile west of the intersection of State Route Nos. 719 and 710. Proceed northwest in a straight line to the intersection of State Route No. 710 and the Blue Ridge Parkway. Follow the Parkway southwest to the intersection with State Route No. 726 turn right on State Route 726 and proceed 0.6 of a mile to a roadway at the 3308 elevation point on the map. From that point, proceed west in a straight line back to the starting point at Connors Grove.

Signed: December 8, 1982.

Stephen E. Higgins,

Acting Director.

Approved: December 20, 1982.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-674 Filed 1-11-83; 8:45 am]

BILLING CODE 4810-31-M

CENTRAL INTELLIGENCE AGENCY

32 CFR Part 1900

Public Access to Documents and Records and Declassification Requests

AGENCY: Central Intelligence Agency.

ACTION: Final rule.

SUMMARY: Part 1900 of Title 32 CFR was last published in full text in the **Federal Register** on February 19, 1975 (Vol. 40, No. 34, p. 7294). Since then, there have been several amendments. With the issuance of Executive Order 12356 in April 1982 and ISOO Directive No. 1 in June 1982, certain substantive changes are required relating to mandatory review for declassification. For the benefit of the public, Part 1900 is being republished with all current amendments and revisions.

EFFECTIVE DATE: February 11, 1983.

FOR FURTHER INFORMATION CONTACT: Larry R. Strawderman, Information and Privacy Coordinator. Telephone: 703-351-2770.

SUPPLEMENTARY INFORMATION: This final rule amends certain sections of Part 1900 of Title 32 of the Code of Federal Regulations (CFR) in order to conform this regulation with Executive Order 12356 which was published in the **Federal Register** on April 6, 1982 (Vol. 47, No. 66, P. 14874) and the implementing directive issued by the Information Security Oversight Office (ISOO) which was promulgated in the **Federal Register** on June 25, 1982 (Vol.47, No. 123, p. 27836). The affected sections are: 1900.1, 1900.21, 1900.31, 1900.45, 1900.51, and 1900.53. In addition, certain non-substantive editorial amendments have been made throughout the text.

List of Subjects in 32 CFR Part 1900

Freedom of information, Classified information.

For the reasons set out in the preamble, Part 1900 Chapter XIX of Title 32, CFR is revised as set forth below.

PART 1900—PUBLIC ACCESS TO DOCUMENTS AND RECORDS AND DECLASSIFICATION REQUESTS

Sec.

General

1900.1 Purpose and authority.
1900.3 Definitions.
1900.5 Organization: requests and submittals.

Requesting Records

1900.11 Freedom of information communications: requirements as to form.
1900.21 Identification of persons requesting information under the provisions of the Executive Order.
1900.23 Pre-request option: estimates of charges.
1900.25 Fees for records services.

Processing Freedom of Information Communications

1900.31 Screening communications.
1900.33 Processing expressions on interest.
1900.35 Processing requests for records.

Actions on Requests

1900.41 Searching for requested records.
1900.43 Reviewing records.
1900.45 Expeditious action: extension of time.
1900.47 Allocation of manpower and resources: agreed extension of time.
1900.49 Notification and payment: furnishing records.

Appeals

1900.51 Appeal to CIA Information Review Committee.
1900.53 [Reserved]

Miscellaneous

1900.61 Access for historical research
1900.63 Suggestions and complaints.

Authority: National Security Act of 1947, the Central Intelligence Agency Act of 1949, the Freedom of Information Act (5 U.S.C. 552), and Executive Order 12356.

General

§ 1900.1 Purpose and authority.

This part is issued under the authority of, and in order to implement, section 102 of the National Security Act of 1947, as amended (50 U.S.C. 403), the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a et seq.), Executive Order 12356 (3 CFR April 2, 1982) and the Freedom of Information Act, as amended (5 U.S.C. 552). It prescribes procedures for:

(a) Requesting records pursuant to the Freedom of Information Act;

(b) Requesting the declassification of documents pursuant to Executive Order 12356;

(c) Filing an administrative appeal of a denial of a mandatory review request under Executive Order 12356 or an initial request under the Freedom of Information Act;

(d) The prompt and expeditious processing of such requests and appeals; and,

(e) Requesting estimates and advice prior to actually requesting records, thus affording protection against unanticipated fees.

This part is also designed to assist Central Intelligence Agency management at all appropriate echelons, to allocate resources to perform the functions, duties and responsibilities of the Central Intelligence Agency prescribed by and pursuant to law, including in particular those situations where it is deemed necessary to choose among conflicting requirements, duties and responsibilities.

§ 1900.3 Definitions.

For the purpose of this part, the following terms have the meanings indicated:

(a) "Agency" includes any executive department, military department or other establishment or entity included in the definition of agency in subsection

552(e) of Title 5 of the United States Code;

(b) "Coordinator" means the CIA Information, Privacy and Mandatory Declassification Review Coordinator;

(c) "Expression of interest" means a written communication submitted by a potential requester pursuant to § 1900.23 to indicate an interest in requesting records;

(d) "Freedom of Information Act" means section 552 of Title 5 of the United States Code, as amended;

(e) "Executive Order" means Executive Order 12356 (3 CFR, April 2, 1982);

(f) "Potential requester" means a person, organization or other entity who submits an expression of interest in accordance with § 1900.23;

(g) "Records," with reference to records of the Central Intelligence Agency, includes all papers, maps, photographs, machine readable records, and other documentary materials regardless of physical form or characteristics made or received by the Central Intelligence Agency in pursuance of federal law or in connection with the transaction of public business and appropriate for preservation by the Central Intelligence Agency as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the Agency or because of the informational value of data contained therein. But the term does not include:

(1) Index filing and museum documents made or acquired and preserved solely for reference, indexing, filing or exhibition purposes;

(2) Routing and transmittal sheets and notes and filing instructions and notes which do not also include information, comment or statement of substance or policy;

(3) Books, newspapers, magazines, and similar publications and clippings and excerpts from any such publications;

(4) Records not originated by the CIA and subject to the continued control of the originator. Such records will be referred to the originator for disposition pursuant to § 1900.43;

(h) "Records of interest" means records which are the subject of an expression of interest or of a request;

(i) "Work days" means calendar days other than Saturdays and Sundays and legal public holidays.

§ 1900.5 Organization; requests and submittals.

The headquarters of the Central Intelligence Agency is located in Fairfax County, Va. Functions are channeled and determined by regular chain-of-command procedures. Except as provided by this part, there are no formal or informal procedural requirements regarding public access to Agency records. Requests and other submittals may be addressed to the CIA Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505.

Requesting Records

§ 1900.11 Freedom of Information Act and Executive Order communications; requirements as to form.

(a) Any communication to the CIA or to the Director of Central Intelligence under the Freedom of Information Act or the Executive Order should be addressed to: CIA Information and Privacy Coordinator Central Intelligence Agency, Washington, D.C. 20505.

That address should appear on the envelope or other folder or package in which the communication is transmitted. It should also be included as the addressee of the letter or other communication or be clearly set forth in the text of the communication.

(b) Any request for records under the Freedom of Information Act (§ 1900.21), expression of interest in requesting records (§ 1900.23) or request for declassification of records under the Executive Order shall be in writing and shall be addressed as prescribed by paragraph (a). The Coordinator may, but need not, waive the requirements as to address.

(c) The request or expression of interest shall reasonably describe the records of interest and, in the case of mandatory declassification review, requests shall be of sufficient particularity to allow agency personnel to locate the records containing the information sought with a reasonable amount of effort.

(d) Any request or communication to an agency other than the Central Intelligence Agency which requests or concerns documents or records originated by the CIA, and which is transferred by that agency to the CIA, shall be considered a Freedom of Information request to the CIA for that referred document as of date of receipt by the CIA of the referral, and shall be processed pursuant to regulations. CIA will respond directly to the requester.

§ 1900.21 Identification of persons requesting information under the provisions of the Executive Order.

Pursuant to section 3.4(a)(1) of Executive Order 12356, a mandatory declassification review request can be made only by a United States citizen or permanent resident alien, a federal agency, or a State or local government. This Agency shall require sufficient identifying information to be submitted by any person or entity making a request under these provisions.

§ 1900.23 Pre-request option: estimates of charges.

(a) In order to avoid being faced with unanticipated sizeable charges, interested persons and entities may defer the submission of requests for records and first submit a written request, in accordance with the procedures prescribed by § 1900.11, for an estimate of charges likely to be incurred if the records are requested.

(b) Notice is hereby given that a requester may be liable for the payment of search charges, in accordance with the fee schedule and provisions of § 1900.25, even if search for requested records locates no such records and even if some or all of requested records which are located are denied the requester under one or more exemptions of the Freedom of Information Act or the Executive Order. In determining which of options §§ 1900.21 and 1900.23(a) to exercise, interested persons and entities are urged to take into consideration the fact of possible liability.

§ 1900.25 Fees for records services.

(a) Search and duplication fees shall be charged according to the schedule set forth in paragraph (c) of this section for services rendered in responding to requests for Agency records under this part. Records shall be furnished without charge or at a reduced rate whenever the Coordinator determines that a waiver or reduction of the charge is in the public interest because furnishing the information can be considered as primarily benefiting the general public. Thus, the Coordinator shall determine the existence and extent of any identifiable benefit which would result from furnishing the requested information and he shall consider the following factors in making this determination:

(1) The public or private character of the information sought;

(2) The private interest of the requester;

(3) The numbers of the public to be benefited;

(4) The significance of the benefit to the public;

(5) The usefulness of the information to the public; and

(6) The quantity of similar or duplicative information already in the public domain.

In no case will the assessment of fees be utilized as an obstacle to the

disclosure of the requested information. The Coordinator may also waive or reduce the charge whenever he determines that the interest of the government would be served thereby. Fees shall not be charged where they would amount in the aggregate, for a request, or a series of related requests, to less than $6. Denials of requests for fee waivers may be appealed by writing to the Executive Secretary of the Information Review Committee, via the Coordinator

(b) In order to protect the requester and the Agency from large, unexpected fees, when it is anticipated that the charges will amount to more than $25, the processing of the request shall be suspended until the requester indicates his willingness to pay. The requester shall be notified and asked for his commitment to pay all reasonable search and duplication fees. At his option, the requester may indicate in advance a dollar limitation to the fees. In such an event, the Coordinator shall initiate a search of the system or systems of records deemed most likely to produce relevant records, instructing the system managers to discontinue the search as soon as the stipulated amount has been expended. Where an advance limit has not been stipulated, the Coordinator may, at his discretion or at the behest of the requester, compile an estimate of the search fees likely to be incurred in processing a request, or of such portion thereof as can readily be estimated. The requester shall be promptly notified of the amount and be asked to approve its expenditure. In those cases where the Coordinator estimates that the fees will be substantial, an advance deposit of 50 percent of the estimated fees will be required; in those cases where there is reasonable evidence that the requestor may possibly fail to pay the fees which would be accrued by processing his request, an advance deposit of 100 percent of the estimated fees will be required. The notice or request for an advance deposit shall extend an offer to the requester whereby he is afforded an opportunity to revise the request in a manner calculated to reduce the fees. Dispatch of such a notice or request shall suspend the running of the period for response by the Agency until a reply is received from the requester.

(c) The schedule of fees for services performed in responding to requests for Agency records is established as follows:

(1) For each one quarter hour, or fraction thereof, spent by clerical personnel in searching for a record, $1.50;

(2) For each one quarter hour, or fraction thereof, spent by professional personnel in searching for a record, $3.50;

(3) For each on-line computer search, $11.00;

(4) for each off-line (batch) computer search of Central Reference Files, $27.00;

(5) For all other off-line computer searches of Agency files, $8.00 per minute of Central Processing Unit (CPU) time;

(6) For copies of paper documents in sizes not larger than 8½ X 14 inches, $0.10 per copy of each page;

(7) For duplication of non-paper media (film, magnetic tape, etc.) or any document that cannot be reproduced on a standard office copier, actual direct cost; and

(8) For extra copies of reports, maps, reference aids, and other Agency publications, actual cost.

(d) Inasmuch as the Agency's systems of records are highly decentralized, several computer searches may be required to process a request, depending upon its scope. The computer search costs given in paragraph (c), of this section, do not include whatever professional/clerical search time is needed to determine whether the records located are in fact responsive to the request.

(e) Search fees are assessable even when no records pertinent to the requests, or no releasable records are found, provided the requester has been advised of this fact and he has, that notwithstanding agreed to incur the costs of search.

(f) For requests which have accrued substantial search and duplication fees, or for requests for records which have been previously released, or where there is reasonable evidence that the requester may possibly fail to pay the accrued fees, then, at the discretion of the Coordinator, the requester may be required to pay the accrued search and duplication fees prior to the actual delivery of the requested records; otherwise, the requester shall be billed for such fees at the time that the records are provided. Payment shall be remitted by check or money order, made payable to the Treasurer of the United States, and shall be sent to the Coordinator. No appeals or additional requests shall be accepted for processing until the requester has paid all outstanding charges for services rendered under this part.

Processing Freedom of Information and Executive Order Communications

§ 1900.31 Screening communications.

(a) If any Agency employee receives a written communication which the employee believes to be an apparent or intended communication under the Freedom of Information Act or the mandatory declassification review provisions of the Executive Order, he shall expeditiously transmit the communication to the Coordinator.

(b) Upon receipt of a communication in accordance with § 1900.11 or paragraph (a) of this section, the Coordinator shall promptly consult with such Agency components as he may deem appropriate and:

(1) Determine the nature of the communication—an intended expression of interest (§ 1900.21), an intended request (§ 1900.23) or other; and

(2) If he determines the communication to be an intended expression of interest or intended request, he shall further determine whether it fails to qualify as an expression of interest or request only because it fails to reasonably describe the records of interest.

(c) The Coordinator thereupon shall take the appropriate one of the following actions.

(1) If he determined that the communication was not an intended expression of interest or an intended request, he shall take such action with respect to the communication as he may deem appropriate.

(2) If he determined that the communication was an intended expression of interest or an intended request but failed to reasonably describe the records of interest, he shall so inform the originator of the communication promptly, in writing, and he may offer to assist the originator in revising and perfecting the description of the records of interest.

(3) The Coordinator shall determine whether any communication not acted on under subparagraph (1) or (2) is an expression of interest, or is a request made in accordance with published rules stating the procedures to be followed, as required by subsection (a)(3) of the Freedom of Information Act or the Executive Order. The Coordinator's determination in this regard shall be based on and shall reflect the clear intent of the originator of the communication insofar as the Coordinator is able to determine that intent. When the originator's intent is not apparent to the Coordinator and when the Coordinator deems it desirable

and feasible, he shall promptly communicate with the originator in order to ascertain the latter's intent.

(d) The Coordinator shall inform the requester, in writing, of his determination made under subparagraph (c)(3) and, in the case of a determination that the communication is a request, of the date of such determination. Such notification shall be given promptly and, in any case, within five work days of the date of such determination. The ten work days within which the Agency must determine whether to comply with a request, as provided by subsection (a)(6)(A)(i) of the Freedom of Information Act, shall begin as of the date of such determination.

(e) The Coordinator shall promptly process under the procedures prescribed by § 1900.33 those communications which he determines to be expressions of interest. He shall promptly process under the procedures prescribed by § 1900.35 those communications which he determines to be requests.

§ 1900.33 Processing expressions of interest.

(a) Upon determining, in accordance with paragraph (c)(3) of § 1900.31, that a communication is an expression of interest, and after promptly consulting with such Agency components as he may deem appropriate, the Coordinator, to the extent feasible, shall determine the search and duplication charges likely to be incurred by the potential requester if the potential requester ultimately requests such records. In determining such charges, the Coordinator shall take into account the nature and quantity of the work and services of people and computers and other equipment which may be required, and the applicable rates set out in the fee schedule prescribed by paragraph (c) of § 1900.25. If feasible at this stage, the Coordinator also shall determine whether to waive or reduce the fee in accordance with paragraph (a) of § 1900.25.

(b) The Coordinator thereupon shall advise the potential requester, in writing, of the likely search and duplication charges. He shall explain the bases and reasons for the charges and he shall make clear that the amounts indicated are estimates only, if such be the case, and, if there is a possibility that the charges to be incurred may be in larger amounts, he shall so inform the potential requester. If the amounts indicated are not estimates but are the amounts which in fact are to be charged if the potential requester makes a request, he shall inform the potential requester of that fact. In either event and if such be the case, he shall also inform the potential requester that search charges will be levied upon the requester even if no records fitting the description are located or if any or all records which do fit the description are denied the requester.

(c) When he deems it appropriate or when the potential requester so requests, the Coordinator shall consult with and advise the potential requester with the view to assisting the latter to determine whether and, if so, how to revise the description of the records of interest so as to cause or permit a reduction in the likely and actual search and duplication charges.

(d) Upon receipt of such estimate and advice concerning likely charges, the potential requester may:

(1) In accordance with § 1900.21, submit a request for records, either the records of interest indicated in his expression of interest or records encompassed in a less-inclusive description;

(2) Advise the Coordinator that he does not intend to request records; or

(3) Take no additional action.

(e) If, as a result of his consultations with the Coordinator or otherwise, the potential requester wants to request records additional to or other than those described in his expression of interest, he may submit an expression of interest with respect to such records, in accordance with § 1900.23, or a request for such records, in accordance with § 1900.21.

§ 1900.35 Processing requests for records.

(a) Upon determining that a communication is a request for records, the Coordinator, after consulting with such Agency components as he may deem appropriate, shall promptly transmit a copy of the request to the component or components believed responsible for the records, if any exist, inform the components of the date of receipt of the request as determined by him pursuant to paragraph(c)(3) of § 1900.31, and alert the components to the action required of them by § 1900.41 through § 1900.47 with respect to the request.

(b) Notwithstanding paragraph (a) of this section, the Coordinator may determine that there is no basis for searching for the requested records or that the Agency's required response to the request obviates the need to conduct any search (since the fact of the existence or non-existence of records responsive to the request would itself be classified). Whenever the Coordinator makes such a determination, he shall respond to the requester accordingly, and the requirements of paragraph (a) of this section and of §§ 1900.41 through 1900.47 shall not apply as to that particular request.

Actions on Requests

§ 1900.41 Searching for requested records.

(a) Upon receipt of a copy of a request and an alert pursuant to § 1900.35, the components responsible for requested records (hereinafter the "responsible components"), shall, with such assistance as may be appropriate from the Coordinator and from such reference, indexing or filing components as may have reference, indexing or filing responsibilities with respect to any such records, undertake to locate the requested records.

(b) If no records described by the request are located, the responsible components shall so inform the Coordinator who shall promptly so inform the requester, in writing. The Coordinator also shall determine the charges, if any, for which the requester shall be liable, in accordance with the fee schedule and provisions of § 1900.25. He shall inform the requester of the amount charged, explain the basis of commutation and request prompt payment thereof.

§ 1900.43 Reviewing records

(a) The responsible components shall review any located records in accordance with the provisions of the Freedom of Information Act and the Executive Order and on the basis of other applicable law, regulations and policy, and determine which if any, requested records, or reasonably segregable portions of records, are to be furnished the requester and which are to be denied or withheld. Any decision to furnish or to deny or withhold requested records shall be made only by employees and officials to whom authority to make such decisions has been duly delegated.

(b) In the event records require review by more than one Agency component or by more than one agency, the Coordinator or the responsible component, as may be appropriate, shall expeditiously coordinate such review.

(c) In the event located records are determined to have originated with another government agency, the Coordinator shall notify the requester of such fact and shall expeditiously forward such records or a description thereof to the originating agency for their determination and direct response to the requester.

(d) Pursuant to subsection 3.4(f)(1) of Executive Order 12356, this Agency shall

refuse to confirm or deny the existence or non-existence of information requested whenever the fact of its existence or non-existence is itself classifiable under this Order.

§ 1900.45 Expeditious action: extension of time.

(a) Concerning Freedom of Information Act requests, whenever feasible under the standards prescribed by § 1900.47, the search and review functions prescribed by §§ 1900.41 and 1900.43 and notice to the requester of the Agency action on the request, as prescribed by paragraph (a) of § 1900.49, shall be completed within ten days of the date of Agency receipt of the request as determined by the Coordinator pursuant to paragraph (c)(3) of § 1900.31. Whenever the Coordinator determines that "unusual circumstances," as defined by subsection (a)(6)(B) of the Freedom of Information Act, exist, he may, by written notice to the requester, authorize an additional period for completion of Agency action, but no such extension shall be for more than ten work days. His notice shall also set forth the reasons for the extension.

(b) Concerning mandatory declassification review requests, Agency responses shall be governed by the amount of search and review time required to process the request under §§ 1900.41 and 1900.43. If unusual circumstances prevent a final Agency determination from being reached within one year of the date of receipt, the Agency shall inform the requester of the additional time needed to process the request.

§ 1900.47 Allocation of manpower and resources; agreed extension of time.

(a) Agency components shall devote such manpower and other resources to searching for, locating and reviewing records in accordance with §§ 1900.41 and 1900.43 as may be appropriate and expedient in the circumstances, taking into account:

(1) The manpower and resources available for those purposes;

(2) The right of a requester submitting a request under the Freedom of Information Act to resort to litigation if the Agency decision on the request is not made within ten work days; and

(3) All functions, duties and responsibilities assigned to those components by, or pursuant to, a law.

(b) The responsible components shall consult with the Coordinator with regard to the need to allocate resources and establish priorities, and the latter with the requester, as may be appropriate, in order to accomplish such arrangements and agreements with the requester as may be acceptable to the requester concerning the Agency's efforts and ability to act on his request expeditiously. In particular, when the Coordinator deems it feasible and of possible benefit to the requester, the public or the Agency, he shall inform the requester that more thorough or extensive search or review, or both, could be accomplished, which might be of benefit to the requester, if additional time were to be available. When appropriate in such cases, the Coordinator shall also advise the requester of the effect on charges and fees such additional search might cause. Any extensions arranged or agreed to under this section may be in addition to any extension under § 1900.45.

§1900.49 Notification and payment; furnishing records.

(a) The Coordinator shall promptly inform the requester, in writing, which of the requested records, or portions thereof, if any, are to be furnished the requester and those, if any, which are denied, as determined pursuant to paragraph (a) of § 1900.43. With respect to the latter, he shall also explain the reasons for the denial and he shall furnish the names and titles or positions of the persons responsible for the decision to deny access.

(b) Upon receipt of payment of all fees and charges, or upon the completion of arrangement satisfactory to the Coordinator that payment will be made promptly, the Coordinator shall promptly prepare copies of the records, or portions of records, which are to be made available and transmit them to the requester. The Coordinator shall do likewise with respect to any records or portions of records made available to a requester by the action of the Central Intelligence Agency Information Review Committee under paragraph (e)(1) or (2) of §1900.51.

(c) As an alternative to any requester receiving any records from the Agency by mail, a requester may arrange to inspect the records at a CIA Reading Room. The requester may be the person who initially requested the records or the requester may be someone who was not a party to that request. The Coordinator will designate a Reading Room for the purposes of records inspection, and the requester may select whatever records the requester wishes to purchase at a cost set forth in § 1900.25. Access to the Reading Room will be granted only after the fees that accumulated from the search to produce the requested records have been paid, or waived by the Coordinator pursuant to § 1900.25(a). Upon receipt of a written statement from the requester exercising this option, the Coordinator will advise the requester of the location of the Reading Room and provide directions thereto. Unless otherwise designated, the Reading Room location will be in the metropolitan Washington, DC. area. Records that the Agency will release will be available for inspection in the Reading Room on a date or dates mutually agreed upon by the Coordinator and the requester, not more than seven days from the Agency's receipt of the written request or from completion of the processing of the request for records, whichever is later. The requester may agree to a date or dates more than seven days from such time. On the days the Reading Room is open, it will be available to requesters from 9:30 a.m. to 3:30 p.m.

Appeals

§ 1900.51 Appeal to CIA Information Review Committee.

(a) *Establishment of Committee.* The Central Intelligence Agency Information Review Committee is hereby established pursuant to the Freedom of Information Act and section 3.4(d) of the Executive Order. The Committee shall be composed of the Deputy Director for Administration, the Deputy Director for Operations, the Deputy Director for Science and Technology, the Deputy Director for Intelligence, and the Inspector General. The Director of Central Intelligence shall appoint a chairman. The Committee, by majority vote, may delegate to one or more of its members the authority to act on any appeal or appeals under this section, and may authorize the chairman to delegate such authority. The chairman may call upon appropriate components to participate when special equities or expertise are involved

(b) *Right of appeal: Notice.* Whenever access to any requested record or any portion thereof is denied, the requester shall be apprised, in writing, of his or her right to appeal the denial to the CIA Information Review Committee through the Coordinator.

(c) *Appeal procedures.* Any such appeal or request to the Committee shall be in writing, addressed to the Coordinator. The appeal or request may present such information, data and argument in support thereof as the requester may desire. The Committee shall not permit a requester to appear before the Committee or to make an oral presentation.

(d) *Time for appeal: expiration of appeal.* An right of appeal under the Freedom of Information Act shall be submitted within thirty days of the date of receipt of notification of the right to

appeal and the right of appeal shall cease as of the expiration of that period. But the Committee, for good cause shown, may permit an additional thirty days for the submission of an appeal. Pursuant to the mandatory declassification review provisions of the Executive Order, an administrative appeal must be filed within sixty days of receipt of the denial of the initial request.

(e) *Committee action on appeals and requests.* (1) The Committee shall promptly consider any appeal, together with any submissions in support thereof, and shall grant or deny the appeal or take such other action thereon as it may deem appropriate. The Committee's review, decision and action shall be based on and shall be in conformance with the Freedom of Information Act, Executive Order 12356 and other applicable law, directives, regulations and policy.

(2) The Committee shall promptly consider any requests for declassification under paragraph (a) of this section and shall declassify any such records or reasonably segregable portions or coherent segments of such records as it deems appropriate in accordance with the Executive Order.

(3) Committee action on appeals of FOIA determinations shall be completed within twenty work days of receipt of the appeal, and appeal of mandatory declassification review determinations shall be completed within thirty (30) workdays, except that the Committee may, in accordance with the provisions of § 1900.45, avail itself of an additional period of time for completion of its work on the appeal. But no such extension shall be available with respect to an appeal of a denial of a request which was the subject of an extension of time for Agency action by the Coordinator under that paragraph. In the event the Committee is unable to complete its review of an appeal within the time prescribed by the two preceding sentences it may, by agreement with the requester, extend the period for completion of such review.

(4) Concerning appeals under the FOIA, the Committee shall promptly inform the requester of its decisions and, with respect to any decision to withold or deny records, it shall furnish the names and titles or positions of the persons responsible for the decision. If any record or portion thereof is denied the requester by the Committee's action, the Committee shall also inform the requester of the provision for judicial review of that determination under subsection (a)(4) of the Freedom of Information Act.

(5) Concerning appeals under the mandatory declassification review provisions of the Executive Order, Committee decisions are final.

§ 1900.53 [Reserved]

Miscellaneous

§ 1900.61 Access for historical research.

(a) Any person engaged in a historical research project may submit a request, in writing, to the Coordinator to be given access to information classified pursuant to an Executive Order for purposes of that research. Any such request shall indicate the nature, purpose, and scope of the research project. It is the policy of the Agency to consider applications for historical research privileges only in those instances where the researcher's needs cannot be satisfied through requests for access to reasonably described records under the Freedom of Information Act or the Executive Order.

(b) The Coordinator may authorize access, under such conditions and at such time and place as he may deem feasible. But the Coordinator shall authorize access only with respect to documents and records prepared or originated not less than ten years prior to the date of such request and only upon the prior written approval by the Agency Director of Security of a current security clearance of the requester and of persons associated with him in the project, in accordance with Executive Order 10450, and upon the Coordinator's further determination that:

(1) A serious professional or scholarly research project is contemplated;

(2) Such access is clearly consistent with the interests of national security;

(3) Appropriate steps have been taken to assure that classified information will not be published or otherwise compromised;

(4) The information requested is reasonably accessible and can be located and compiled with a reasonable amount of effort;

(5) The historical researcher agrees to safeguard the information in a manner consistent with Executive Order 12356, and signs an agreement to safeguard the classified material to which access is granted in accordance with Agency security requirements; and

(6) The historical researcher agrees to authorize a prior review of his notes and manuscript by the Agency for the sole purpose of determining that no classified information is contained therein.

(c) An authorization shall be valid for the period required for the research project, as the Coordinator may determine, but in no event for more than two years. But upon renewed request in accordance with paragraph (a) of this section, authorization may be renewed in accordance with paragraph (b) of this section and this paragraph.

(d) The Coordinator shall cancel any authorization whenever the Director of Security cancels the security clearance of the requester or of any person associated with the requester in the research project or whenever the Coordinator determines that continued access would not be in compliance with one or more of the requirements of paragraph (b) of this section.

§ 1900.63 Suggestions and complaints.

Any person may direct any suggestion or complaint with respect to the Agency administration of Executive Order 12356 to the CIA Information Review Committee. The Committee shall consider such suggestions and complaints and shall take such action thereon as it may deem feasible and appropriate.

Harry E. Fitzwater,

Deputy Director for Administration.

[FR Doc. 83-663 Filed 1-11-83; 8:45 am]

BILLING CODE 6310-02-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP3F2779/R511; PH-FRL 2281-6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Hexazinone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the herbicide hexazinone and its metabolites in or on the raw agricultural commodity pasture grasses. This regulation to establish the maximum permissible level for hexazinone in or on the commodity was requested, pursuant to a petition, by E. I. du Pont de Nemours and Company.

EFFECTIVE DATE: January 12, 1983.

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

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm.

237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the Federal Register of December 22, 1982 (47 FR 57127) that E. I. du Pont de Nemours and Company, Wilmington, DE 19898, had submitted pesticide petition 3F2779 to EPA proposing to amend 40 CFR 180.396 by establishing a tolerance for the combined residues of the herbicide hexazinone (3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4 (1*H*,3*H*)-dione) and its metabolites (calculated as hexazinone) in or on the raw agricultural commodity pasture grasses at 10 parts per million (ppm).

No comments were received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The data considered in support of the tolerance included plant and animal metabolism studies; 90-day dog and rat feeding studies with a no-observed-effect level (NOEL) of 1,000 ppm for each study; a rat teratology study with no teratogenic effects observed at 5,000 ppm (highest level tested); a rabbit teratology study with a NOEL of 125 milligrams (mg)/kilograms (kg); a 2-year rat feeding/oncogenicity study with no oncogenic effects observed at any level tested and a NOEL of 200 ppm; a 2-year mouse feeding/oncogenicity study with no oncogenic effects observed at any level tested (highest dose was 10,000 ppm) and a NOEL of 200 ppm; a 3-generation rat reproduction study with a NOEL of 2,500 ppm and a negative Ames mutagenicity test.

Tolerances have previously been established for residues of hexazinone ranging from 0.1 ppm in meat, milk, and eggs to 10.0 ppm in range grasses. The established meat and milk tolerances will adequately cover the secondary residues resulting from this use. Previously established tolerances utilize 1.31 percent of the acceptable daily intake (ADI) and will not change as a result of establishing the tolerance in pasture grasses.

There are no regulatory actions pending against the registration of this chemical. The metabolism of hexazinone in plants and animals is adequately understood and an adequate analytical method, nitrogen selective gas chromatography, is available for enforcement purposes.

The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

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

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

Dated: December 28, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.396 is amended by adding and alphabetically inserting the commodity grasses, pasture to read as follows:

§ 180.396 Hexazinone; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Grasses, pasture	10
* * * * *	

[FR Doc. 83-610 Filed 1-11-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP9F2163/R506A; PH-FRL#2281-7]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Glyphosate; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Rule related notice; correction.

SUMMARY: This notice corrects the acceptable level in potable water for residues of the herbicide glyphosate contained in a regulation establishing tolerances for the herbicide in or on certain commodities.

FOR FURTHER INFORMATION CONTACT: Robert Taylor (PM–25), Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1800).

SUPPLEMENTARY INFORMATION: In the FR Doc. 82–33371 published December 15, 1982 (47 FR 53136), EPA issued a regulation establishing tolerances for the combined residues of the herbicide glyphosate (*N*-phosphonomethylglycine) and its metabolite aminomethylphosphonic acid in or on certain agricultural commodities.

Under the **SUPPLEMENTARY INFORMATION** appearing at page 56137, the reference to the acceptable residue level in potable water contained in the fourth paragraph, second column, beginning on lines 9 through 10, is corrected to read from "0.05 ppm" to "0.5 ppm".

Dated: December 29, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 83-611 Filed 1-11-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[OPP-300068A; PH-FRL 2281-5]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Alpha-(p-Nonylphenyl)-Omega-Hydroxypoly(Oxyethylene)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an expanded upper range of moles of

ethylene oxide in alpha-(*p*-nonylphenyl)-omega-hydroxypoly (oxyethylene) when used as an inert ingredient in pesticide formulations. This regulation was requested by the GAF Corporation.

EFFECTIVE DATE: Effective on January 12, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., NW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Roland Blood, Process Coordination Branch (TS-767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency Rm. 716D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703-557-7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the **Federal Register** of November 3, 1982 (47 FR 49873) which announced that at the request of the GAF Corporation, 1361 Alphs Road, Wayne, NJ 07470, the Administrator proposed to amend 40 CFR 180.1001 (c) and (d) by expanding the upper range of moles of ethylene oxide in the exempted inert ingredient, alpha-(*p*-nonylphenyl)-omega-hydroxypoly(oxyethylene) from 30-90 moles to 30-100 moles.

There were no comments or requests for referral to an advisory committee received in response to the notice of proposed rulemaking.

The pesticide is considered useful for the purpose for which the regulation is sought. It is concluded that the regulation will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register,** file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

Dated: December 28, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.1001(c) and (d) are amended by revising the listing for alpha-(*p*-nonylphenyl)-omega-hydroxypoly (oxyethylene) to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * *		
Alpha-(*p*-nonylphenyl)-omega-hydroxypoly (oxyethylene); produced by the condensation of 1 mole of nonylphenol-(nonyl group is a propylene trimer isomer) with an average of 4-14 or 30-100 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range 4-14 or 30-100.		Surfactant.
* * * * *		

(d) * * *

Inert ingredients	Limits	Uses
* * * * *		
Alpha-(*p*-nonylphenyl)-omega-hydroxypoly(oxyethylene); produced by the condensation of 1 mole of nonylphenol-(nonyl group is a propylene trimer isomer) with an average of 4-14 or 30-100 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range 4-14 or 30-100.		Surfactant.
* * * * *		

[FR Doc. 83-606 Filed 1-11-83; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-47

[FPMR Amdt. H-136]

Surplus Real Property Disposal; Airport Disposals:

AGENCY: General Services Administration.

ACTION: Final rule

SUMMARY: In order to avoid confusion that has been experienced in the past, this regulation clarifies the proper statute under which to dispose of federally owned real property, for airport purposes.

EFFECTIVE DATE: January 12, 1983.

FOR FURTHER INFORMATION CONTACT: James H. Pitts, Office of Real Property (202-535-7067).

SUPPLEMENTARY INFORMATION: This regulation informs Federal agencies that excess real property should be reported to the General Services Administration (GSA) for disposition under the Federal Property and Administrative Services Act of 1949 (1949 Property Act), as amended, rather than disposed of to a State or local governmental agency for airport development under section 23 of the Airport and Airway Development Act of 1970 (1970 Airport Act).

GSA received three responses to the proposed rule which was published in the **Federal Register** on December 23, 1981. The respondents included the Department of Agriculture; the Department of the Army, and the Division of Aeronautics, Department of Transportation of the State of Washington. The agencies recommended that the proposed regulation be reconsidered for the following reasons, which are abstracted as follows:

1. The proposed regulation goes beyond the intent of section 13 (g) of the Surplus Property Act of 1944 and is contrary to the 1949 Property Act, the 1970 Airport Act and the regulations issued by the Secretary of Transportation.

2. The 1970 Airport Act under the jurisdiction of the Secretary of Transportation is the logical and most economical and efficient choice for all airport related real property transfers.

3. The split jurisdiction of regulations to accomplish basically the same purpose is not in conformance with Executive Order 12291.

After careful consideration of these responses, the General Services Administration's position remains

unchanged. It was the intent of Congress in enacting the 1949 Property Act to establish an overall system for the economic and efficient use and disposal of the Government's real property. In order to accomplish this purpose section 602 (c) of the 1949 Property Act vested in the Administrator of General Services paramount authority to prescribe polices and methods to promote maximum use of excess property and to supervise and direct the disposition of surplus property. In response to the comment suggesting this regulation is contrary to the 1970 Airport Act and regulations issued by the Secretary of Transportation, it should be noted that the Secretary of Transportation did not offer comments or objections to the regulation.

This regulation supports the Administration's initiative to improve Federal assets management. The principal objective of this initiative is to accelerate the release of unneeded property and to increase the monetary return to the Federal Government from its sale; thereby assisting in a reduction of the national debt. Conveyances of real property under the 1970 Airport Act are contrary to this objective and would permit a public benefit disposal without guidance from the Property Review Board as established by Executive Order 12348.

In section 202 of the 1949 Property Act, as well as Executive Order 12348, Federal agencies are directed to survey property under their control to determine whether any property is excess to their needs and to promptly report such property to GSA for appropriate disposition. This property is screened against the requirements of other Federal agencies and, if determined surplus to all Federal needs, is generally made available for disposal to State and local governmental bodies prior to being offered for public sale.

Any property that is excess to the requirements of a Federal agency should be promptly reported to GSA for disposal under the 1949 Property Act, and therefore, would not be available for direct conveyance by the holding agency under section 23 of the 1970 Airport Act. Only property that the holding agency determines cannot be reported excess to GSA for disposition under section 202 of the 1949 Property Act, but which, nevertheless, may be made available for use by a State or local public body for public airport development purposes without being inconsistent with the Federal program of the holding agency, may be conveyed directly under section 23 of the 1970 Airport Act. To do otherwise would preclude normal consideration of other Federal, State, and local requirements and would not be in the best interest of the Government.

Under section 23 of the 1970 Airport Act, the head of a Federal department or agency, at the request of the Secretary of Transportation, is authorized and directed to transfer nonexcess Federal lands under its jurisdiction to a local public agency for public airport development purposes provided such real property does not constitute an entire airport. In his letter of November 20, 1970, to the Federal Aviation Agency, the Assistant Attorney General, Office of Legal Counsel, Department of Justice, rendered a legal opinion that section 23 is not applicable to the transfer of entire, existing and established airports to State and local agencies, and that such transfers may be made only under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)). This legal opinion was outlined in GSA Bulletin FPMR H–12, dated December 23, 1970. As noted in the responses, the split jurisdiction of regulations to accomplish basically the same purpose is not in conformance with Executive Order 12291. This regulation merely clarifies the GSA authority to avoid any further confusion.

In summary, while GSA views interagency cooperation with the Secretary of Transportation as desirable and often necessary in the disposition of Federal real property for airport purposes, it must also be emphasized that GSA is governed in this case by existing provisions of law set forth in section 602(c) of the Federal Property and Administrative Services Act of 1949 and Executive Order 12348.

GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

GSA Bulletin FPMR H–12, dated December 23, 1970, is hereby canceled.

List of Subjects in 41 CFR Part 101–47

Surplus government property, Government property management.

PART 101–47—[AMENDED]

Accordingly 41 CFR Part 101–47 is amended as follows:

Section 101–47.308–2 is amended by adding a new paragraph (i) to read as follows:

§ 101–47.308–2 Property for public airports.

* * * * *

(i) Section 23 of the Airport and Airway Development Act of 1970 (Airport Act of 1970) is not applicable to the transfer of airports to State and local agencies. The transfer of airports to State and local agencies may be made only under section 13(g) of the Surplus Property Act of 1944 which is continued in effect by the Act. Only property which the holding agency determines cannot be reported excess to GSA for disposition under the Act, but which, nevertheless, may be made available for use by a State or local public body for public airport purposes without being inconsistent with the Federal program of the holding agency, may be conveyed under section 23 of the Airport Act of 1970. In the latter instance, section 23 may be used for the transfer of nonexcess land for airport development purposes providing that such real property does not constitute an entire airport. An entire, existing and established airport can only be disposed of to a State or eligible local government under section 13(g) of the Surplus Property Act of 1944.

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

Dated: December 8, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83-791 Filed 1-11-83; 8:45 am]

BILLING CODE 6820-96-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 110

Health Maintenance Organizations

AGENCY: Public Health Service, HHS.

ACTION: Interim rule with request for comments.

SUMMARY: This notice amends the Public Health Service regulations on Federal qualification of health maintenance organizations (HMOs). The purpose is to provide greater flexibility for already existing prepaid health care delivery systems to become transitionally qualified HMOs. Adoption of this amendment will allow entities

operating these systems to satisfy the requirement that basic health services be provided to members by demonstrating that members enrolled at the time of transitional qualification receive hospital services or are insured for hospital services through an arrangement not made by the HMO. The Secretary invites public comments on this regulation as described below in "SUPPLEMENTARY INFORMATION."

DATES: This interim regulation is effective on January 12, 1983. Comments should be submitted by March 14, 1983.

ADDRESS: Comments should be submitted to: Frank H. Seubold, Ph.D., Bureau of Health Maintenance Organizations and Resources Development, Parklawn Building, Room 905, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT: Frank H. Seubold, 301–443–4106.

SUPPLEMENTARY INFORMATION: Regulations amending 42 CFR Part 110, Subpart F, Qualification of Health Maintenance Organizations, were published in the **Federal Register**, 47 FR 31666–8, on July 21, 1982. Those regulations prescribe the procedural requirements for HMOs to apply for Federal qualification. They also provide in some cases for transitional qualification to allow operating HMOs to meet gradually, and without undue disruption, all the requirements for operational qualification.

This amendment to the regulations, set forth below, makes a minor change in 42 CFR 110.603(b)(2)(i) to provide greater flexibility to operating prepaid health care delivery systems to meet the requirements for Federal transitional qualification. The regulation being amended required a transitionally qualified health maintenance organization (HMO) to provide directly or arrange for the provision of at least those services that are specified at § 110.603(b)(2)(i) to its members enrolled at the time of qualification. The Secretary is changing this provision to allow HMOs to become transitionally qualified if they make a showing to the Secretary that these members are receiving inpatient or outpatient hospital services, or both, or are insured for such hospital services through arrangements made by others. In recent years, several long operating HMOs seeking qualification found it necessary to reorganize their legal structure to place in a separate organization enrollees who were not provided hospital services by the HMO. The amended provision would enable such organizations to become transitionally qualified without this legal burden and facilitate less disruptive movement to full qualification.

The amended regulation leaves in place the requirement that transitionally qualified HMOs must implement a time-phased plan acceptable to the Secretary, which specifies definite steps for meeting, at the time of contract renewal, all of the requirements for full qualification as an operationally qualified HMO. Also, since the amended regulation requires the HMO to provide all services other than hospital services, the HMO's physicians, by providing medical services to hospitalized HMO members, will assure appropriate continuity of care and provide utilization controls.

In implementing this amended regulation, the Secretary intends to scrutinize the relationship between the applicant, other providers, and current members to assure that the required services are being delivered.

By making the transitional qualification requirements more flexible, this amendment will permit more entities to become so qualified, and at the same time, minimize the burden of transition for these HMOs whose current members are, in fact, provided the basic health services under § 110.603(b)(2)(i).

This regulation will have an insignificant impact on the public and existing HMOs. Current members of the HMO will not be affected by the change because the regulation requires that the HMO demonstrate that they receive hospital services or are insured for these services. In addition, since § 110.603(b)(2)(i) applies only to services received by those members under contracts existing at the time of transitional qualification, this amendment has no effect on the services the HMO will provide to members later enrolled through new group and individual contracts.

For the reasons given above, the Secretary has determined that public participation in rulemaking prior to issuance of the amended rule and delay in its effective date would be unnecessary; therefore, good cause exists for making this regulation effective on January 12, 1983.

Costs to existing prepaid health care delivery systems seeking transitional qualification will be somewhat lessened as a result of this rule, in that it will no longer be necessary for these entities to reorganize their structure to receive qualification. There will be no cost increases to either applicants, States, or local governments. Therefore, the Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities and a regulatory Flexibility Analysis under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) is not required. Further, since these regulations do not meet any criteria for a major regulation under Executive Order 12291, a regulatory impact analysis is not required.

List of Index Terms for the Federal Register Thesaurus

In accordance with 1 CFR 18.20 the Secretary sent the Director of the **Federal Register** a list of index terms for 42 CFR Part 110. These terms, which have been included in the **Federal Register** Thesaurus of Indexing Terms, follow:

List of Subjects in 42 CFR Part 110

Grant programs—health, Health care, Health facilities, Health insurance, Health maintenance organizations, Loan programs—health.

The Assistant Secretary for Health of the Department of Health and Human Services, with the approval of the Secretary of Health and Human Services, amends 42 CFR 110.603(b)(2)(i), as set forth below.

(Sec. 215 of the Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216); secs. 1301–1318 of the Public Health Service Act, as amended, 95 Stat. 572–578 (42 U.S.C. 300e–300e–17))

Dated: September 2, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: December 23, 1982.

Richard S. Schweiker,

Secretary.

PART 110—HEALTH MAINTENANCE ORGANIZATIONS

42 CFR 110.603(b)(2)(i) is amended as follows:

Subpart F—Qualification of Health Maintenance Organizations

In § 110.603, revise paragraph (b)(2)(i) to read as follows:

§ 110.603 [Amended]

* * * * *

(b) * * *

(2) * * *

(i) Provide at least those services specified in the following sections of this part (except that these services may be limited as to time and cost): Section 110.102(a)(1) (physician services); § 110.102(a)(2) (outpatient services and inpatient hospital services except that inpatient hospital services or outpatient services by a hospital, or both, need not be provided, or paid for by the HMO if the HMO can show that these services

are, or insurance for these services is, being provided through arrangements made by entities other than the HMO; § 110.102(a)(3) (medically necessary emergency health services); and § 100.102(a)(6) (diagnostic laboratory and diagnostic and therapeutic radiologic services);

* * * * *

[FR Doc. 83-815 Filed 1-11-83; 8:45 am]
BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3000, 3410, 3420, 3430, 3450

[Circular No. 2518]

Interim Final Rulemaking Amending the Coal Management Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Interim final rulemaking.

SUMMARY: This interim final rulemaking amends provisions of the existing regulations in 43 CFR Group 3400, Federally Owned Coal, which were published as final regulations in the Federal Register July 30, 1982 (47 FR 33114). The Department of the Interior has determined that the provisions of the regulations concerning consultation with state governments were not sufficiently articulated in the July 30, 1982 regulations and that these provisions should be clarified, which is the purpose of this interim final rulemaking. These revisions are administrative and procedural in nature but are essential for the effective management of the Bureau of Land Management's coal leasing program. For these reasons, the Department of the Interior has determined that the most effective way to implement the regulations at the earliest possible time, while minimizing interference with the Department of the Interior's coal leasing schedule, and at the same time to assure a full public review, is to publish them as interim final rules while soliciting public comments.

DATES: Effective January 12, 1983. Comments will be accepted until February 28, 1983.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 18th and C Streets, N.W., Washington, D.C. 20240. Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ryan Dudley, (202) 343-4537.

SUPPLEMENTARY INFORMATION: This interim final rulemaking modifies and clarifies provisions of the Department of the Interior's coal management regulations which were published July 30, 1982 (47 FR 33114). The provisions primarily relate to consultation processes between the Department of the Interior and State governments and Governor's offices in States affected by coal leasing decisions made by the Bureau of Land Management. The provisions also relate to consultation and coordination between the Department of the Interior and regional coal teams, and procedures for appeal of surface ownership determinations made by the Bureau of Land Management.

Many of the changes made by this interim final rulemaking were the subject of comments from the public concerning the proposed rulemaking for coal management published in the Federal Register on December 16, 1981 (46 FR 61390), and subsequently published as final regulations on July 30, 1982 (47 FR 83114).

Comments made on the December 16, 1981 proposed rulemaking were again considered in the development of this interim final rulemaking. The experience gained implementing the final rulemaking was also reviewed and considered as part of the development of this interim final rulemaking. Based upon both of these reviews, the Department of the Interior has determined that additional changes will make the rulemaking more responsive to expressed public need. The Department has further determined that the policy of close cooperation and consultation with affected State governments will be enhanced by more explicitly describing processes and procedures for consulting with Governors of states affected by Federal coal leasing. This interim final rulemaking incorporates those changes.

Specific Changes

Subpart 3410—Exploration Licenses. The changes made to § 3410.3-4 clarify the rights of private surface owners whose lands are supporting activities under exploration licenses. The existing regulations do not specifically require that the authorized officer seek written comments of private surface owners concerning the adequacy of the reclamation accomplished under exploration licenses, prior to terminating or adjusting the period or amount of liability under a bond. This interim final rulemaking requires the authorized officer to request such written comments. These changes respond to comments submitted on the December 16, 1981, proposed rulemaking that objected to the deletion of the provision from the existing regulations that were published in July 1979.

The comments expressed the view that the change made by the proposed rulemaking would deprive surface owners of split estate lands of adequate protection because they could not present their views on the adequacy of the reclamation effort on the lands after completion of the exploration activity. While nothing in the existing regulations precludes requesting written comments from affected private surface owners, this interim final rulemaking requires the authorized officer to request written comments from private surface owners.

Subpart 3420—Competitive Leasing. This interim final rulemaking makes changes to the existing regulations in §§ 3420.2 and 3420.3. The language in § 3420.2(a)(1) has been modified to state clearly that input and advice from State Governors are among the pertinent factors to be considered by Bureau of Land Management State Directors who are members of regional coal teams, as they prepare the initial range of regional leasing levels. The regional coal teams will continue to recommend alternative leasing levels given in ranges of tons. In addition, § 3420.2(a)(4) is modified to state that regional coal teams shall recommend a preferred leasing level to the Secretary.

Language in 43 CFR 3420.2(f) is modified by this rulemaking to reflect suggestions made by commenters on the December 16, 1981 proposed rulemaking.

This modification removes the requirement that the sale schedule for tracts shall not be constrained by the established leasing level and clarifies that the Secretary of the Interior will be guided by the established leasing level as well as the quantity and quality of other information available to him when making a final decision concerning which coal lease tracts to offer for sale within a region.

Section 3420.3-4(b)(1). This section is expanded by the interim final rulemaking to require that every regional environmental impact statement identify a preferred alternative. Council on Environmental Quality regulations at 40 CFR Group 1500 require that all environmental impact statements identify and study a preferred alternative. The amendment to this section now clearly reflects this requirement.

Section 3420.4-3. To further the Department of the Interior's policy of consultation and coordination with affected State governments, this section is revised to state more clearly that the

Secretary of the Interior will solicit detailed recommendations from Governors of affected States concerning which tracts to lease. Language has also been added to this section to provide for sending written notice to Governors of affected States concerning acceptance or rejection of their recommendation regarding lease sales in their States. Provision has also been made for publication of this decision in the **Federal Register** in addition to the written notification.

Section 3420.6. This section has been added by the interim final regulations. Existing regulations do not discuss procedures for reoffering tracts not sold in previous regional lease sales, prior to a new round of regional activity planning. This authority always existed, but was never expressed, and questions have arisen about the procedures to be employed. This new section describes the entities involved and the actions to be taken in reoffering unsold coal lease tracts.

Subpart 3425—Leasing on application. A new paragraph is added by this rulemaking at 43 CFR 3425.1–4 to provide for notifying Governors of the receipt by the Bureau of Land Management of emergency lease applications. Several comments on the December 16, 1981, proposed regulations requested that this provision be included. The Department of Interior has determined that this section should be included as part of its policy of maintaining close cooperative relations with affected State governments.

Section 3425.1–8. This section has been revised by adding a new paragraph which provides for notification of Governors of affected States when emergency lease applications are rejected.

Subpart 3427—Split estate leasing.— Section 3427.2. This section is revised by the addition of a new subsection (k) which modifies the existing appeals process for surface owners whom the surface managing agency has determined to be unqualified, that is, whose written consent is not required before the Secretary of the Interior may issue a Federal coal lease for surface mining of the reserved coal underlying the lands they own. To avoid the existing lengthy Department of the Interior appeal process and to render a Departmental decision on qualifications as quickly as possible, this rulemaking provides for an initial decision from the authorized officer, an appeal to the State Director, and a final appeal to the Director, Bureau of Land Management, whose decision will be considered the final administrative action.

Part 3430—Noncompetitive leasing.— *Subpart 3430.* Several comments on the December 16, 1981, proposed rulemaking requested that the Secretary of the Interior be authorized to initiate exchange procedures at the request of the regional coal team or the Governor of the affected State in cases where the exchanges are authorized by statute. The interim final rulemaking adds language to that effect at 43 CFR 3430.5–4(b).

Language has also been added at §§ 3435.3–1(b) and 3435.3–3(a) providing that Governors of affected States be sent copies of exchange notices and that regional coal teams be consulted before initiating and again before completing negotiations on exchanges.

Part 3450—Management of Existing Leases. Changes are made in §§ 3451.1, 3452.2–2, and 3453.3–3, to add provisions for notifying Governors of affected States of coal lease readjustments, lease cancellations, and lease transfers. Several comments on the December 16, 1981, proposed rulemaking requested these regulatory additions. They were not adopted by the July 30, 1982, final rulemaking because they appeared to be redundant to existing channels of communication. Upon reconsideration, the Department of the Interior has determined that the public interest is best served by having a clear, established, visible procedure for notifying Governors of changes in leases, cancellation of leases, and lease transfers. This has been accomplished by adding a new paragraph (e) to § 3451.1 and additional sentences to § 3452.2–2 and to § 3453.3–3.

The principal authors of this interim final rulemaking are Ryan Dudley and Carole Smith, Division of Coal, Tar Sands and Oil Shale, Bureau of Land Management assisted by staff of the Office of Legislation and Regulatory Management, Bureau of Land Management and other Department of the Interior staff.

It is hereby determined that these rules do not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required. The changes made here are also within the scope of the proposals and impacts discussed in the Bureau of Land Management's 1979 Final Environmental Impact Statement (FES 79–19) on adoption of federal coal leasing rules (promulgated July 19, 1979) and the environmental assessment prepared on the July 30, 1982, amendments to the July 1979 program rules.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because the changes that are made by this interim final rulemaking are administrative and procedural in nature, small entities will not be significantly affected. No significant economic impacts are expected from this rulemaking. In all cases, the notice or consultation requirements will be integrated into existing processes, and should result in no delays in processing Federal coal leases and making lease-related decisions.

The information collection requirements contained in 43 CFR Group 3400, Parts 3410, 3420, 3430, and 3450, have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0073.

List of Subjects

43 CFR Part 3000

Public lands—Classification, Public lands—mineral resources.

43 CFR Part 3410

Coal, Environmental protection, Mines, Public lands—mineral resources, Surety bonds.

43 CFR Parts 3420 and 3430

Administrative practice and procedure, Coal, Environmental protection, Intergovernmental relations, Mines, Public lands—mineral resources, Public lands—rights-of-way.

43 CFR Part 3450

Coal, Mines, Public lands and mineral resource, Surety bonds.

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), the Surface Mining Control and Reclamation Act (30 U.S.C. 1201 *et seq.*) and the Multiple Mineral Development Act (30 U.S.C. 521–531), Part 3000 and Group 3400, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Dated: December 21, 1982.
James G. Watt,
Secretary of the Interior.

PART 3000—[AMENDED]

§ 3000.4 [Amended]

1. Section 3000.4 is amended by removing from the beginning of the section the word "Any" and replacing it with the phrase "Except as provided in § 3427.2 of this title, any".

PART 3410—[AMENDED]

2. Section 3410.3–4 is amended by adding a new paragraph (d) to read:

§ 3410.3–4 Surface protection and reclamation.

* * * * *

(d) Where the surface of the land being explored is privately owned, the authorized officer shall have the authority to terminate or adjust the period of liabilty and/or the amount of liability under the bond. The authorized officer shall provide, 30 days prior to the effective date of termination of the period of liability under the bond, a notice of termination to enable the surface owner to inspect the property and notify the authorized officer, in writing, of any deficiencies in reclamation. Should the licensee and any surface owner be unable to agree on the adequacy of the reclamation, the authorized officer shall make the final determination.

PART 3420—[AMENDED]

§ 3420.2 [Amended]

3. Section 3420.2 is amended by:

A. Amending paragraph (a)(1) by removing the words "pertinent factors" and the semicolon at the end of paragraph (a)(1) and adding the phrase "considerations, including input and advice from the Governors of the affected States regarding assumptions, data, and other factors pertinent to the region;";

B. Amending paragraph (a)(4) by revising the fourth sentence to read "The regional coal team shall consider the State Director's review and shall transmit to the Secretary alternative leasing levels and a preferred leasing level presented in ranges of tons to be offered for lease."; and

C. Amending paragraph (f) by removing from the last sentence the words "shall not be constrained by the established leasing levels but rather".

§ 3420.3–4 [Amended]

4. Section 3420.3–4(b)(1) is amended by removing the period at the end of the second sentence and adding the phrase "and shall identify the preferred alternative in the environmental impact statement."

5. Section 3420.4–3 is amended by adding a new paragraph (c) to read:

§ 3420.4–3 Preliminary tract delineation.

* * * * *

(c) Before determining whether to conduct a lease sale, the Secretary shall seek the recommendation of the Governor of the State(s) in which the lands proposed to be offered for lease are located as to whether or not to lease such lands and what alternative actions are available and what special conditions could be added to the proposed lease(s) to mitigate impacts. The Secretary shall accept the recommendations of the Governor(s) if he determines that they provide for a reasonable balance between the national interest and the State's interests. The Secretary shall communicate to the Governor(s) in writing and publish in the **Federal Register** the reasons for his determination to accept or reject such Governor's recommendations.

6. A new § 3420.6 is added to read:

§ 3420.6 Reoffer of tracts not sold in previous regional lease sales.

Following the offering of tracts in accordance with the procedures outlined in §§ 3420.2, 3420.3, 3420.4 and 3420.5, any tracts not sold in accordance with the above listed provisions may be reoffered for sale by the Department provided a lease sale schedule has been reviewed by the regional coal team and, after consultation with the Governor, adopted by the Secretary. Provisions of Subpart 3422 shall apply to these tracts.

7. Section 3425.1–4 is amended by adding a new paragraph (c) to read:

§ 3425.1–4 Emergency leasing.

* * * * *

(c) The authorized officer shall provide the Governor of the affected State(s) a notice of an emergency lease application when it is filed with the Bureau of Land Management.

8. Section 3425.1–8 is amended by adding a new paragraph (c) to read:

§ 3425.1–8 Rejection of applications.

* * * * *

(c) The authorized officer shall transmit reasonable notice of the rejection of an emergency lease application to the Governor of the affected State(s).

9. Section 3427.2 is amended by adding a new paragraph (k) to read:

§ 3427.2 Procedures.

* * * * *

(k) Any surface owner determined to be unqualified by decision of the field official of the surface management agency shall have 30 days from the date of receipt of such decision in which he/she may appeal the decision to the appropriate State Director of the Bureau of Land Management. The surface owner shall have the right to appeal the State Director's decision to the Director, Bureau of Land Management, within 30 days of receipt of that decision. Both appeals under this paragraph shall be in writing. As an exception to the provisions of § 3000.4 of this title, the decision of the Director shall be the final administrative action of the Department of the Interior.

PART 3430—[AMENDED]

§ 3430.5–4 [Amended]

10. Section 3430.5–4(b) is amended by adding after the words "authorized officer" the phrase "or at the request of the regional coal team or the Governor of the affected State(s).".

11. Section 3435.3–1(b) is revised to read:

§ 3435.3–1 Exchange notice.

* * * * *

(b) The exchange notice shall also be provided to the Governor of the affected State(s) concurrent with notice to the lessee or preference right lease applicant stating why the Secretary believes an exchange may be in the public interest.

* * * * *

12. Section 3435.3–3(a) is amended by adding at the end of the section the following sentence:

§ 3435.3–3 Agreement to terms.

* * * The authorized officer shall consult with the regional coal team prior to initiation of such negotiations and shall consult again prior to finalization of the negotiated exchange.

PART 3450—[AMENDED]

13. Section 3451.1 is amended by adding a new paragraph (e) to read:

§ 3451.1 Readjustment of lease terms.

* * * * *

(e) The Governor of the affected State(s) shall be notified prior to the readjustment of lease terms.

14. Section 3452.2–2 is amended by adding at the end of the section the following sentence:

§ 3452.2–2 Cancellation procedure.

* * * The Governor of the affected State(s) shall be given reasonable notice of action taken by the Department of the

Interior to initiate cancellation of the lease.

15. Section 3453.3–3 is amended by adding at the end of the section the following sentence:

§ 3453.3–3 Effective date.

* * * The Governor of the affected State(s) shall be given reasonable notice of any lease transfer.

[FR Doc. 83-835 Filed 1-11-83; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5481]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed properety insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 3429, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553 (b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

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 stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Pennsylvania: Berks	Wyomissing Hills, borough of	422237	Dec. 1, 1982, emergency	
Illinois: Tazewell	Marquette Heights, city of	170650	Dec. 2, 1982, emergency	Mar. 6, 1974.
Pennsylvania: Cambria	Munster, township of	422263	Dec. 3, 1982, emergency	Nov. 22, 1974.
Washington: Skagit	Mount Vernon, city of	530158	Jan. 2, 1975, emergency; Aug. 2, 1982, suspended; Dec. 2, 1982, reinstated.	May 7, 1976.
California: Los Angeles	West Covina, city of	060666	Dec. 9, 1982, emergency	
Texas: Fort Bend	First colony levee improvement district.	481583—New	do.	
Arkansas: Clark	Caddo Valley, town of	050567A	Dec. 10, 1982, emergency	Mar. 20, 1979.
Ohio: Erie	Kelleys Island, village of	390738A	Apr. 30, 1975, emergency; Aug. 17, 1981, regular; Aug. 17, 1981, suspended; Dec. 9, 1982, reinstated.	Apr. 18, 1975.
Wisconsin: Waukesha	Muskego, city of	550486B	Apr. 12, 1974, emergency; Dec. 1, 1982, regular; Dec. 1, 1982, suspended; Dec. 13, 1982, reinstated.	June 21, 1974, and Aug. 6, 1976.
Tennessee:				
Dickson	Dickson, city of	470335	Dec. 16, 1982, emergency; Dec. 16, 1982, regular.	
Gibson	Unincorporated areas	470359	Dec. 16, 1982, emergency	
Pennsylvania: York	Yoe, borough of	420944B	July 29, 1975, emergency; Dec. 1, 1982, regular; Dec. 1, 1982, suspended; Dec. 16, 1982, reinstated.	June 28, 1974, and Aug. 27, 1976.
Arkansas: Sharp	Cave City, city of	050313	Dec. 10, 1982, emergency	July 18, 1975.
Illinois:				
McLean	Carlock, village of	170491	Dec. 23, 1982, emergency	Dec. 3, 1976.
Edwards	Unincorporated areas	170937	do.	Oct. 27, 1978.
Washington: Columbia	Starbuck, city of	530031	do.	Jan. 3, 1975.
Illinois: Will	Elwood, village of	170849A	Dec. 23, 1982, emergency; Dec. 23, 1982, regular.	Feb. 21, 1975, and Nov. 3, 1982.
Michigan: Oakland	Oakland, township of	260476B	Dec. 23, 1982, emergency; Dec. 23, 1982, regular.	Apr. 1, 1977, and Dec. 1, 1982.
Arkansas:				
Cleburne	Quitman, city of	050280	Dec. 22, 1982, emergency	Apr. 9, 1976.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Lawrence	Ravenden, city of	050470	do	Apr. 2, 1976.
New York: Cattaraugus	South Valley, town of	360109	Dec. 30, 1982, emergency	Sept. 6, 1974.
North Dakota: Richland	Barrie, township of	380661—New	do	
Arkansas:				
Lawrence	Imboden, town of	050120A	Dec. 28, 1982, emergency	May 3, 1974, and Oct. 10, 1975.
Van Buren and Faulkner	Damascus, town of	050404	do	Apr. 18, 1975.
New Jersey:				
Burlington	Bordentown, city of	340087B	May 16, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended; Dec. 20, 1982, reinstated.	Dec. 20, 1974, and May 28, 1976.
Morris	Chester, township of	340555B	Jan. 28, 1976, emergency; Apr. 1, 1982, regular; Apr. 1, 1982, suspended; Dec. 20, 1982, reinstated.	Dec. 6, 1974, and Dec. 15, 1978.
Arizona: Yavapai	Clarkdale, town of	040095B	Dec. 1, 1982, suspension withdrawn	Aug. 23, 1974, and Nov. 28, 1975.
Connecticut: Middlesex	Westbrook, town of	090070B	do	Nov. 23, 1973, and Oct. 15, 1976.
Illinois: Scott	Naples, village of	170609B	do	Apr. 2, 1976, and Jan. 9, 1974.
Indiana:				
Blackford	Hartford City, city of	180009B	do	Nov. 23, 1973, and Mar. 5, 1976.
Rush	Unincorporated areas	180421B	do	June 3, 1977.
Dearborn	Unincorporated areas	180038B	do	Apr. 7, 1978.
Michigan: Oakland	Keego Harbor, city	260173B	do	May 24, 1974, and Feb. 13, 1976.
Montana:				
Fergus	Unincorporated areas	300019B	do	Apr. 13, 1978.
Do	Grass Range, town of	300021A	do	Dec. 27, 1974.
New Jersey:				
Cumberland	Commercial, township of	340166B	do	Aug. 23, 1974, and Mar. 19, 1976.
Gloucester	East Greenwich, township of	340200B	do	Sept. 6, 1974, and July 23, 1976.
Camden	Gloucester, township of	340133A	do	Dec. 13, 1974.
Bergen	Hackensack, city of	340039B	do	June 28, 1974, and Oct. 31, 1975.
Monmouth	Hazlet, township of	340298B	do	Jan. 9, 1974, and Apr. 30, 1976.
New York:				
Greene	Hunter, village of	360293	do	Aug. 16, 1974.
Columbia	Kinderhook, town of	361321B	do	
Do	Kinderhook, village of	361048C	do	Apr. 4, 1974, and Jan. 20, 1978.
Cortland	McGraw, village of	360184B	do	Sept. 3, 1976, and Mar. 29, 1974.
Albany	New Scotland, town of	360013B	do	May 10, 1974, and July 16, 1976.
Do	Voorheesville, village of	360015B	do	Apr. 12, 1974, and July 2, 1976.
Oregon: Yamhill	McMinnville, city of	410255C	do	Feb. 15, 1974, Dec. 20, 1974, and Sept. 19, 1975.
Pennsylvania: Erie	Springfield, township of	421365C	do	June 25, 1976, and Mar. 21, 1980.
Tennessee:				
Shelby	Memphis, city of	470177B	do	Aug. 23, 1974, and Feb. 9, 1979.
Do	Unincorporated areas	470214B	do	Aug. 4, 1978.
Wisconsin:				
Waukesha	Hartland, village of	550461C	do	Nov. 30, 1973, May 14, 1976, and Apr. 15, 1977.
Walworth	Lake Geneva, city of	550466B	do	Dec. 28, 1973, and May 14, 1976.
Waukesha	Lannon, village of	550482B	do	Dec. 28, 1973, and May 21, 1976.
Green	Monroe, city of	550162C	do	May 31, 1974, May 28, 1976, and June 12, 1981.
Florida: Leon	Unincorporated areas	120143A	Dec. 15, 1982, suspension withdrawn	Dec. 20, 1974.
Iowa:				
Linn	Cedar Rapids, city of	190187B	do	Aug. 2, 1974, and Jan. 26, 1982.
Do	Unincorporated areas	190629B	do	June 3, 1977.
Michigan:				
Norfolk	Bellingham, town of	250232B	do	June 28, 1974, and Apr. 8, 1977.
Plymouth	Hanover, town of	250266B	do	July 26, 1974, and Aug. 23, 1977.
Monroe	Milan, township of	260152B	do	May 24, 1974, and June 25, 1976.
Grand Traverse	Traverse City, city of	260082B	do	May 24, 1974, and Nov. 14, 1975.
Minnesota: Marshall	Argyle, city of	270268B	do	May 3, 1974, and June 11, 1976.
New Jersey:				
Ocean	Barnegat, township of	340396C	do	June 4, 1976, May 31, 1974, and Mar. 14, 1980.
Bergen and Hudson	Hackensack Meadowlands district	340570A	do	Oct. 8, 1976.
Morris	Roxbury, township of	340362B	do	Mar. 29, 1974, and Aug. 6, 1976.
New York:				
Columbia	Chatham, village of	361523B	do	Dec. 6, 1974, and May 21, 1976.
Washington	Fort Edward, town of	360685A	do	Feb. 7, 1975.
Columbia	Valatie, village of	361508B	do	Nov. 15, 1974.
Saratoga	Northumberland, town of	360725B	do	June 21, 1974, and July 30, 1976.
Ohio:				
Licking	Hebron, village of	390333B	do	May 3, 1974, and May 21, 1976.
Licking and Knox	Utica, village of	390336A	do	Apr. 2, 1976.
Pennsylvania: Lackawanna	South Abington, township of	421758A	do	Jan. 24, 1975.
Texas: Wichita	Iowa Park, city of	480660B	do	Apr. 5, 1974, and Mar. 12, 1976.
Wisconsin:				
Pierce and Croix	River Falls, city of	550330C	do	Oct. 12, 1973, and May 19, 1981.
Rock	Beloit, city of	555544B	do	July 10, 1971, and Apr. 23, 1976.
Minnesota: Marshall	Grygla, city of	270269A	do	Aug. 8, 1975.
Indiana: Dearborn	Unincorporated areas	180038B	Dec. 30, 1982, suspension withdrawn	Apr. 7, 1978.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: January 4, 1983.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-634 Filed 1-11-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA 6482]

List of Communities With Special Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance to communities on the reduction of property losses by the adoption of appropriate flood plain management or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

DATES: The effective date shown at the top right of the table or 30 days after the date of this **Federal Register** publication, whichever is later.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply in respect to conventional mortgage loans by federally regulated, insured, supervised, or approved lending institutions.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the **Federal Register** or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the **Federal Register** or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 64 of Title 44 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128).

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 or regarding the completed stages of engineering tasks in delineating the special flood hazard areas of the specified community. This rule imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

Section 65.3 is amended by adding in alphabetical sequence a new entry to the table:

BILLING CODE 6718-03-M

§ 65.3 List of communities with special hazard areas (FHBMs in effect).

1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (# AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 60.3 CODE	8 PROGRAM STATUS	9 STATUS OF		10 PREVIOUS MAP DATES		11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
								FHBM	FIRM	FHBM	FIRM				
													EFFECTIVE DATE: December 14, 1982		
MT	300159	Mineral County (Unincorporated Areas)	0006B	I	FL	B	4	3	1	2-14-78	N/A	9	N/A	N/A	John Hamill, Supervisor Flood Plain Management Sec. Dept. of Natural Resources & Conservation 32 South Ewing St. Helena, MT 59620
													EFFECTIVE DATE: December 17, 1982		
NJ	340526	Frankford, Township of Sussex County	0005A 0010A	I	FL	B	1	3	1	1-31-75	N/A	9 10	N/A	N/A	Howard Hill, Mayor RD 1 Box 101 Augusta, NJ 07822
													EFFECTIVE DATE: January 3, 1983		
ND	380622	Brandenburg, Township of, Richland Co.	0001A	I	FL	B	1	2	1	N/A	N/A	N/A	N/A	N/A	Elroy Stein, Chairman Rt. 2, Box 103 Wahpeton, ND 58075
ND	380168	Fairmount, Township of Richland County	0001A	I	FL	B	1	2	1	N/A	N/A	N/A	N/A	N/A	Francis Rubish, Chairman Rt. 2; Box 5 Fairmount, ND 58030
													EFFECTIVE DATE: January 7, 1983		
IN	180488	Liberty, Township of White county	0001A 0002	I	FL	B	4	2	1	N/A	N/A	N/A	N/A	N/A	Bob Zerth, Township Trustee & Assessor Route 4 P.O. Box 145 Monticello, IN 47960
													EFFECTIVE DATE: January 21, 1983		
NC	370435	Walnut Creek, Village Wayne County	0001A	I	FI	B	1	2	1	N/A	N/A	N/A	N/A	N/A	Roy Lane, Mayor P. O. Box 10911 Goldsboro, NC 27530

EFFECTIVE DATE January 28, 1983

1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (# AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 60.3 CODE	8 PROGRAM STATUS	9 STATUS OF		10 PREVIOUS MAP DATES		11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
								FHBM	FIRM	FHBM	FIRM				
PA	421464	Township of Howard (Centre County)	INDEX 0001 A 0002 A 0003 A	I	FL	B	1	3	1	11/22/74	N/A	9 10 16	N/A	N/A	Paul Gardner Chairman of Township Supervisors Box 5-7, R.D. #2 Howard, PA 16841 814-625-2811
NY	361177	Fine, Town of St. Lawrence Co.	0003A 0005A 0006A	I	FL	B	1	3	1	1-10-75	N/A	10	N/A	N/A	Ronald Frank, Supervisor Starlake, New York 13690

BILLING CODE 6718-03-C

Community Map Actions

(Codes: Where No Entry Is Necessary Use N/A)

Column Code:

1. Two letter state designator.
2. FIA Community 6-digit identity number.
3. Community name; County(ies) name.
4. Four digit number and suffix of each FIRM and FHBM panel printed.
5. INL/COAST:

I=INLAND
C=COASTAL
W=WAVE HEIGHT

6. HAZARD:

FL=FLOOD
MS=MUDSLIDE
ER=EROSION
NF=NON FLOOD PRONE
MF=MINIMALLY FLOOD PRONE

7. 60.3 CODE:

A=Special Hazard not defined, no elevation data (No FHBM)
B=Special Hazard Designated, no elevation data (FHBM)
C=FIRM, No floodway or Coastal High Hazard
* D=FIRM, Regulatory Floodway Designated
* E=FIRM, Coastal High Hazard

8. PROGRAM STATUS:

1=EMERGENCY
2=REGULAR
3=NOT PARTICIPATING, NO MAP
4=NOT PARTICIPATING, WITH MAP
5=WITHDREW
6=SUSPENDED

9. FHBM STATUS:

1=NEVER MAPPED
2=ORIGINAL
3=REVISED
4=RESCINDED
5=SUPERCEDED BY FIRM

10. FIRM STATUS:

1=NEVER MAPPED
2=ORIGINAL
3=REVISED
4=RESCINDED
5=ALL ZONE C—NO PUBLISHED FIRM
6=ALL ZONE A AND C—NO ELEVATIONS DETERMINED

11. DATES OF ALL PREVIOUS MAPS.

12. REVISION CODES:

1. 67 BFE (Base Flood Elevation) Decrease
2. 67 BFE Increase
3. 65 SFHA (Special Flood Hazard Area) Change
4. Change of Zone Designation; revised FIRM
5. Curvilinear
6. 64 Incorporation
7. 64 Discorporation
8. 64 Annexation
9. SFHA Reduction
10. Non-67 SFHA Increase Without Numbered Zones
11. Non-67 SFHA Increase With Numbered Zones
12. Drafting Correction; Printing Errors
13. Suffix Change ONLY
14. Change to Uniform Zone Designations (7/1/74)
15. Revisions Withdrawn
16. Refunds Possible
17. Letter of Map Amendment (70)
18. Letter of Map Amendment (70 without Federal Register publication)
19. Federal Register Ommission
20. Attention: A previous may (or maps) has been rescinded or withdrawn for this community. This may have affected the sequence of suffixes.
21. Miscellaneous

13. List of Numbered Floodway Panels Printed.

14. Address of Community Map Repository.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 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: January 3, 1983.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-633 Filed 1-11-83; 8:45 am]

BILLING CODE 6718-03-M

*Dual entry is available.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Institutes of Health

45 CFR Part 3

Conduct of Persons and Traffic on Certain Federal Enclaves

AGENCIES: Health Resources and Services Administration (HRSA), National Institutes of Health (NIH) HHS.

ACTION: Final rule.

SUMMARY: The Health Resources and Services Administration and the National Institutes of Health amend the regulations governing the conduct and traffic on certain federal enclaves to remove coverage of the former Staten Island PHS Hospital, which has been transferred to Bayley Seton Hospital, a private non-profit New York corporation. The definition of a law enforcement officer in § 3.1 is also clarified.

EFFECTIVE DATE: January 12, 1983.

FOR FURTHER INFORMATION CONTACT: William G. Ketterer, Senior Attorney, NIH, Office of the General Counsel, Room 2B–50, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205, Telephone (301) 496–6043.

SUPPLEMENTARY INFORMATION: On June 20, 1980, the National Institutes of Health and the Health Services Administration of the U.S. Public Health Service published a Final Rule (45 FR 41820) for 45 CFR Part 3. At that time applicability of the regulations was extended to the U.S. Public Health Service Hospital, Staten Island, over which the United States had exclusive criminal jurisdiction. This was necessary in order to implement the delegation of authority under 40 U.S. Code 318–318d from the Administrator of General Services, to the Secretary of Health and Human Services, and redelegated to the Administrator, Health Services Administration. Effective November 25, 1981 the Staten Island facility was transferred to Bayley Seton Hospital, a New York non-profit corporation, pursuant to the mandate in Pub. L. 97–85 to transfer or close PHS hospitals, thus necessitating a technical amendment to these regulations to delete the reference to the Staten Island Hospital.

In addition, the definition of "law enforcement officer" § 3.1 is clarified to explicitly cover nonuniformed as well as uniformed U.S. Special Police Officers.

Public rulemaking procedures and delayed effective date are omitted as unnecessary, because HRSA and NIH find good cause for the waiver of these procedures, as follows:

(1) Federal conduct and traffic regulations for the Staten Island Hospital are being removed, because they have no legal effect as a result of the transfer of the Staten Island Hospital to a private organization pursuant to the mandate in Pub. L. 97–85 to transfer or close Public Health Service hospitals. The regulation of conduct and traffic within these jurisdictions while under private control is the responsibility of State and local governments, not that of the Federal government.

(2) The amendment to the definition of "law enforcememt officer" is a technical, clarifying change to make it explicit that this term includes both nonuniformed and uniformed officers. This is not a substantive change, because the definition presently

includes "any other Federal law enforcement officer."

The following statements are provided for the information of the public:

1. As required by Executive Order 12291, Section 3(g)(1), the proposal has been reviewed against the criteria in Executive Order 12291, Section 1(b), and does not meet that directive's test for "a major rule."

2. These regulations do not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96–354, since these regulations are technical in nature and simply revise existing regulations governing the conduct and traffic of Federal enclaves to implement statutory changes.

List of Subjects in 45 CFR Part 3

Federal buildings and facilities, Government property, Traffic regulations.

Thus, Part 3 of Title 45 of the Code of Federal Regulations is hereby amended as set forth below:

Dated: December 15, 1982.

Robert Graham,

Administrator, Health Resources and Services Administration.

Dated December 6, 1982

James B. Wyngaarden,

Director, National Institutes of Health.

1. The authority citation for Part 3 is revised to read as follows:

Authority: Sec. 1–5, 62 Stat. 281, as amended, 75 Stat. 574 (40 U.S.C. 318–318d); Sec. 205, 63 Stat. 389, as amended, 64 Stat. 591, 76 Stat. 414 (40 U.S.C. 486); Delegation of Authority, 33 FR 604.

2. The title to Part 3 is amended to read as follows:

PART 3—CONDUCT OF PERSONS AND TRAFFIC ON THE NATIONAL INSTITUTES OF HEALTH FEDERAL ENCLAVE

3. Section 3.1 is revised to read as follows:

§ 3.1 Definitions.

"Director" means the Director, National Institutes of Health, or other officer in charge of an enclave covered by this part.

"Enclave" means the area, containing about 307 acres, acquired by the United States in several parcels in the years 1935 through 1949, comprising the National Institutes of Health (NIH) located in Montgomery County, Maryland, over which the United States acquired exclusive criminal jurisdiction under the Act of March 31, 1953, chapter 158 (Maryland Code Annotated, Article 96, section 34 (1979)).

"Law enforcement officer" means a uniformed guard or uniformed or nonuniformed Special Police Officer appointed under a delegation of authority under 40 U.S. Code 318 or 318d; any other Federal law enforcement officer; and any other person whose law enforcement services are secured by contract or upon request from a State or local law enforcement agency.

[FR Doc. 83–814 Filed 1–11–83; 8:45 am]
BILLING CODE 4140–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1310

[Ex Parte No. MC–145 [1]]

Cancellation of Motor Carrier Joint Rates and Through Routes

AGENCY: Interstate Commerce Commission.

ACTION: Removal of final rules—change of procedures.

SUMMARY: The Commission is removing 49 CFR 1310.8(d) which requires the filing of a justification statement with proposed cancellations of motor carrier joint rates and through routes. The "justification statement" requirement, as well as requirements proposed in the notice of this proceeding, are found not to be consistent with the public interest. Motor carrier joint rate and through route cancellation proceedings will be handled on a case-by-case basis under the provisions of 49 U.S.C. 10705 consistent with the considerations outlined in the decision.

EFFECTIVE DATE: The decision will be effective on February 11, 1983.

FOR FURTHER INFORMATION CONTACT: Leonard Arnaiz, (202) 275–7831.

SUPPLEMENTARY INFORMATION: The Commission has issued a decision which eliminates the provisions of 49 CFR 1310.8(d) requiring the filing of a justification statement with each proposed cancellation of joint rates or through routes by motor common carriers of property. The decision also declined to adopt new requirements for joint-line cancellations proposed in the notice of this proceeding at 45 FR 81798 (December 12, 1980).

Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact T.S. Infosystems, Inc., Room 2227, Washington, DC 20423 or call 289–4357 (D.C. Metropolitan Area) or toll-free (800) 424–5043.

(49 U.S.C. 10321 and 10705, and 5 U.S.C. 553)

List of Subjects in 49 CFR Part 1310

Motor carriers, Joint rates and through routes.

It is ordered:

§ 1310.8 [Amended]

The regulations at 49 CFR 1310.8(d) are removed. Otherwise, the proposed revisions are not adopted.

Decided: December 28, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Vice Chairman Gilliam was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–795 Filed 1–11–83; 8:45 am]
BILLING CODE 7035–01–M

[1] Embraces also *Restrictions on Service by Motor Common Carriers*, 129 M.C.C. 71 (1978).

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 10

Law Enforcement; Updating Areas of Responsibility and Addresses of District Offices

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service amends 50 CFR Part 10, General Provisions, to reflect an administrative update of the areas of responsibility and addresses of district offices of the Service's Division of Law Enforcement. A recent realignment of law enforcement districts reduced the number of districts from twelve to seven.

EFFECTIVE DATE: This rule is effective on January 12, 1983.

FOR FURTHER INFORMATION CONTACT: John T. Webb, Division of Law Enforcement, Fish and Wildlife Service, Washington, D.C. 20240, Telephone: (202) 343–9242.

SUPPLEMENTARY INFORMATION: The Department of the Interior has determined that Executive Order 12291 and the Regulatory Flexibility Act do not apply to this action, since only addresses of the Services law enforcement offices are being updated.

Also this amendment's effect is administrative and does not change agency procedure, the "notice" requirements of 5 U.S.C. 553(b) are not applicable. In addition, it is not a

substantive rule requiring a delayed effective date under 5 U.S.C. 553(d).

This amendment was prepared by Margaret C. Cash, Regulations Coordinator, Division of Law Enforcement.

List of Subjects in 50 CFR Part 10

Exports, Fish, Imports, Law enforcement officers, Wildlife.

PART 10—[AMENDED]

Accordingly, Part 10, Subchapter B, Chapter I of Title 50, *Code of Federal Regulations*, is amended by revising § 10.22 to read as follows:

§ 10.22 Law enforcement offices.

Service law enforcement offices and their areas of responsibility follow. Mail should be addressed: "Special Agent in Charge, U.S. Fish and Wildlife Service, (appropriate address below)":

Areas of Responsibility and Office Addresses

California, Hawaii, Idaho, Nevada, Oregon, Washington, American Samoa, Guam, the Marshall Islands, Northern Mariana Islands, and the Trust Territory of the Pacific Islands (District 1):
Lloyd 500 Bldg., Suite 1490, 500 NE. Multnomah Street, Portland, OR 97232, Telephone: 503–231–6125

Arizona, New Mexico, Oklahoma, and Texas (District 2):
P.O. Box 329, Albuquerque, NM 87103, Telephone: 505–766–2091

Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin (District 3):
P.O. Box 45, Twin Cities, MN 55111, Telephone: 612–725–3530

Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the Virgin Islands (District 4):
P.O. Box 4839, Atlanta, GA 30302, Telephone: 404–221–5872

Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia (District 5):
P.O. Box E, Newton Corner, MA 02158, Telephone: 617–965–2298

Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming (District 6):
P.O. Box 25486, Denver Federal Center, Denver, CO 80225, Telephone: 303–234–4612

Alaska (District 7):
P.O. Box 42597, Anchorage, AK 99509, Telephone: 907–276–3800

Any foreign country (Washington Office):
P.O. Box 28006, Washington, D.C. 20005, Telephone: 202–343–9242

Dated: January 4, 1983.

P. Craig Potter,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83–781 Filed 1–11–83; 8:45 am]
BILLING CODE 4310–55–M

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50 CFR Part 14

Wildlife Import/Export Licenses—Recordkeeping Requirements; Availability to Non-Residents

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; interpretation.

SUMMARY: Under authority of the Endangered Species Act of 1973, the Service requires everyone engaged in business as an importer or exporter of fish or wildlife to obtain an import/export license issued by the Service, unless by regulation an exception to that requirement applies. Recently, two questions about the license have been raised which need clarification.

First, what records are required to be kept? Normal business records should satisfy the recordkeeping requirements. A separate or duplicate set for the Service is *not* required. Second, can non-residents (especially foreign fur buyers) obtain a license? Yes, residence in the U.S. is *not* required.

FOR FURTHER INFORMATION CONTACT: John T. Webb, Branch of Investigations, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, P.O. Box 28006, Washington, D.C. 20005, telephone: (202) 343–9242.

SUPPLEMENTARY INFORMATION:

Background

On August 25, 1980 (45 FR 56668), the Service published a final rule revising 50 CFR Part 14 (Importation, Exportation, and Transportation of Wildlife) to implement provisions of a number of wildlife laws enforced by the Service. As part of that rulemaking and under authority of section 9(d) of the Endangered Species Act of 1973 [16 U.S.C. 1588(d)], an import/export license requirement was imposed on any person who engages in business as an importer or exporter of fish or wildlife unless that person imports or exports certain excepted wildlife or falls within one of the categories of persons excepted from the requirement. A person is engaged in business as an importer or exporter of wildlife if he/she devotes time, attention, labor, or effort to any activity for gain or profit that involves the importation or exportation of wildlife. The license requirement, which is found in §§ 14.91–14.93, went into effect January 1, 1981.

Licensees must: (1) Pay $50 for a two-year license, (2) keep certain records and retain them for five years, (3) allow the Service to inspect records and inventories of imported wildlife, and (4) file any requested reports. Certain persons excepted from the license requirement by 50 CFR 14.92(b) must still: (1) Keep records which fully and correctly disclose each importation or exportation of wildlife by them, (2) keep records which fully and correctly disclose the subsequent disposition by them of the imported or exported wildlife, and (3) allow the Service to inspect records and inventories of imported wildlife.

Before the effective date of the license requirement, however, the Service received considerable comment that the requirement would impose disproportionately burdensome demands on small entities, particularly small businesses and individuals who only occasionally import or export wildlife for gain or profit. Therefore, on December 31, 1980 (45 FR 86496) the Service published a final rule, effective immediately, which excepted any person from the license requirement if the value of the wildlife that person imports and exports during a calendar year totals less than $25,000 [as declared on the Declaration for Importation or Exportation of Fish or Wildlife (Form 3–177)]. This exception now appears in § 14.92(b)(6).

The licensing requirement was recently addressed by Congress while considering reauthorization of the Endangered Species Act of 1973. In the Senate Report accompanying the Endangered Species Act Amendments of 1982, the Committee on Environment and Public Works stated:

> As part of the Administration's ongoing review of many Federal regulations and requirements that are based upon numerous laws, the Department of the Interior should review the licensing requirements that have been promulgated pursuant to section 9(d) of this Act. The paperwork and regulatory burden imposed by any such requirement should be the minimum necessary to accomplish the purposes of the law and to ensure proper administration of the law. [Report of the Committee on Environment and Public Works of the United States Senate to accompany S. 2309, S. Rep. 418, 97th Cong., 2d Session 1982, p. 28.]

Need for Interpretation

Mr. Stephen S. Boynton, a representative for various groups within the U.S. fur industry, has requested a clarification from the Service on two issues related to the licensing requirement: What records are required to be kept? Can non-residents (especially foreign fur buyers) obtain a license?

1. *Recordkeeping requirements.* The recordkeeping requirements for licensees are found in § 14.93(d) (1) and (2) under additional license conditions, and those for persons excepted from the license requirement are found in § 14.92(b). The business records normally maintained by a legitimate business satisfy these requirements. A separate or duplicate set maintained for the Service is not required. As stated in the preamble to this final rule when the licensing requirement was promulgated:

> The rulemaking does not direct either licensees or excepted persons to keep an additional set of records; it merely requires as a condition of licensing or as a requirement for certain persons to be excepted that certain information, as set forth in § 14.93(c) [sic.] or § 14.92(b), be included as a part of whatever business records are presently maintained, and that such records be retained for a period of five years, which is consistent with the statute of limitations for laws administered by the Service. The requirement that the records fully and correctly disclose the subsequent disposition by the licensee or excepted person of the wildlife imported or exported may be met by records which are specimen-specific, on an inventory basis, or a combination of the two depending upon the normal business practice of the importer or exporter. 45 FR 50670 (1980).

Specifically, the recordkeeping requirements are met by maintaining the following records:

(1) A copy of the Declaration for Importation or Exportation of Fish or Wildlife (USFWS Form 3–177) that is filed for each importation or exportation. The declaration must be both complete and accurate.

(2) Copies of other documents associated with an importation or exportation. These documents may include the following: commercial invoices, pro forma invoices, special invoices, U.S. import permits, foreign export permits, Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) documents, captive-bred certificates, arrival notices, carrier certificates, airway bills, bills of lading, manifests, General System of Preference (GSP) certificates, and U.S. Customs documents. (NOTE: Licensees are required to maintain a copy of any permit required by the laws or regulations of the U.S. or by the country of origin or export.)

(3) Internal records, such as sales receipts or invoices, that are used to prepare Federal or State income tax returns, to maintain inventory control, or to satisfy State or local business license requirements. For imported wildlife, these records should indicate the disposition of the wildlife, i.e., what the importer did with the wildlife after it was imported if it is no longer possessed by the importer.

2. Non-resident licensees. Non-residents may obtain an import/export license if their activities in the U.S. require them to obtain one (i.e., if in the U.S. they engage in business as importers or exporters of fish or wildlife). Residence in the U.S. is not required. Therefore, foreign buyers, including fur buyers, may obtain an import/export license.

Non-residents should submit inquiries about the license, requests for application forms or completed applications to the following address: Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service, P.O. Box 28006, Washington, D.C. 20005, Telephone: (202) 343–9242.

Dated: December 28, 1982.

P. Craig Potter,

Assistant Secretary for Fish and Wildlife and Parks

[FR Doc. 83–762 Filed 1–11–83; 8:45 am]

BILLING CODE 4310–55–M

Proposed Rules

Federal Register
Vol 48, No. 8
Wednesday, January 12, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 445]

Dry Creek Valley Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in Sonoma County, California, to be known as "Dry Creek Valley." This proposal is the result of a petition submitted by the Dry Creek Valley Association, Inc., a local grape/wine industry member group. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will permit wineries to better designate the specific grape-growing area where their wines come from and will enable consumers to better identify the wines they purchase.

DATE: Written comments must be received by February 11, 1983.

ADDRESSES: Send writen comments or requests for a public hearing to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385, (Attn: Notice No. 445).

Copies of the petition, the proposed regulations, maps with the boundaries of the proposed viticultural area marked, and any written comments will be available for public inspection during normal business hours at the: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4405, Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jim Whitley, Specialist, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. The revised regulations permit the establishment of definite viticultural areas and also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October, 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which amended Title 27, CFR, by adding a new Part 9 entitled "American Viticultural Areas." This part lists all approved American viticultural areas which may be used as appellations of origin on wine labels and in wine advertisements.

Section 4.25a(a)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on the features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Petition

ATF has received a petition proposing an area in north central Sonoma County, California, as a viticultural area. The proposed viticultural area is to be known as "Dry Creek Valley." The petition was submitted by the Dry Creek Valley Association, Inc., a local organization representing the interests of most grape/wine industry members in the area, and was signed by nine (9) members.

The proposed viticultural area is located northwest of the town of Healdsburg. A valley arm of the Russian River Valley and uplands immediately surrounding and to the west are encompassed. The proposed boundaries correspond, as much as possible, to the watershed of the area. The total area encompassed is approximately 80,000 acres or 125 square miles.

The inverted "U"-shaped valley arm extends southeasterly from just east of the Warm Springs Creek/Dry Creek confluence to the Dry Creek/Russian River confluence south of Healdsburg. From the northern beginning point, it gradually widens and eventually opens into a delta-like plain just east of Healdsburg. It is approximately 16 miles long and two (2) miles wide at the widest point. Dry Creek traverses the entire length of the valley arm. Approximately 20,500 acres or 32 square miles of the proposed viticultural area consists of the valley area.

The uplands surrounding the valley area are generally composed of rolling hills that range from 300 to 1,000 feet in elevation. These uplands surround the valley area on three sides. The upland area extending to the west of the valley area is composed primarily of fairly rugged small mountains that range from 1,000 to over 2,000 feet in elevation.

There are 21 bonded wineries in the proposed viticultural area. Also, six (6) wineries that are currently in the planning stage will probably locate in the proposed viticultural area in the near future. Currently, there are approximately 5,000 acres devoted to grape-growing. This acreage is situated primarily in the valley area. However, some vineyards have recently been developed in the upland areas. In addition, many more small upland areas capable of grape production may be developed into vineyards in the future.

The boundaries of the proposed viticultural area may be found on six (6) U.S.G.S. quadrangle (Topographic) maps, 7.5 minute series, scale 1:24,000, entitled—Geyserville, Jimtown, Healdsburg, Guerneville, Cazadero, an Warms Springs Dam (formerly Skaggs Springs). The specific boundaries

proposed are detailed in the regulation portion of this document at § 19.64(c).

Viticultural/Geographical Features

The petitioner contends the proposed viticultural area is distinguishable from the surrounding area on the basis of climate, soil, geology and other physiographical features. The petitioner submitted evidence on the following to support this claim.

(a) *Climate.* The proposed viticultural area possesses two distinct seats of climatic conditions. The valley area has an annual rainfall of 25–50 inches, temperature of 58–60 degrees F., and a frostfree season of 240–270 days. The upland area has an annual rainfall of 30–70 inches, temperature of 54–58 degrees F., and a frostfree season of 230–270 days. The main Russian River Valley area to the south has an annual rainfall or 25–40 inches temperature of 54–60 degrees F., and frostfree season of 240–260 days. The proposed viticultural area is generally wetter, warmer, and has a longer growing season than the main Russian River Valley area.

The petitioner submitted a temperature comparison study, prepared by the Cooperative Extension, University of California, Sonoma County. It indicates the valley area is warmer than the main Russian River Valley area and cooler than the area to the north as a result of the moderating effect of fog on temperature. The study indicates the breakpoint in Sonoma County for intrusion of fog of sufficient intensity to significantly affect temperatures is generally the area in the vicinity of Healdsburg. This area includes the southern portion of the proposed viticultural area.

In addition, under the climatic region concept developed by Amerine and Winkler, the proposed viticultural area is generally classified as Region 3 and the main Russian River Valley area is generally classified as Region 2. That is, the sum of the mean daily temperature above 50 degrees F., expressed in temperature-time values of degree days, for each day in the period April-October of any given year is generally 3,001–3,500 for the proposed viticultural area and 2,501–3,000 for the main Russian River Valley area.

To summarize, the petitioner contends the proposed viticultural area possesses a unique set of growing conditions which distinguish it from the surrounding area. In addition, the petitioner claims these conditions have a marked influence on the amount and distribution of heat and moisture received by grapes during the growing season. This, in turn, directly affects the development and balance of sugar, acid, and other constituents of grapes grown in the proposed viticultural area.

(b) *Geological Features.* The geomorphological characteristics of the proposed viticultural area generally correspond to distinguishable geological features which define a valley and an upland area.

The valley area is delineated on three sides by contact between geologically younger alluvial material with older indurated rock. These geological boundaries are generally continuous. However, there are gaps at the northern end of the valley where Dry Creek enters and along the eastern edge of the valley near the town of Geyserville. The valley area merges with the main Russian River Valley area near Healdsburg. Consequently, the southern boundary of the valley is less distinct and not as distinguishable as the other boundaries of the valley.

The alluvial material in the valley is composed of interbedded clay, sand and silt under the central floor; poorly stratified clay, silt and gravel near the edges which has formed alluvial fans; and poorly sorted clay, sand and gravel adjacent to and slightly above modern stream courses. The same type of alluvial material, distributed primarily in the same manner, is found in the adjacent Alexander Valley area. However, the two valleys are generally separated by an intervening area of uplands.

The upland areas are generally underlaid with indurated bedrock. This bedrock is part of the "Franciscan Formation" and is composed of graywacke, sandstone, chert, greenstone, pillow lava, shale, and serpentine. However, the upland area separating the valley area from the Alexander Valley area is composed of "Dry Creek Conglomerate." This consists of "Franciscan Formation" bedrock which has been sheared and ground by faulting action.

(c) *Soils.* The soils found in the valley area are distinct from the soils found on the surrounding uplands. This is due to the different parent material, i.e., alluvial in the valley and indurated rock in the uplands, from which the soils were formed. The soils found throughout the valley area are primarily of the Yolo-Cortina-Pleasanton association. The soils in the upland areas are of the Hugo-Josephine-Laughlin association west and north of the valley, Spreckels-Felta association southeast of the valley, and Los Gatos-Henneke-Maymen association northeast of the valley. The contrast in soils allows an easy distinction between the valley and upland areas. In addition, the upland soils generally distinguish the valley area from adjacent viticultural areas.

(d) *Watershed.* The proposed viticultural area is served by Dry Creek, a major Russian River tributary. The proposed boundaries correspond, as much as possible, with the boundaries of the Dry Creek drainage basin. As a result, all of the valley area drained by Dry Creek and a large upland area drained by tributaries of Dry Creek are encompassed. The petitioner contends the proposed viticultural area encompasses an area which is geographically associated and distinguishable from the surrounding area on the basis of watershed criteria.

Evidence Relating to Name and Boundaries

The petitioner claims the viticultural area proposed in the petition is locally and/or nationally known by the name "Dry Creek Valley" and the boundaries are as specified in the petition. The petitioner submitted historical or current evidence consisting of the following to support these claims.

(a) Excerpts from various 19th century and contemporary, local and national publications which refer to the "Dry Creek Valley" as a grape-growing and wine-producing area.

(b) Excerpts from articles by 19th century and contemporary authors which generally describe the valley area included in the proposed viticultural area.

(c) Statements concerning the use of watershed criteria as a basis for including the large upland area in the proposed viticultural area.

(d) A collection of labels used by local wineries on various wines which refer to "Dry Creek Valley" as being the source of the grapes from which the wines were made.

(e) Statements concerning consumer recognition of the name "Dry Creek Valley" as applying to the proposed viticultural area.

Discussion

ATF feels the evidence submitted by the petitioner indicates establishment of "Dry Creek Valley" as a viticultural area may be warranted. Accordingly, the establishment of this grape-growing region as a viticultural area is proposed in this document.

However, we are not entirely convinced the boundary proposed is the most appropriate for the viticultural area. The petitioner states watershed criteria was used as a basis for the boundary since the area encompassed is geographically associated, well defined, and commonly understood. Furthermore,

vineyards recently developed in upland areas and areas suitable for future development as vineyards are encompassed by the boundary. Notwithstanding this, we feel the boundary may be inappropriate since a relatively high proportion of the upland area encompassed is either viticulturally unsuitable or currently used for purposes other than viticulture. On the other hand, we recognize the viticulturally suitable areas encompassed are widely dispersed and may preclude the use of alternative boundaries which vary significantly from that proposed. Nevertheless, other boundaries may be more appropriate. Accordingly, consideration will be given to other possible boundaries.

Public Participation

All interested persons are invited to participate in this proposed rulemaking by submitting written comments. Comments should be specific, pertain to the issue proposed in this rulemaking, and provide the factual basis supporting the data, views, or recommendations presented. Comments received before the closing date will be carefully considered prior to a final decision by ATF on this proposal. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

We are particularly interested in receiving comments which provide historical or current evidence as to whether the viticultural area boundaries are as specified in the petition. In addition, comments are invited on alternative boundaries. These comments should include data on the geographical and viticultural characteristics which distinguish the area encompassed from the surrounding area.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure. All materials and comments received will be available for public inspection during normal business hours.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request, in writing, to the Director, within the comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, reserves the right to determine, in the light of all circumstances, whether a public hearing should be held.

ATF reserves the option to determine, on the basis of written comments, our own research, and in the light of any other circumstances, whether this viticultural area should be established. In addition, ATF may modify, through the rulemaking process, the viticultural area which may be established as a result of this proposed rulemaking when in the judgment of the Director such action is determined to be warranted.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not expected to apply to this proposed rule because the proposal, if promulgated as a final rule, is not expected to have a significant economic impact on a substantial number of small entities. Since the benefits to be derived from using a new viticultural area appellation of origin are intangible, ATF cannot conclusively determine what the economic impact will be on the affected small entities in the area. However, from the information we currently have available on the proposed Dry Creek Valley viticultural area, ATF does not feel that the use of this appellation of origin will have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this proposal is not a major rule since it will not result in:

(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.

Drafting Information

The principal author of this document is Jim Whitley, Specialist, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, personnel of other offices of the Bureau and of the Treasury Department have participated in the preparation of this document, both in matters of substance and style.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Authority

Accordingly, under the authority in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.64. As amended, the table of sections reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.64 Dry Creek Valley.

Par. 2. Subpart C is amended by adding § 9.64 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.64 Dry Creek Valley.

(a) *Name.* The name of the viticultural area described in this section is "Dry Creek Valley."

(b) *Approved maps.* The appropriate maps for determing the boundaries of the Dry Creek Valley viticultural area are six U.S.G.S. topographic maps. They are—

(1) "Geyserville Quadrangle, California—Sonoma County," 7.5 minute series, 1955 (Photorevised 1975);

(2) "Jimtown Quadrangle, California—Sonoma County," 7.5 minute series, 1955 (Photorevised 1975);

(3) "Healdsburg Quadrangle, California—Sonoma County," 7.5 minute series, 1955 (Photorevised 1980);

(4) "Guerneville Quadrangle, California—Sonoma County," 7.5 minute series, 1955;

(5) "Cazadero Quadrangle, California—Sonoma County," 7.5 minute series, 1978; and

(6) "Warm Springs Dam Quadrangle, (formerly 'Skaggs Springs Quadrangle'), California—Sonoma County," 7.5 minute series, 1978.

(c) *Boundaries.* The Dry Creek Valley viticultural area is located in north central Sonoma County, California. From the beginning point lying at the intersection of latitude line 38 degrees 45 minutes and the east line of Section 4, Township 10 North (T. 10 N.), Range 10 West (R. 10 W.) on the "Geyserville Quadrangle" map, the boundary runs—

(1) Southeasterly in a straight line to the northeast corner of Section 9, T. 10 N., R. 10 W;

(2) Then southerly along the east line of Section 9 to the southeast corner thereof;

(3) Then S. 74 degrees, E. 2,800 feet in a straight line to the northeasterly tip of a small lake;

(4) Then N. 57 degrees, E. 2,300 feet in a straight line to the southeast corner of Section 10, T. 10 N., R. 10 W;

(5) Then S. 16 degrees, E. 1,800 feet in a straight line to the point on a peak identified as having an elevation of 664 feet;

(6) Then S. 55 degrees, E. 7,900 feet in a straight line to the most northerly point on the northeasterly line of "Olive Hill" cemetery lying on the easterly side of Canyon Road;

(7) Then southeasterly along the northeasterly line of "Olive Hill" cemetery to the most easterly point thereon;

(8) Then S. 2 degrees, E. 3,100 feet in a straight line to the point in the westerly fork of Wood Creek lying at the westerly terminus of a dirt road;

(9) Then southerly 3,100 feet along the west fork or Wood Creek to the point lying 400 feet north of the point on a peak identified as having an elevation of 781 feet;

(10) Then southerly 400 feet in a straight line to the point on a peak identified as having an elevation of 781 feet;

(11) Then S. 50½ degrees, E. 15,500 feet in a straight line to the point lying at the intersection of Lytton Creek and the township line common to T. 9 N. and T. 10 N. in R. 9 W.;

(12) Then southerly along Lytton creek to Lytton Springs Road in T. 9. N., R. 9 W. on the "Jimtown Quadrangle" map;

(13) Then easterly along Lytton Springs Road to the point of intersection with U.S. Highway 101 (a.k.a. Redwood Highway);

(14) Then southerly along U.S. Highway 101 to the point of interesction with an unnamed light duty road (known locally as Chiquita Road) on the "Geyserville Quadrangle" map;

(15) Then easterly along the unnamed light duty road to the point of intersection with an unnamed heavy duty road (known locally as Healdsburg Avenue) on the "Jimtown Quadrangle map";

(16) Then southerly along the unnamed heavy duty road through the town of Healdsburg to the centerline of the Russian River on the "Healdsburg Quadrangle" map;

(17) Then southerly along the centerline of the Russian River to the confluence of Dry Creek;

(18) Then west-southwesterly in straight line to an unnamed light duty road (known locally as Foreman Lane);

(19) Then westerly along the unnamed light duty road, crossing West Dry Creek Road and passing Felta School, to the point of intersection with Felta Creek on the "Guerneville Quadrangle" map;

(20) Then southwesterly 18,000 feet along Felta Creek to the point lying at the intersection of three springs in T. 8 N., R. 10 W., approximately 300 feet east from the word "Springs";

(21) Then S. 58 degrees, W. 15,000 feet in a straight line to the southwest corner of Section 9, T. 8 N., R. 10 W;

(22) Then northerly along the west line of Sections 9 and 4, T. 8 N., R. 10 W., continuing along the west line of Section 33, T. 9 N., R. 10 W. to the northwest corner thereof;

(23) Then westerly along the south line of Sections 29 and 30, T. 9 N., R. 10 W. to the southwest corner of Section 30 on the "Cazadero Quadrangle" map;

(24) Then northerly along the south line of Section 13, T. 9 N., R. 11 W. to the northwest corner of Section 19;

(25) Then westerly along the south line of Section 13, T. 9 N., R. 11 W. to the southwest corner thereof;

(26) Then southwesterly 14,200 feet in a straight line to the northeast corner of Section 20, T. 9 N., R. 11 W;

(27) Then westerly along the north line of Section 20 to the northwest corner thereof;

(28) Then northerly along the east line of Sections 18, 7, and 6, T. 9 N., R. 11 W., continuing along the east line of Sections 31, 30, 19, 18, 7, and 6, T. 10 N., R. 11 W. to the point of intersection with latitude line 38 degrees 45 minutes on the "Warm Springs Dam Quadrangle" map; and

(29) Then easterly along latitude line 38 degrees 45 minutes to the point of beginning.

Signed: December 6, 1982.

W. T. Drake,

Acting Director.

Approved: December 20, 1982.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-670 Filed 1-11-83; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[Notice No. 446]

Willow Creek Viticultural Area

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes the establishment of a viticultural area in portions of Humboldt and Trinity Counties, California, to be known as "Willow Creek." This petition was submitted by the Willow Creek Viticultural Area Committee under the signature of Mr. Dean Williams of Willow Creek Winery.

ATF believes the establishment of American viticultural areas and their subsequent use as appellations of origin allows wineries to better designate the specific grape-growing areas where their wines come from and allows consumers to better identify the wines they purchase.

DATE: Comments must be received on or before February 11, 1983.

ADDRESS: Comments should be addressed to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 (Notice No. 446).

FOR FURTHER INFORMATION CONTACT: Roger L. Bowling, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20266 (202) 566-7626.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising the wine regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas, and allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertising.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) adding a new Part 9 to 27 CFR for the listing of approved American viticultural areas.

27 CFR 9.11 defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. 27 CFR 4.25a(e)(2) outlines the procedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed area is locally and/or nationally known as referring to the area specified in the petition.

(b) Historical or current evidence that the boundaries of the proposed area are as delineated in the petition.

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.),

which distinguish the viticultural features of the proposed area from the surrounding areas.

(d) A description of the proposed boundaries of the proposed viticultural area, based on features found on United States Geographical Survey (U.S.G.S.) maps of the largest applicable scale.

(e) A copy of the appropriate U.S.G.C. maps with the proposed boundaries prominently marked.

Petition for Willow Creek

The petition for the establishment of the "Willow Creek" viticultural area was filed by the Willow Creek Viticultural Area Committee. ATF believes the petition contains sufficient evidence to warrant a notice proposing the establishment of "Willow Creek" as a viticultural area.

Evidence Relating to the Name

"Willow Creek" was first named in 1851 by miners and pack train drivers traveling from towns along the coast to the interior valleys. The name was given to this area because of the heavy growth of willows at the confluence of the creek, now named Willow Creek, and the Trinity River. Other miners in 1852 named the area "China Flat" because of the heavy Chinese influence in the area. The name "China Flat" remained until 1912 when it was discovered that another area was called China Flat in the mother lode area. The name then reverted to Willow Creek in honor of the pack train drivers and miners.

Presently, there is a town named "Willow Creek" located within the proposed boundaries of the area. Further, the U.S.G.S. map on which the boundaries are marked is entitled "Willow Creek Quadrangle."

Historical and Current Evidence

The petition states that the Willow Creek area has long been known as a small geographic agricultural area. This area is located approximately 31 miles inland from the Pacific Ocean at the confluence of the Trinity River and the south fork of the Trinity River.

The main crops of the area are peaches, apples and tomatoes, widely sought after by Humboldt County residents. In the 1920's, the Gambi family brought grape vines from Santa Cruz, mostly muscats, and proceeded to make wine from these early vines. Other families in the area followed this example, and in the 1930's approximately 150 acres of peaches, apples, and grapes were in production.

In 1974, the first commercial vineyard was planted. Today, there are five such vineyards comprising a total of approximately 30 acres in grapes. The predominant varieties grown are Cabernet, Riesling, Gewurztraminer, Chardonnay, Zinfandel, and Merlot. Prior to 1976, there was one winery in Humboldt County. Due to the availability of locally grown grapes, there are now four wineries. Two of these four wineries, Fieldbrook Winery and Willow Creek Vineyards, use the term "Willow Creek" in conjunction with the varietal designation on labels of wines produced from this area. Further, all of the growers in the area are members of the petition committee. Although the other two wineries did not sign the petition submitted for the establishment of this area, the petitioner stated that they are not opposed to the petition.

Geographical Characteristics

The proposed area is influenced primarily by two major forces; the proximity to the Pacific Ocean, 31 miles inland, and the warmer climate of the Sacramento Valley approximately 100 miles eastward. These influences create easterly winds keeping the Willow Creek area fairly cool in the summer, while only infrequent freezes occur in the winter. The average high and low temperatures are moderate at 82.85 degrees and 47.04 degrees during the growing months of April through October. These figures are based on data collected during the past five growing seasons.

One reference book, The Sunset New Western Garden Book, pp. 8–35, compares the proposed area, microclimatically, to other grape-growing regions in California; St. Helena and Napa in Napa County; Healdsburg and Cloverdale in Sonoma County; and Hopland and Ukiah in Mendocino County. This reference also describes the climate as being moderated by the effect of marine air on inland areas which makes for warmer winter and cooler summer temperatures.

The proposed area's heat degree days average 3005.62, based on climatic data gathered during the last three years. These heat units correspond to the top range of an Area II and the bottom range of an Area III. Rainfall, based on data gathered during the last 38 years, averages 39.9 inches per year.

The soil composition of the proposed area is primarily Quarternary terrace gravels, which provide excellent drainage for the vineyards. The vineyards of the area are situated on plateaus and benches at elevations varying from 461 feet to 1,500 feet.

Generally, the proposed area is situated in and around the confluence of the Trinity River and the South Fork of the Trinity River, approximately 31 miles inland from the Pacific Ocean. The area surrounding the proposed area is mountainous, at times rising sharply to high elevations. The area is approximately 7½ miles in length and 3¾ miles at its widest point. The area encompasses approximately 16 square miles, or slightly more than 10,000 acres.

Proposed Boundaries

The proposed boundaries are found on a 15 minute series U.S.G.S. map entitled "Willow Creek Quadrangle." The boundary begins at the point where Kirkham Creek crosses Highway 96; then in a straight line east to the point where Coon Creek intersects the 800-foot contour line; then to the fork of Bremer Creek at the 700-foot contour line; then in a straight line to where the 1,500-foot contour line intersects the county lines; then along the 1,500-foot contour line to where it intersects the unnamed branch of Sharber Creek in section 2, T.6.N./R.5E.; then in a straight line southeasterly to where the 1,500-foot contour line intersects the east section line of section 12, T.6N./R.5E.; then in a southerly direction along the section lines to where the 1,500-foot contour line intersects the east section line of section 24, T.5N./R.5E.; then in a straight line southwesterly to the 1,500-foot contour line intersecting the section line between sections 27, T.5N./R.5E. and section 28, T.5N./R.4E.; then in a straight line northwesterly to where the 1,500-foot contour line crosses China Creek in section 5, T.6N./R.5E.; then in a straight line northwesterly to where Boise Creek crosses Highway 299; then in a straight line to the fork of Kirkham Creek; then along Kirkham Creek to the point of beginning.

Public Participation

ATF requests comments from all interested persons. Comments are requested on whether the proposed area is viticulturally distinct from the surrounding area, whether the proposed boundary delineates a specific grape-growing area, and whether the delineated area is historically and currently known as "Willow Creek." ATF also welcomes any additional data and information concerning the proposed area, particularly on geographical features that distinguish the area from surrounding areas.

All comments received on or before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future action.

ATF will not recognize any material as confidential. Comments may be

disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure should not be included in the comment. The name of the person submitting the comment is not exempt from disclosure.

Any person may request an opportunity to present oral testimony at a public hearing. However, the Director reserves the right, in light of all circumstances, to determine if a public hearing is necessary.

Disclosure

Copies of the petition, the map, this notice, and all comments are available for public inspection during normal business hours at: Office of Public Affairs and Disclosure, Room 4405, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this notice of proposed rulemaking, if promulgated as a final rule, will not be a "major rule" since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) Major increases in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographical regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to: have significant secondary or incidental effects on a substantial number of small entities; or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is certified under the provisions of 5 U.S.C. 604(b) of the Regulatory Flexibility Act that this notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document is Roger L. Bowling, Research and Regulations Branch.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural area, Wine.

Authority and Issuance

Accordingly, under the authority contained in section 5 of the Federal Alcohol Administration Act, 49 Stat. 981, as amended; 27 U.S.C. 205, 27 C.F.R. Part 9 is proposed to be amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections for Subpart C is amended to add § 9.85 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.85 Willow Creek.

Par. 2. Subpart C is amended to add a new section, § 9.85 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.85 Willow Creek.

(a) *Name.* The name of the viticultural area described in this section is "Willow Creek."

(b) *Approved map.* The map showing the boundary of the Willow Creek viticultural area is: "Willow Creek Quandrangle," California, U.S.G.S. 15 minute series (1952).

(c) *Boundaries.* The Willow Creek viticultural area is located within portions of Humboldt and Trinity Counties, California. From the point of beginning where Kirkham Creek and the undesignated highway (Highway 96) intersect, the boundary line runs, in a straight easterly line to:

(1) The point of intersection of Coon Creek and the 800-foot contour line;

(2) Then in a straight southerly line to the fork of Bremer Creek near the 700-foot contour line;

(3) Then in a south-southwesterly straight line to the point of intersection of the Humboldt-Trinity County line and the 1,500-foot contour line;

(4) Then following the 1,500-foot contour line, beginning in a southeasterly direction, to the point where the 1,500-foot contour line intersects with the unnamed branch of Sharber Creek in section 2, T.6N./R.5E.;

(5) Then in a southeasterly straight line to the point of intersection of the east section line of section 12, T.6N./R.5E. and the 1,500-foot contour line;

(6) Then in a southerly direction along the east section lines of sections 12 and 13 to the point of intersection of the east section line of section 24, T.5N./R.5E. and the 1,500-foot contour line;

(7) Then in a straight west-southwesterly line to the point of intersection of the east line of section 21, T.5N./R.4E., the north section line of section 28, T.5N./R.4E., the north section line of section 27, T.5N./R.5E., and the west section line of section 22, T.5N./R.5E.;

(8) Then in a straight northwesterly line to the point of intersection of China Creek in the 1,500-foot contour line in section 5, T.6N./R.4E.;

(9) Then in a straight northwesterly line to the point of intersection of Boise Creek and Highway 299 in the southern half of section 30, T.6N./R.4E.;

(10) Then in a straight northerly line to the fork of Kirkham Creek; and

(11) Then along Kirkham Creek, beginning in a southeasterly direction, to the point of beginning.

Signed: November 30, 1982.

Stephen E. Higgins,

Acting Director.

Approved: December 16, 1982.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-675 Filed 1-11-83; 8:45 am]

BILLING CODE 4810-31-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 2E2682/P262; PH-FRL 2282-1]

Chlorpyrifos; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for the combined residues of the insecticide chlorpyrifos and its metabolite in or on the raw agricultural commodity cranberries. The proposed regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was submitted, pursuant to a petition, by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before February 11, 1983.

ADDRESS: Written comments to: Emergency Response Section, Process

Coordination Branch, Registration Division (TS–767C), Environmental Protection Agency, Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703–557–1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 2E2682 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Massachusetts, New Jersey, and Washington.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the insecticide chlorpyrifos (*O-O*-diethyl-*O*-(3,5,6-trichloro-2-pyridyl)phosphorothioate) and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodity cranberries at 1.0 ppm.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance were a 2-year rat feeding study with a red blood cell (RBC) cholinesterase (ChE) no-observed-effect level (NOEL) of 0.1 milligram (mg)/kilogram (kg)/day, a systemic NOEL of 3.0 mg/kg/day, (highest dose tested) and no observed oncogenicity; a 2-year dog feeding study with an RBC ChE NOEL of 0.1 mg/kg/day and systemic NOEL of 3.0 mg/kg/day (highest dose tested); a 2-year mouse oncogenicity study with no observed oncogenicity at 15 ppm (highest dose tested); a 3-generation rat reproduction study with a NOEL for reproductive effects at 1.0 mg/kg/day (highest dose tested); an acute delayed neurotoxicity (hen) study which was negative for neurotoxic potential at 100 mg/kg; and a mouse teratogenicity study with no observed teratogenic effects up to 25 mg/kg/day (highest dose tested).

The acceptable daily intake (ADI), based on the 2-year rat feeding study (RBC ChE NOEL of 0.1 mg/kg/day) and using a 10-fold safety factor, is calculated to be 0.01 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60/kg human is calculated to be 0.6 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 0.5326 mg/day; the current action will increase the TMRC by 0.00045 mg/day (0.08 percent). Published tolerances utilize 88.76 percent of the ADI; the current action will utilize an additional 0.08 percent.

The nature of the residues is adequately understood and an adequate analytical method, gas-liquid chromatography, is available for enforcement purposes. Since there are no animal feed items involved, there will be no secondary residues in meat, milk, poultry, or eggs. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.342 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 2E2682/P262]. All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

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

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

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: December 29, 1982.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.342 be amended by adding and alphabetically inserting the raw agricultural commodity cranberries to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * *	*
Cranberries	1.0
* * * *	*

[FR Doc. 83–612 Filed 1–11–83; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

42 CFR Part 37

Specifications for Medical Examinations of Underground Coal Miners

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control, PHS, HHS.

ACTION: Proposed rule.

SUMMARY: NIOSH proposes to adopt the 1980 revision of the International Labor Office (ILO) system for classifying radiographs (X-rays) of the pneumoconioses. The 1980 system has now become the recognized international standard for classifying this type of disease. Adoption of the revised classification system will enable X-ray readers in the Department's medical surveillance program for underground coal miners to classify miners' chest X-rays more accurately in accord with the latest standards.

DATE: Comments on the proposed rule must be received on or before February 11, 1983.

ADDRESSES: Comments should be mailed or delivered to: Mary L. Flint,

Regulations Specialist, NIOSH, 5600 Fishers Lane (Rm. 8–11), Rockville, MD 20857—Phone: (301) 443–3745.

FOR FURTHER INFORMATION CONTACT: Ms. Mitzie Martin, Chief, Receiving Center Section, Examinations Processing Branch, Division of Respiratory Disease Studies, NIOSH, 944 Chestnut Ridge Rd., Morgantown, WV 26505. Phone: (304) 291–4301 or FTS 923–4301.

SUPPLEMENTARY INFORMATION: NIOSH administers an X-ray surveillance program for coal miners as mandated by the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801). This program has been conducted since 1970 under the provisions of the Federal Coal Mine Health and Safety Act of 1969 which was amended by the 1977 Act. Section 203 of the Act directs that operators of underground coal mines shall cooperate with the Secretary of Health and Human Services to provide miners with an opportunity for periodic X-ray examinations at intervals not to exceed 5 years. All X-ray examinations are to be made, submitted, and interpreted according to specifications developed by the Secretary of HHS. Underground miners who, based upon their chest X-rays, show evidence of the development of pneumoconiosis are afforded the option of transferring to a less dusty area of the mine, with no reduction in pay, for such periods as may be necessary to prevent further development of the disease.

The current regulations for administering this program (42 CFR Part 37) provide for the use of the ILO-U/C system for classifying pneumoconioses which was devised in 1971 by an international committee of the International Labor Office. Several years ago, another ILO international committee of experts undertook the task of revising the classification system. In 1980 the system was revised by the committee as a result of its deliberations and tests of reliability and validity. The revised system retained the basic classification system, clarified ambiguities in the 1971 system, extended the classification of abnormalities of the lining of the lung, and provided improved standard radiographs based on extensive international reading trials. Updated standard radiographs have been produced using new radiographic photocopying methods. The 1980 revised system has now become the recognized international standard for classifying the pneumoconioses, replacing the 1971 classification system. It has been adopted by the Department of Labor in its compensation program for Black Lung Disease (20 CFR Part 718).

Because the 1980 classification system does not change the procedure and categorization process for the profusion of small or large opacities of the lung, the area that is of most concern to the X-ray surveillance program for coal miners, adoption would not alter the number or proportion of miners who would otherwise receive transfer rights to less dusty areas in the mines.

The Department of Health and Human Services has determined that this proposed rule will not significantly impact on a substantial number of small entities and, therefore, does not require preparation of a regulatory flexibility analysis under the Regulatory Flexibility Act, Pub. L. 96–354.

The Department also has determined that this proposal is not a "major rule" under Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more, result in significant adverse effects in competition, nor otherwise meet the thresholds established in the Executive Order. Therefore, preparation of a regulatory impact analysis is not required.

The reporting and recordkeeping requirements in Part 37 have been reviewed and approved by the Office of Management and Budget (OMB Approval No. 0920–0020). This program is not subject to OMB Circular A–95 (revised) nor to Health Systems Agency review.

List of Subjects in 42 CFR Part 37

Health care, Lung diseases, Medical research, Mine safety and health, Miners, X-rays.

For the reasons stated in the preamble, it is proposed to amend Part 37 of Title 42, Code of Federal Regulations, as set forth below:

Date: October 15, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: December 16, 1982.

Richard S. Schweiker,

Secretary.

PART 37—[AMENDED]

42 CFR Part 37 is amended as follows:

1. The authority citation for Part 37 reads as follows:

Authority: Sec. 203, 83 Stat. 763; 30 U.S.C. 843.

2. In the Table of Contents, the title of § 37.51 is revised to read as follows:

Sec.

* * * * *

37.51 Proficiency in the use of systems for classifying the pneumoconioses.

* * * * *

3. In § 37.2, paragraph (f) is revised to read as follows:

§ 37.2 Definitions.

* * * * *

(f) "ILO–U/C Classification" means the classification of radiographs of the pneumoconioses devised in 1971 by an international committee of the International Labor Office and described in "Medical Radiography and Photography," volume 48, No. 3, December 1972. "ILO Classification" means the classification of radiographs of the pneumoconioses revised in 1980 by an international committee of the International Labor Office and described in "Medical Radiography and Photography," volume 57, Nov. 1, 1981.

* * * * *

4. In § 37.3, paragraph (b)(3) is revised to read as follows:

§ 37.3 Chest roentgenograms required for miners.

* * * * *

(b) * * *

(3) A third chest roentgenogram 2 years following the second chest roentgenogram if the miner is still engaged in underground coal mining and if the second roentgenogram shows evidence of category 1, category 2, category 3 simple pneumoconiosis, or complicated pneumoconiosis (ILO Classification).

* * * * *

5. In § 37.7, paragraph (a) is revised to read as follows:

§ 37.7 Transfer of affected miner to less dusty area.

(a) Any miner who, in the judgment of the Secretary based upon the interpretation of one or more of the miner's chest roentgenograms, shows category 1 (1/0, 1/1, 1/2), category 2 (2/1, 2/2, 2/3), or category 3 (3/2, 3/3, 3/4) simple pneumoconiosis, or complicated pneumoconiosis (ILO Classification) shall be afforded the option of transferring from his or her position to another position in an area of the mine where the concentration of respirable dust in the mine atomsphere is not more than 1.0 mg/m^3 of air, or if such level is not attainable in the mine, to a position in the mine where the concentration of respirable dust is the lowest attainable below 2.0 mg/m^3 of air.

* * * * *

6. Section 37.50 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 37.50 Interpreting and classifying chest roentgenograms.

(a) Chest roentgenograms shall be interpreted and classified in accordance with the ILO Classification system and recorded on a Roentgenographic Interpretation Form (Form CDC/NIOSH (M)2.8).

(b) Roentgenograms shall be interpreted and classified only by a physician who regularly reads chest roentgenograms and who has demonstrated proficiency in classifying the pneumoconioses in accordance with § 37.51.

(c) All interpreters, whenever interpreting chest roentgenograms made under the Act, shall have immediately available for reference a complete set of the ILO International Classification of Radiographs for Pneumoconioses, 1980.

Note.—This set is available from the International Labor Office, 1750 New York Avenue, NW., Washington, D.C. 20006.

* * * * *

7. Section 37.51 is amended by revising the section title and paragraphs (a)(2), (a)(2) (ii), and (b)(2) to read as follows:

§ 37.51 Proficiency in the use of systems for classifying the pneumoconioses.

(a) * * *

(2) Physicians who desire to be "A" readers must demonstrate their proficiency in classifying the pneumoconioses.

(i) * * *

(ii) Satisfactory completion, since June 15, 1970, of a course approved by ALOSH on the ILO or ILO-U/C Classification systems or the UICC/Cincinnati classification system. As used in this subparagraph, "UICC/Cincinnati classification" means the classification of the pneumoconioses devised in 1968 by a Working Committee of the International Union Against Cancer.

(b)* * *

(2) Proficiency in evaluating chest roentgenograms for roentgenographic quality and in the use of the ILO Classification for interpreting chest roentgenograms for pneumoconiosis and other diseases shall be demonstrated by those physicians who desire to be "B" readers by taking and passing a specially designed proficiency examination given on behalf of or by ALOSH at a time and place specified by ALOSH. Each physician must bring a complete set of the ILO standard reference radiographs when taking the examination. Physicians who qualify under this provision need not be qualified under paragraph (a) of this section.

* * * * *

8. In § 37.52, paragraph (b) is revised to read as follows:

§ 37.52 Method of obtaining definitive interpretations.

* * * * *

(b) Two interpreters shall be considered to be in agreement when they both find either stage A, B, or C complicated pneumoconiosis, or their findings with regard to simple pneumoconiosis are both in the same major category, or are within one minor category (ILO Classification 12-point scale) of each other. The higher of the two interpretations shall be reported.

[FR Doc. 83-818 Filed 1-11-83; 8:45 am]
BILLING CODE 4160-19-M

Public Health Service

42 CFR Parts 51a, 51d, and 51f

Project Grants

AGENCY: Public Health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) revised Title V of the Social Security Act (Act) to establish the Maternal and Child Health Services Block Grant. Section 502(a) of the Act, as amended, provides that between 10 and 15 percent of the appropriation for Title V in each fiscal year shall be retained by the Secretary for the purpose of carrying out, through grants, special projects of regional and national signficance, maternal and child health research and training, genetic disease testing, counseling and information and hemophilia diagnostic and treatment centers. This document contains the Secretary's proposed rules for implementing this program of project grants.

DATE: Comments on the proposed rules must be received by February 11, 1983.

ADDRESS: Send comments on the proposal to: Director, Office of Policy Coordination, Bureau of Health Care Delivery and Assistance, 5600 Fishers Lane, Room 7A-20, Rockville, Maryland 20857.

All commenters received in timely response to this document will be considered and will be available for public inspection at the above address between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: James J. Corrigan, Associate Bureau Director for Legislation and Policy, Bureau of Health Care Delivery and Assistance, 5600 Fishers Lane, Room 7-05, Rockville, Maryland 20857 (301) 443-2380.

SUPPLEMENTARY INFORMATION:

As noted above, Pub. L. 97-35 revised Title V of the Act to establish the Maternal and Child Health Services Block Grants. Between 10 and 15 percent of the funds appropriated for Title V in each fiscal year are to be retained by the Secretary for the award of grants for the purposes specified above. These programs were previously supported under sections 503(2) and 504(2), 511 and 512 of the Act as in effect prior to the enactment of Pub. L. 97-35.

On June 25, 1982, the Secretary of Health and Human Services amended the regulations issued under the previous authorities to make them applicable to grants for the same purposes awarded under the new section 502(a) authority (47 FR 27824-27825). Those regulations were to be applicable until regulations governing projects to be funded under the new section 502(a) could be published.

The regulations contained herein propose to revise 42 CFR Parts 51a, 51d and 51f by eliminating repetitive and unnecessary provisions in the existing regulations and providing for a single regulation to govern the previously categorical authorities contained in the Maternal and Child Health (MCH) Services Federal Set-Aside program. The regulations as proposed impose fewer burdens on grantees and are less restrictive in scope. The proposed rules will allow grantees more flexibility in applying for and operating grants funded from the MCH Services Federal Set-Aside program.

It should be noted that, while not specifically referenced in the proposed rules, certain requirements in existing regulations apply to all grants awarded by the Department. These include, but are not limited to: nondiscrimination (45 CFR Parts 80, 84 and 90); and administration of grants (45 CFR Part 74). In addition, the provisions of section 1128A of the Act, "Civil Monetary Penalties" for cases of fraud and abuse, apply to grants made from the new section 502(a) authority.

Section 51a.4 of this proposed rule contains information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of these information collection requirements. Other organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official designated for this purpose whose name appears in this preamble, and to the Office of

Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3208), Washington, D.C. 20503, ATTN: Desk Officer for HHS.

The NPRM allows more flexibility and imposes fewer requirements on grantees; therefore, the Department has determined that this notice of proposed rulemaking does not require preparation of a Regulatory Flexibility Analysis under the Regulatory Flexibility Act, Pub. L. 96-354. The Department also has determined that this notice of proposed rulemaking is not a "major rule" under Executive Order 12291 and thus does not require a regulatory impact analysis.

List of the Subjects in 42 CFR Parts 51a, 51d and 51f [1]

Colleges and universities, Grant programs—Health, Infants and children, Maternal and child health, Blood diseases, Genetic diseases, Health care, Health facilities.

Dated: November 8, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Dated: November 23, 1982.

Richard S. Schweiker,

Secretary.

1. Part 51a of 42 CFR is added to read as follows:

PART 51a—GRANTS FOR MATERNAL AND CHILD HEALTH SERVICES FEDERAL SET-ASIDE PROGRAM

Sec.

51a.1 To whom do these regulations apply?
51a.2 Definitions.
51a.3 Who is eligible to apply for a grant?
51a.4 How is application made for a grant?
51a.5 What criteria will HHS use to decide which projects to fund?
51a.6 What confidentiality requirements must be met?

Authority: Section 1102 of the Social Security Act, 49 Stat. 647 (42 U.S.C. 1302); section 502(a) of the Social Security Act, 95 Stat. 819-20 (42 U.S.C. 702(a)).

§ 51a.1 To whom do these regulations apply?

The regulations of this part apply to grants under section 502(a) of the Social Security Act, as amended (42 U.S.C. 702(a)), for special projects of regional and national significance, maternal and child health or cripple children's research and training projects, genetic disease testing, counseling and information projects and comprehensive hemophilia diagnostic and treatment centers.

[1] The Public Health Service is providing this list in compliance with 1 CFR 18.20. That regulation requires agencies to include a list of index terms for each CFR part affected in Rules and Proposed Rules documents published in the Federal Register beginning April 1, 1982.

§ 51a.2 Definitions.

"Act" means the Social Security Act, as amended.

"Genetic diseases" means inherited disorders caused by the transmission of certain aberrant genes from one generation to another.

"Hemophilia" means a genetically transmitted bleeding disorder resulting from a deficiency of a plasma clotting factor.

"Institution of higher learning" means any college or university accredited by a regionalized body or bodies approved for such purpose by the Secretary of Education, and any teaching hospital which has higher learning among its purposes and functions and which has a formal affiliation with an accredited school of medicine and a full-time academic medical staff holding faculty status in such school of medicine.

"Secretary" means the Secretary of Health and Human Services or his designee.

§ 51a.3 Who is eligible to apply for a grant?

Any public or private entity is eligible to apply for a grant under this part, except that only public or nonprofit private institutions of higher learning may apply for training grants, and only public or nonprofit institutions of higher learning and public or private nonprofit agencies engaged in research relating to maternal and child health or crippled children's service programs may apply for a grant for research in maternal and child health services or crippled children's services.

§51a.4 How is application made for a grant?

An application for a grant under this part must be submitted to the Secretary at the time, and contain the information and assurances, required by the Secretary. The application must include a budget and narrative plan of the manner in which the project has met, or plans to meet, each of the requirements prescribed by the Secretary. The plan must describe the project in sufficient detail to identify clearly the nature, need, and specific objectives of, and methodology for carrying out, the project.

§ 51a.5 What criteria will HHS use to decide which projects to fund?

(a) The Secretary will determine the allocation of funds available under section 502(a) of the Act for each of the activities described in § 51a.1.

(b) Within the limit of funds determined by the secretary to be available for each of the activities described in § 51a.1, the Secretary may award grants under this part to applicants which will, in his judgment, best promote the purpose of Title V of the Social Security Act taking into account:

(1) The need for the services and the number of persons proposed to be served.

(2) The extent to which the project will contribute to the advancement of maternal and child health and crippled children's services.

(3) The extent to which rapid and effective use of grant funds will be made by the project.

(4) The extent to which the project will be integrated with the administration of the Maternal and Child Health Services Block grants and other block grants made to the appropriate State(s).

(5) The soundness of the project's management.

§ 51a.6 What confidentiality requirements must be met?

All information as to personal facts and circumstances obtained by the grantee's staff about recipients of services shall be held confidential, and shall not be disclosed without the individual's consent except as may be otherwise required by applicable law or as may be necessary to provide for medical audits by the Secretary with appropriate safeguards for confidentiality of patient records. Otherwise, information may be disclosed only in summary, statistical, or other form which does not identify particular individuals.

PARTS 51d AND 51f—[REMOVED]

2. Part 51d and Part 51f of Title 42, CFR, are removed.

[FR Doc. 83-825 Filed 1-11-83; 8:45 am]
BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2710

Sales—Federal Land Policy and Management Act; Intent To Propose Rulemaking

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to propose rulemaking.

SUMMARY: The Bureau of Land Management intends to propose amendments to its regulations regarding (1) methods for determining fair market value in sales of public lands, and (2)

procedures for payment of purchase price in public land sales. As part of the development process for the proposed rulemakings, the Bureau solicits public comment on the regulations proposed for amendment.

DATE: In order to be available for consideration in the proposed rulemaking process comments and suggestions must be received by the Bureau of Land Management by February 15, 1983.

ADDRESS: Comments and suggestions should be sent to: Director (140), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Ralph Conrad, (202) 343–8693

or

Henry Beauchamp, (202) 343–8693.

SUPPLEMENTARY INFORMATION: 1. Existing regulations at 43 CFR 2710.0–6 provide that sale of public lands shall be made at no less than fair market value using the principles set forth in the interagency publication, *Uniform Appraisal Standards for Federal Land Acquisition*, 1973. The Bureau of Land Management is soliciting public comments and suggestions for methods for valuation of public lands which would be an alternative to those methods outlined in the *Uniform Appraisal Standards for Federal Land Acquisitions*. The Bureau is particularly interested in receiving suggestions as to ways to facilitate the appraisal and sale process.

2. Existing regulations at 43 CFR 2711.3–1(d) provide that the full purchase price for public lands sold by the Bureau of Land Management be paid by the purchaser prior to expiration of 30 days from the date of the sale. The Bureau solicits comments and suggestions for alternative methods for payment of the purchase price for public lands, including suggestions for financing (including long-term financing).

List of Subjects in 43 CFR Part 2710

Administrative practice and procedure, Grazing, Public lands—Mineral resources, Public lands—Sale.

David G. Houston,

Acting Assistant Secretary of the Interior.

January 6, 1983.

[FR Doc. 83–760 Filed 1–11–83; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

50 CFR Parts 13, 17, and 21

Implementation of the Endangered Species Act Exemption for Certain Raptors; Raptor Propagation Permits; Federal Falconry Standards

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes documentation requirements which must be satisfied to exempt a raptor (bird of prey) listed as endangered or threatened under the Endangered Species Act of 1973 from the Act's prohibitions. Only raptors that were held in captivity or in a controlled environment on November 10, 1978, and their progeny qualify for this exemption. Also, a raptor propagation permit is proposed as an additional permit available under the Migratory Bird Treaty Act. Since 1972 the Service has authorized the propagation of raptors under a special purpose permit, but the new permit would allow raptor propagators and certain other persons to purchase, sell, or barter captive-bred raptors that are banded with a numbered seamless leg marker, including captive-bred "exempt" raptors, for scientific, educational, or falconry purposes. The Federal falconry standards would be amended to allow falconers to purchase, sell, or barter these captive-bred birds as well. Finally, Apprentice Class falconers would be authorized to possess captive-bred Harris' hawks. Together these actions should alleviate some of the human pressures on wild raptor populations, increase genetic diversity in captive populations, and encourage captive production of raptors for recreational, conservation, scientific, and breeding purposes.

DATE: Comments on this notice must be received by February 11, 1983.

ADDRESSES: Comments may be mailed to Director (LE), Fish and Wildlife Service, P.O. Box 28006, Washington, D.C. 20005, or delivered weekdays to the Division of Law Enforcement, Fish and Wildlife Service, 3rd Floor, 1375 K Street, N.W., Washington, D.C., between 7:45 a.m. and 4:15 p.m. Comments should bear the identifying notation REG 21–02–13. All materials received may be inspected weekdays during normal business hours at the Service's Division of Law Enforcement, 3rd Floor, 1375 K Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John T. Webb or William B. Zimmerman, Branch of Investigations, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, P.O. Box 28006, Washington, D.C. 20005, telephone: (202) 343–9242.

SUPPLEMENTARY INFORMATION:

Implementation of the Endangered Species Act Exemption for Certain Raptors

1. Legislative Background

The Endangered Species Act of 1973 (ESA) prohibits a number of activities involving species listed under the Act's provisions as endangered or threatened, unless an exception applies or a permit is granted. Included among the Act's prohibitions are those which make it unlawful to take, import or export, or sell in interstate or foreign commerce any endangered species. Two raptors (birds of prey), the Arctic peregrine falcon (*Falco peregrinus tundrius*) and the American peregrine falcon (*Falco peregrinus anâtum*), were listed as threatened with extinction (i.e., endangered) under the Endangered Species Conservation Act of 1969, a predecessor of the ESA, and remain listed as endangered under the ESA. The ESA's prohibitions are believed to have impeded the captive breeding of these raptors by responsible falconers, conservationists, and biologists.

During 1978 section 9 of the ESA (16 U.S.C. 1538), which contains the general prohibitions, was amended by Congress to address this problem. The raptor amendment provides:

> (2)(A) This section [Section 1538] shall not apply to—
>
> (i) Any raptor legally held in captivity or in a controlled environment on the effective date of the Endangered Species Act Amendments of 1978 [November 10, 1978]; or
>
> (ii) Any progeny of any raptor described in clause (i); until such time as any such raptor or progeny is intentionally returned to a wild state.
>
> (B) Any person holding any raptor or progeny described in subparagraph (A) must be able to demonstrate that the raptor or progeny does, in fact, qualify under the provisions of this paragraph, and shall maintain and submit to the Secretary, on request, such inventories, documentation, and records as the Secretary may by regulation require as being reasonably appropriate to carry out the purposes of this paragraph. Such requirements shall not unnecessarily duplicate the requirements of other rules and regulations promulgated by the Secretary. Pub. L. 95–632, 92 Stat. 3760 [16 U.S.C. 1538(b)(2)].

The raptor amendment, by its terms, exempts holders of qualifying raptors from the prohibitions of section 9 of the ESA, 16 U.S.C. 1538.

The legislative history of the raptor amendment indicates that its purpose was to:

Alleviate some of the human pressures on wild raptors, * * * increase genetic diversity in captive populations, and * * * further encourage captive production of raptors for conservation, recreation, scientific and breeding purposes. H. Conf. Rept. No. 95-1084 at 23 (95th Cong. 2nd Sess. 1978).

Congress intended that the raptor amendment facilitate the exchange of captive-bred raptors through the elimination of certain ESA permit requirements that were criticized before Congress by representatives of raptor breeders. These representatives argued that restrictions on the movement of raptors inhibited ready exchange among breeders, thereby reducing the ability to breed raptors. They also argued that certain ESA restrictions prevented the exercise of falconry with endangered raptors, thus reducing the incentive to breed them. *See* Sen. Hearings before the Subcommittee on Resource Protection of the Committee on Environment and Public Works, (1978), testimony of Frank Bond, at 28-30; testimony of Roger Thacker at 556-559, 671-682; House Hearings before a Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries on H.R. 10883 (1978), testimony of Richard Graham at 834-846.

2. Captive-breeding of Raptors in the U.S.

Professional and amateur aviculturists have successfully bred raptors in captivity for more than 100 years. This activity largely was limited to the breeding of smaller, common species resulting from accidental or opportunistic mating rather than scientific inquiry or deliberate efforts by aviculturists. There was little economic or scientific incentive to conduct this activity because falconers had almost unrestricted access to wild stocks, wildlife management agencies had little interest in nongame species, and propagation of large raptors was thought to be impractical.

By 1964, severe population declines of peregrine falcons, ospreys, and bald eagles had occurred in portions of the U.S. and in other industrialized countries. Field and laboratory studies strongly implicated organochlorine pesticides as the causative agent. In that year the Fish and Wildlife Service first established a colony of American kestrels at the Patuxent Wildlife Research Center for the purpose of determining the effects of DDT an dieldrin on the reproductive success of that species. This effort demonstrated that large numbers of kestrels could be produced in captivity with total production exceeding 1,000 falcons between 1965 and 1981. Concurrently, the falconry community became concerned over the future availability of peregrine falcons for falconry and in 1964 initiated a small number of privately-funded studies. By 1968 these studies resulted in the first production of captive-bred peregrine and prairie falcons in the U.S. Between 1965 and 1972, successful propagation techniques had been developed for at least 11 species of raptors. Techniques were also developed to maximize captive production through manipulation of photoperiods and clutches.

Since 1973, raptor propagation has emphasized the production of captive-bred peregrine falcons as a source of stock to restore or bolster wild populations. This became practical because of new propagation techniques and a ban on the use of DDT, known to be largely responsible for peregrine reproductive failtures in the U.S. The Peregrine Fund, a publicly-supported nonprofit organization, was the single most significant contributor to this effort having fledged 765 of the 947 peregrines produced in the U.S. between 1973 and 1981. Captive production of peregrine falcons, other large falcons, and Harris' hawks for falconry also increased markedly because of the limited availability of these species from the wild. At least 229 captive-bred peregrine falcons were fledged in the U.S. in 1981—a number believed greater than the annual production in the wild east of the Mississippi River before the widespread use of DDT in the 1940's.

Now falconry and captive propagation of raptors are inexorably intermeshed. Falconers and their associates have been solely responsible for the successful development of captive breeding techniques and production of large falcons and most other hunting species. This has been due primarily to their sustained motivation and technical skills. Irrespective of whether this motivation was directed to the production of hunting stock for falconry or to the restoration of wild populations, it has resulted in the development of management techniques and enhancement of wild populations for several high interest species.

3. Raptors Which Qualify for the Exemption Under the Raptor Amendment

The Service proposes to rely upon pre-existing documentation to determine a particular bird's qualifications. Since 1972 raptors have been protected under the Migratory Bird Treaty Act (MBTA), 16 U.S.C. 703-712. Possession of a live raptor is permitted only with a valid permit issued under 50 CFR Part 21, unless one of two exceptions applies: the raptor was lawfully acquired before the effective date of Federal protection under the MBTA (i.e., pre-act) or the person who possesses it is excepted from the permit requirements by 50 CFR 21.12(b). Each raptor held under permit must be banded, as well as identified in annual reports which a permittee must file. Therefore, the Service proposes to qualify only those endangered or threatened raptors which are both banded and identified in annual reports filed by the permittee as either in the permittee's possession on November 10, 1978, or as the progeny of a bird in captivity on that date. Any raptor intentionally returned to the wild is not eligible. As a result no additional paperwork would have to be submitted to the Service. The Service assumes that only persons holding raptors under permit will want the benefits of an exemption. If, however, this assumption is erroneous a procedure will be developed to qualify raptors which are lawfully held without a permit.

4. Sale of Exempt Raptors.

During Congressional deliberations on the raptor exemption, an amendment was offered in the House of Representatives to prohibit the sale of exempt raptors. It was rejected by opponents as "counterproductive." The intent of the exception, among others, was to promote private breeding of peregrine falcons, a costly venture.

The Service proposes to allow the sale of certain exempt raptors. Details of this proposal are discussed directly below under the topic of raptor propagation permits.

Raptor Propagation Permits

1. Background

The general prohibitions applicable to activities involving migratory birds are set forth in section 2 of the Migratory Bird Treaty Act (MBTA), 16 U.S.C. 703. These prohibitions include taking, possession and sale. Under section 3 of the Act (16 U.S.C. 704), however, the Secretary of the Interior is authorized to allow by regulation activities involving migratory birds, including taking, possession, export and sale, if consistent with the various migratory bird treaties. Thus, the general scheme of the MBTA is that all activities involving migratory birds are prohibited unless authorized by regulations.

This general scheme is reflected in regulations implementing the MBTA found at 50 CFR 21.11. Under these regulations it is unlawful to, *inter alia*, "take, possess, * * * [or] sell * * * any

migratory bird * * * except as may be permitted under the terms of a valid permit issued pursuant to the provisions of this part [50 CFR Part 21] * * * or as permitted by regulations in this part [50 CFR Part 21] or Part 20 (the hunting regulations)."

The regulations specifically applicable to raptors used for falconry purposes require a permit before any person may "take, transport, or possess raptors for falconry purposes." 50 CFR 21.28(b). "Falconry" is defined as "the sport of taking quarry by means of a trained raptor." 50 CFR 21.28(a). Thus, a falconry permit authorizes only the taking, transportation and possession of raptors for the purpose of taking quarry.

However, the Service has authorized the propagation of birds for falconry and other purposes under a special purpose permit. 50 CFR 21.27. The special purpose permit provides the Service with a framework for authorizing activities not covered by the standard form permits of 50 CFR Part 21. It specifies (1) the actions which may be permitted (i.e., take, salvage, otherwise acquire, transport and possess); (2) the purposes for which the actions may be carried out (i.e., any purpose not covered by a standard form permit of 50 CFR Part 21); and (3) the standard by which a permit application is to be evaluated (i.e., benefit to the migratory bird resource, important research reasons, humane, or other compelling reasons).

Raptor propgation is clearly within the scope of a special purpose permit. When regulations specifically addressing raptor activities were promulgated in 1976, it was stated that "raptor propagation can be authorized under a special purpose permit issued in accordance with 50 CFR 21.27." 41 FR 2237 (1976). The issuance criteria and standards for conduct of this activity are administered by the Service under policy guidelines established by the Director. In 1981, the Service issued 161 special purpose permits for raptor breeding which resulted in the production of 459 captive-bred young of 12 species.

Although the value of captive breeding has been widely accepted by many conservationists and scientists as a resource management tool, some persons oppose this activity because (1) it diverts effort and funding away from the primary resource need of protecting natural ecosystems, (2) behavioral and genetic aberrations acquired in captivity may be incomptible with enhancement of conspecifics in the wild, and (3) captive breeding may be viewed as a panacea leading to a ban on taking raptors from the wild for falconry or scientific purposes. These concerns largely are alleviated where wildlife agencies view captive breeding only as supplementing management of wild populations, and where propagators have made reasonable efforts to maintain the genetic variability of breeding stocks.

During a recent review of actions that might be permitted under § 21.27 a number of issues were raised about whether commercial activities could be allowed. This review determined that an action which involves the sale of raptors cannot be the subject of a special purpose permit. When promulgating the falconry regulations in 1976, the Service specifically noted in the preamble that the issue of whether or not to allow the sale of raptors would be addressed in the future:

> Currently, raptor propagation can be authorized under a special purpose permit issued in accordance with 50 CFR 21.27. However, in the near future new regulations will be proposed to cover captive-reared raptors and the question of the sale of such captive-reared raptors. 41 FR 2237 (1976).

Thus, the preamble to the falconry permit regulations clearly distinguished captive propagation, which is permitted under § 21.27, from the "question" of the sale of captive-bred birds.

In 1981, a number of raptor breeders holding special purpose permits to propagate raptors convened to address the issue of commercialization of captive-bred raptors. This group, now organized as the North American Raptor Breeders Association, believes that the legal sale of captive-bred raptors is crucial to the survival of raptor propagation. They have asked the Service to authorize commercial transactions with captive-bred raptors. As noted above, under section 704 of the MBTA the Secretary of the Interior is authorized to promulgate regulations which permit the sale of protected migratory birds. Regulations which authorize limited commercial activities between private persons currently exist only for certain migratory game birds.

The Legislative Chairman of the North American Breeders Association, Robert B. Berry, briefly summarized arguments for allowing the sale of captive-bred raptors in a letter to the Assistant Secretary for Fish and Wildlife and Parks dated November 11, 1981:

> Application of the free enterprise system to raptor propagation will provide positive benefits for both wild and domestic raptor populations and for the breeders themselves. The numbers of captive produced raptors will increase substantially, because breeders will have an incentive to maximize production. There is little incentive to achieve beyond one's personal needs and the needs of close friends under the current "giveaway" system. New entrants will be encouraged to enter the field heretofore unable or unwilling to commit sufficient resources to guarantee success. Increased availability of the rarer and often more desirable species will reduce recruitment pressure on wild raptor populations. The development of new raptor breeding techniques will be encouraged, ultimately increasing the supply of birds, thereby further reducing pressures on wild populations. And finally, as the supply of legally acquired captive bred birds is increased, the demand for black market birds will decrease along with the numbers of illegally taken and kept birds, reducing pressures on law enforcement personnel.

The Service believes that raptor propagation has been shown to benefit the migratory bird resource through production of captive-bred stock for restoration of endangered species, and as an ancillary source of raptors for falconry that reduces the demand for taking certain wild stocks. The Service wishes to encourage these activities by both permitting the sale of captive-bred raptors and implementing the raptor amendment under the ESA enacted by Congress.

Raptor propagation often requires an extraordinary expenditure of time and money. This is particularly true when propagating large falcons and eagles that require special handling and facilities, and do not attain sexual maturity until 3 or more years of age. Specially designed incubators, brooders, and related equipment are required to maximize production. At The Peregrine Fund, the cost of producing one peregrine to fledgling stage has ranged from $1,500 to $1,900 in recent years. The cost of producing other species has not been assessed, but probably is about the same for eagles, somewhat less for other falcons, and considerably less for most smaller raptors. The cost of attempting to produce even small numbers of raptors can place a severe economic burden on permittees with limited financial resources. The impact is largely felt by the 150 or more private breeders who are attempting to produce raptors for falconry.

The Service proposes to establish uniform standards for the conduct of raptor propagation under new regulations, 50 CFR 21.30, and to allow the sale, purchase and barter of captive-bred stocks among persons otherwise authorized to possess such species for scientific, educational or falconry purposes. The scope of the proposed action extends to all species of raptors (as now defined in 50 CFR 21.3) and their hybrids that are listed in 50 CFR 10.13, except bald and golden eagles. The Eagle Protection Act (16 U.S.C. 668-

668d) makes no provisions for the sale, purchase, barter, import, or export of bald or golden eagles for any purpose, nor the possession of bald eagles for falconry. Regulations governing these eagles are found in 50 CFR Part 22 and will not be addressed here.

2. The Service's Response to Possible Enforcement Problems

A review of the legislative history of the raptor exemption reveals Congressional concern with the problem of distinguishing captive-bred birds from birds taken from the wild:

"The Secretary may require the owners of all exempted raptors to keep records and required bands or other *permanent markings* [emphasis added] to distinguish them from wild birds. The records and inventories may be inspected by agents of the Secretary at reasonable times. These records, *permanent markers* [emphasis added] and inventory procedures should not unnecessarily duplicate those now required under the Migratory Bird Treaty Act for special purpose permits and falconer permits." H.R. Rep. No. 95-1625 (95th Cong. 2nd Sess. 1978).

The Federal raptor marker (i.e., band) the Service now uses to identify raptors held by propagators and falconers is an adjustable device that can be placed on raptors of any age. Because it is partially constructed of nylon, it wears out and breaks, and must be replaced. Although designed to be nonreuseable, it is not tamper-proof. When certain modifications are made, it may be reused. Although the present marker has proven acceptable for management of birds held for falconry and propagation, the Service opposes its use on raptors that may be sold, purchased, or bartered.

Under this proposal, a captive-bred raptor is eligible for sale, purchase, or barter only if a seamless leg marker is attached. A seamless leg marker is a one-piece metal ring that is placed on the leg of a young bird over its foot. As the bird's foot grows, the marker becomes fixed above the foot. The marker cannot be removed without damaging its one-piece construction or injuring the bird. The opening or diameter of the marker is small enough to prevent its use on older birds. As a result, a seamless marker serves as a tamper-proof means of permanently identifying captive-bred raptors. In conjunction with this proposal, the Service is developing a seamless marker in several sizes.

There are problems associated with the use of seamless markers, however, because of the proportionally greater foot size of some raptors, the need to disturb naturally breeding parts to attach the marker that could lead to loss of production and injury, and in some situations, incompatibility with falconry equipment. Considering these possible problems with seamless markers, the Service would not require one to be attached to each captive-bred raptor. The placement of a seamless marker on a bird would be voluntary. But only raptors on which a seamless marker is fixed could be sold, purchased, or bartered.

In addition to the marking requirement, the Service intends to require raptor propagators to maintain complete and accurate records of any raptor or raptor egg acquired, possessed, sold, exported, or otherwise disposed of, together with known ancestral lineage of stock by area of natal origin. All records would be available to the Service during reasonable hours for inspection and the permittee would have to retain them for 5 years for the date the permit is issued.

3. Protection of Natural Ecosystems

Concerns have been raised that captive-bred stocks may be genetically inferior to wild birds or that the release or loss of any stock outside its natural range could jeopardize populations in the wild. The genetic background of peregrine falcons intentionally released to the wild that are now established in the eastern United States include representatives of breeding populations from Chile and Spain as well as those from the Pacific Coast and arctic regions of North America. This demonstrates that where populations have become extirpated, other subspecies can readily adapt to new environments. Where viable breeding populations occur, the Service restricts intentional releases to those subspecies which are endemic to that region. Federal falconry standards prohibit the intentional release of any species not indigenous to that State without written authorization. The Service also prohibits the intentional release of any interspecific hybrid bird.

The Service has no evidence that any released or lost captive-bred raptors, including interspecific hybrids, have had any negative impact on conspecifics or other raptors in the wild. Under the proposed rule, the Service would continue to direct its actions to minimize any detrimental threat to natural ecosystems. The Service is also concerned that commercialization of interspecific hybrids may also result in reduced production of pure species. Therefore, the Service proposes to prohibit the sale of interspecific hybrids, but will continue to support the current policy of allowing hybridization where production would otherwise be lost.

4. Sale of Raptors for Export

The Service proposes to allow the sale of captive-bred raptors to foreign buyers authorized to possess such species for scientific, educational, or falconry purposes. Some people may oppose the overseas sale of captive-bred raptors on the basis that foreign demand for large falcons may increase domestic prices to a level beyond the reach of most U.S. falconers. Information available to the Service suggests that only gyrfalcons currently command prices in overseas markets far in excess of production costs. It is likely that as captive production increases, world prices will decline to near production costs, as has already occurred in Canada and West Germany for the more popular peregrine falcon. Some scientists may object to export of native species on the basis that natural ecosystems would be affected through accidental losses of exotic taxa. The Service has noted that falconers in other parts of the world traditionally have bought and sold exotic raptors without any known adverse impact on natural ecosystems.

Raptor propagators will be afforded the opportunity to recover operating expenses and may possibly earn a profit. Falconers who desire to obtain those species which are not locally available from the wild may find it less costly to purchase captive-bred ones. Public wildlife resource agencies may find it cheaper to purchase already produced raptors for release to the wild instead of contracting for propagation without assurance that production will occur. The Service has no evidence that the use of captive-bred raptors for falconry or for other purposes not involving their international release to the wild has had any detrimental effect on wild populations.

Although the sale of certain raptors would be authorized, the sale of raptors which are not marked with a yellow seamless marker would be treated by the Service as more than a mere permit violation. The seller would be subject to possible prosecution for a felony under the Migratory Bird Treaty Act [16 U.S.C. 707(b)]. The same penalties would also apply to the sale of any raptor taken from the wild.

Federal Falconry Standards

1. Exempt Raptors

The Federal falconry regulations now prohibit the possession of any raptor listed as an endangered species but provide for the possession of threatened species by Master Class falconers when specifically authorized under 50 CFR Part 17. To implement the ESA raptor

amendment the Service proposes to allow Master Class falconers to possess for falconry captive-bred raptors listed as threatened or endangered, provided that no listed species intentionally returned to the wild state may be taken or possessed under this permit. In addition, Master Class falconers would be authorized to possess any "exempt" threatened or endangered raptor.

The Service proposes that only Master Class permittees be given this authority on the basis that only the most experienced persons should possess those raptors. In 1981, there were 966 Master Class permittees in the U.S.—persons at least 23 years old with 7 years falconry experience.

2. Possession of Captive-Bred Harris' Hawks by Apprentice Class Falconers

Federal falconry regulations prohibit the possession of Harris' hawks by Apprentice Class falconers. The Washington Department of Game has requested that this regulation be amended to allow the use of captive-bred Harris' hawks by these permittees. The species is judged suitable for Apprentice Class falconers and the use of captive-bred stocks likely would not affect wild populations. The Service has considered this request and proposes to allow Apprentice Class falconers to possess captive-bred Harris' hawks and purchase those which are properly marked. The taking of this species from the wild by apprentices would continue to be prohibited.

Paperwork Reduction Act

The information collection requirement(s) contained in 50 CFR 21.30 will be submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3501 *et seq.* The collection of this information will not be required until it has been approved by the Office of Management and Budget.

Primary Authors

The primary authors of this proposal are John T. Webb and William B. Zimmerman, Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, D.C.

Determinations of Effects of Rules

The Department of the Interior has determined that this is not a major rule under Executive Order 12291. The Department has also certified that the rules will not have significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act. It is unlikely that more than 200 raptor propagators and 1,000 other permittees would be affected by the proposed action. Raptor propagators may be able to recover operating costs and earn a profit. The sale and purchase of raptors would be limited to live captive-bred raptors identified by a numbered, seamless marker provided or authorized by the Service. Commercial taking or sale of raptors from the wild would continue to be prohibited as would the sale of any captive-bred stocks not banded by a seamless marker. Properly identified captive-bred raptors may enter domestic and export markets. However, only those persons authorized by law to possess raptors for scientific, educational, or falconry purposes may acquire or dispose of these species. As discussed below, the provision to allow export and sale may result in higher prices for certain species. Falconers who desire to obtain those species which are not locally available from the wild may find it less costly to purchase captive-bred stocks. However, the foreign demand for large falcons may increase the domestic prices to a level beyond the reach of most U.S. falconers. If this occurs, it is likely to be of short-term duration owing to economic factors that should encourage further captive breeding and reduce the demand for such species. Public resource agencies may find it more cost effective to purchase raptors for release to the wild than to contract for propagation without assurance that production will occur. These determinations are discussed in more detail in a Determination of Effects which has been prepared by the Service. A copy of that document may be obtained by contacting one of the persons identified above under the caption, "**FOR FURTHER INFORMATION CONTACT.**"

National Environmental Policy Act

An environmental assessment has been prepared in conjunction with this proposal by the Service's Office of Migratory Bird Management. It is on file in the Division of Law Enforcement, 1375 K Street, NW., Suite 300, Washington, D.C., and may be examined during regular hours. Single copies are also available upon request by contacting one of the persons identified above under the caption "**FOR FURTHER INFORMATION CONTACT.**" This assessment forms the basis for the decision that this proposal is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

Comments From the Public and State Wildlife Agencies Invited

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Interested persons may submit written comments, suggestions, or objections, regarding the proposed rule to the location identified in the Address section at the beginning of this preamble.

Current falconry programs are joint State/Federal ventures. In addition to Federal permits, most raptor propagators also must meet State standards and obtain a State permit before conducting such activities. By statute, the majority of States prohibit the sale or purchanse of protected wildlife species. Most States, however, allow the sale of captive-bred wildlife under license or permit. For these reasons, the Service believes it is important that all State wildlife agencies comment specifically on that portion of this proposal relating to commercialization of captive-bred raptors.

List of Subjects

50 CFR Part 13

Administrative practice and procedure, Exports, Fish, Import, Penalties, Reporting requirements, Wildlife.

50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

50 CFR Part 21

Exports, Imports, Reporting requirements, Wildlife.

Proposed Regulation Promulgation

For the reasons set out in the preamble, Subchapter B, Chapter I of Title 50, Code of Federal Regulations is proposed to be amended as follows:

PART 13—GENERAL PERMIT PROCEDURES

1. The authority citation for Part 13 reads as follows:

Authority: 18 U.S.C. 42; sec. 4, Pub. L. 97–79, 95 Stat. 1074 (16 U.S.C. 3373); sec. 7, Pub. L. 97–79, 95 Stat. 1078 (16 U.S.C. 3376); sec. 3, Pub. L. 65–186, 40 Stat. 755 (16 U.S.C. 704); sec. 3(h)(3), Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712); sec. 2, 54 Stat. 251, as amended by sec. 9, Pub. L. 95–616, 92 Stat. 3114 (16 U.S.C. 668a); sec. 102, 76 Stat. 73 (19 U.S.C. 1202), "Schedule 1, Part 15D, Headnote 2(d), Tariff Schedules of the United States"; sec. 9(d), Pub. L. 93–205, 87 Stat. 893 (16 U.S.C. 1538(d)); sec. 6(a)(1), Pub. L. 96–159, 93 Stat.

1228 (16 U.S.C. 1537a); E.O. 11911, 41 FR 15683, 3 CFR, 1976 Comp., p. 112; sec. 10, Pub. L. 93–205, 87 Stat. 896, as amended by secs. 2 and 3, Pub. L. 94–359, 90 Stat. 3760; sec. 7, Pub. L. 96–359, 90 Stat. 911 and 912; sec. 5, Pub. L. 95–632, 92 Stat. 3760; sec. 7, Pub. L. 96–159, 93 Stat. 1230 (16 U.S.C. 1539); sec. 11, Pub. L. 93–205, 87 Stat. 897, as amended by sec. 6(4), Pub. L. 95–632, 92 Stat. 3761 (16 U.S.C. 1540(b)(2)(f)); sec. 13(d), 86 Stat. 905, amending 85 Stat. 480 (16 U.S.C. 742j-1); Title I, sec. 112, Pub. L. 92–522, Stat. 1042, as amended by Title II, sec. 201(e), Pub. L. 96–470, 94 Stat. 2241 (16 U.S.C. 1382); 65 Stat. 290 [31 U.S.C. 483)(a)].

2. Amend § 13.12(b) by adding the following entry in numerical order under "Migratory bird permits:"

§ 13.12 Information requirements on permit applications.

* * * * *

(b) * * *

"Raptor propagation permit..... .21.30"

* * * * *

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

3. The authority citation for Part 17 is revised to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

4. Amend the Table of Contents by adding the following entry in numerical order under Subpart A of the Table of Contents:

Sec.

* * * * *

17.7 Raptor exemption.

* * * * *

5. Add a new § 17.7 to read as follows:

§ 17.7 Raptor exemption.

(a) The prohibitions found in §§ 17.21 and 17.31 do not apply to any raptor [a live migratory bird of the Order *Falconiformes* or the Order *Strigiformes*, other than a bald eagle (*Haliaeetus leucocephalus*) or a golden eagle (*Aquila chrysaetos*)] legally held in captivity or in a controlled environment on November 10, 1978, or to any of its progeny, which is

(1) Possessed and banded in compliance with the terms of a valid permit issued under Part 21 of this chapter; and

(2) Identified in the earliest applicable annual report required to be filed by a permittee as in a permittee's possession on November 10, 1978, or as the progeny of such a raptor.

(b) This section does not apply to any raptor intentionally returned to the wild.

PART 21—MIGRATORY BIRD PERMITS

6. The authority citation for Part 21 reads as follows:

Authority: Migratory Bird Treaty Act, sec. 3, Pub. L. 65–186, 40 Stat. 755 (16 U.S.C. 704); sec. 3(h)(3), Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712).

7. Amend the Table of Contents by adding the following entries in numerical order:

Sec.

* * * * *

21.3 Definitions.

* * * * *

21.30 Raptor propagation permits.

* * * * *

8. Add § 21.3 to Subpart A to read as follows:

§ 21.3 Definitions.

In addition to definitions contained in Part 10 of this chapter, and unless the context requires otherwise, as used in this part:

"Bred in captivity" or "captive-bred" refers to raptors, including eggs, hatched in captivity from parents that mated or otherwise transferred gametes in captivity.

"Captivity" means that a live raptor is held in a controlled environment that is intensively manipulated by man for the purpose of producing raptors of selected species, and that has boundaries designed to prevent raptors, eggs or gametes of the selected species from entering or leaving the controlled environment. General characteristics of captivity may include, but are not limited to, artificial housing, waste removal, health care, protection from predators, and artificially supplied food.

"Falconry" means the sport of taking quarry by means of a trained raptor.

"Raptor" means a live migratory bird of the Order *Falconiformes* or the Order *Strigiformes*, other than a bald eagle *(Haliaeetus leucocephalus)* or a golden eagle *(Aquila chrysaetos)*.

9. Section 21.28 is amended by removing and reserving paragraph (a) and revising paragraph (e)(2) to read as follows:

§ 21.28 Falconry permits.

(a) [Reserved]

* * * * *

(e) * * *

(2) A permittee may— (i) Trade or transfer a raptor to another permittee if the transaction occurs entirely within a State and no money or other consideration is involved; (ii) Trade or transfer a raptor to another permittee in an interstate transaction if the prior written approval of all State agencies which issued the permits is obtained and no money or other consideration is involved in the transaction; or (iii) Purchase, sell, or barter any lawfully possessed raptor which is bred in captivity under authority of a raptor propagation permit issued under § 21.30 and banded with a numbered yellow seamless marker issued or authorized by the Service, subject to the following additional conditions:

(A) The person who receives the raptor must be authorized to possess it; and

(B) The permittee must have acquired the raptor from a person authorized to possess it.

* * * * *

10. Amend § 21.29 by revising paragraphs (e)(1)(iv), (e)(3)(ii), (e)(3)(iii), (e)(3)(v), and by adding a new paragraph (e)(3)(vi):

§ 21.29 Federal falconry standards

* * * * *

(e)* * *

(1)* * *

(iv) Permittee shall possess only an American kestrel (*Falco sparverius*), a red-tailed hawk (*Buteo jamaicensis*), a red-shouldered hawk (*Buteo lineatus*), a captive-bred Harris' hawk (*Parabuteo unicinctus*) or, in Alaska only, a goshawk (*Accipiter gentilis*).

(3)* * *

(ii) A permittee may not possess more than three raptors taken from the wild, and may not obtain more than two raptors taken from the wild for replacement birds during any 12-month period;

(iii) A permittee may not take any species listed as endangered in Part 17 of this chapter, but may transport or possess such species in accordance with Part 17 of this chapter.

* * * * *

(v) A permittee may not take, in any twelve (12) month period, as part of the three-bird limitation, more than one raptor listed as threatened in Part 17 of this chapter, and then only in accordance with Part 17 of this chapter.

(vi) A permittee may possess any number of captive-bred raptors banded with a yellow marker issued or authorized by the Service.

10. Add § 21.30 to Subpart C to read as follows:

§ 21.30 Raptor propagation permits.

(a) *Permit requirement.* A raptor propagation permit is required before any person may take, possess, transport, sell, purchase, barter, or transfer any raptor, raptor egg or raptor semen for propagation purposes.

(b) *Application procedures.* Applications for raptor propagation

permits must be submitted to the appropriate Special Agent in Charge (See § 13.11(b) of this chapter). Each application must contain the general information and certification required by section 13.12(a) of this chapter, plus the following additional information:

(1) A statement indicating the purpose(s) for which a raptor propagation permit is sought and, where applicable, the scientific or educational objectives of the applicant;

(2) A statement indicating whether the applicant has been issued a State permit authorizing raptor propagation (include name of State, permit number, and expiration date);

(3) A statement fully describing the nature and extent of the applicant's experience with raptor propagation or handling raptors;

(4) A description of each raptor the applicant possesses or will acquire for propagation purposes to include the species, age (if known), sex (if known), date of acquisition, source, and raptor marker number;

(5) A description of each raptor the applicant possesses for purposes other than raptor propagation to include the species, age (if known), sex (if known), date of acquisition, source, raptor marker number, and purpose for which it is possessed;

(6) A description and photographs of the facilities and equipment to be used by the applicant including the dimensions of any structures intended for housing the birds;

(7) A statement indicating whether the applicant requests authority to take raptors or raptor eggs from the wild.

(c) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (b) of this section, the Director will decide whether a permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this subchapter, the following factors:

(1) Whether an applicant's raptor propagation facilities are adequate for the number and species of raptors to be held under the permit.

(2) Whether propagation is authorized by the State in which the propagation will occur, and if authorized, whether the applicant has any required State propagation permit.

(3) Whether the applicant is at least 18 years old with a minimum of 2 years experience handling raptors.

(4) Whether the applicant requests a permit for scientific or educational purposes, or to propagate raptors for use in falconry.

(5) If the applicant requests authority to take raptors or raptor eggs from the wild—

(i) Whether issuance of the permit would have a signifiant effect on any wild population of raptors;

(ii) Whether suitable captive stock is available; and

(iii) Whether wild stock is needed to enhance the genetic variability of captive stock.

(d) *Additional permit conditions.* In addition to the general conditions found in Part 13 of this chapter, raptor propagation permits are subject to the following conditions:

(1) *Facilities.* Any tethered raptor possessed under this permit must be maintained in accordance with the Federal falconry standards for "facilities and equipment" described in § 21.29(g), unless a specific exception in writing is obtained. For untethered raptors, the breeding facilities must be soundly constructed and entirely enclosed with wood, wire netting, or other suitable material which provides a safe, healthy environment. The design of such facilities and ancillary equipment must—

(i) Minimize the risk of injury by providing protection from predators, disturbances that would likely cause harm, extreme weather conditions, and collision with interior or perimeter construction materials and equipment such as support poles, windows, wire netting, perches, or lights;

(ii) Enhance sanitation by providing a well-drained floor, fresh air ventilation, source of light, fresh water for bathing and drinking, access for cleaning, and interior construction materials suitable for thorough cleaning or disinfection; and

(iii) Enhance the welfare and breeding success of the raptors by providing suitable perches, nesting and feeding sites, and observation ports or inspection windows during times when disturbance is felt to be undesirable.

(2) *Incubation of eggs.* Each permittee must notify the Special Agent in Charge designated on the permit in writing within 10 days from the day the first egg is laid by a raptor held under a raptor propagation permit, but notice is not required more often than once every 60 days.

(3) *Marking requirement.* Every raptor possessed under this permit must be banded with a numbered, nonreuseable marker provided by the Service or with a marker provided by the wildlife management authority of a foreign county that meets the following Service marking standards:

(i) Any raptor taken from the wild or hatched from an egg taken from the wild must be banded with a black, adjustable marker.

(ii) Any captive-bred raptor must be banded by 4 weeks of age with either a yellow adjustable marker or a numbered yellow seamless marker.

(iii) Any permittee who wants to use a numbered yellow seamless marker provided by the Service—

(A) Must place the marker on the raptor's leg (*metatarsus*) before full growth is attained;

(B) Must use a marker with an opening (diameter) which is small enough to prevent its removal when the raptor is fully grown without causing serious injury to the raptor or damaging the marker's integrity or one-piece construction;

(C) May band a raptor with more than one size marker when the potential diameter of the raptor's leg at maturity cannot be determined at the time banding; and

(D) Must remove all but one marker from any raptor with more than one marker before the raptor is 5 weeks of age and immediately destroy each marker that is removed.

(iv) Each permittee must submit a report of marking, or marker removal and destruction within 5 days of such activity to the Director. The report must contain the date and type of activity; marker number; and the species, sex and age of the raptor.

(4) *Acquisition of raptors.* (i) Any permittee may acquire raptors, raptor eggs or raptor semen from any person authorized by law to possess that stock, but only live captive-bred raptors banded with a numbered seamless marker may be sold, purchased, or bartered.

(ii) Any permit authorizing the permittee to take raptors or raptor eggs from the wild from propagation purposes is subject to the following additional restrictions:

(A) The State in which the raptors or raptor eggs are taken must authorize the permittee in writing to take raptors or raptor eggs from the wild for propagation purposes; and

(B) No raptor listed in § 17.11 of this chapter as "endangered" or "threatened" may be taken from the wild without first obtaining the proper permit under Part 17 of this chapter.

(5) *Trade, transfer, purchase, sale, or international release of raptors.*

(i) A permittee may trade or transfer any raptor, raptor egg or semen to another permittee or trade or transfer any raptor to a falconer who holds a valid State falcony permit if no money or other consideration is involved.

(ii) A permittee may purchase, sell, or barter any raptor which is banded with a numbered yellow seamless marker provided or authorized by the Service.

(iii) No raptor may be traded, transferred, purchased, sold, or bartered until it is two weeks old and only after it is properly banded with a non-reuseable marker provided or authorized by the Service.

(iv) A permittee may not purchase, sell or barter any raptors taken from the wild, any eggs taken from the wild, or raptors hatched from eggs taken from the wild.

(v) A permittee must obtain written authorization from the Director before intentionally releasing any raptor to the wild. The raptor marker must be removed from each bird and destroyed by cutting it into two pieces. A Federal bird band must be attached to each raptor before its release by a person designated by the Director.

(6) *Use in falconry.* Permittees may use a raptor possessed for propagation in the sport of falconry only if such use is designated in both the propagation permit and the permittee's State falconry permit.

(7) *Interspecific hybridization.* (i) Hybridization between species (interspecific hybridization) is authorized only when loss of production would otherwise occur or for *bona fide* scientific studies.

(ii) Raptors produced by interspecific hybridization may not be—

(A) Intentionally released to the wild;

(B) Banded with a numbered seamless yellow marker provided or authorized by the Service; or

(C) Purchased, sold, or bartered.

(iii) Any raptor produced by interspecific hybridization may be traded or transferred to falconers who hold a State falconry permit only if the raptor is imprinted on humans (hand-raised in isolation out of the sight of other raptors from two weeks of age until it is fully feathered) or surgically sterilized.

(8) *Dead raptors, non-viable eggs, nests, and parts.* A permittee may possess dead raptors, addled or blown eggs, nests, and feathers from raptors held under permit, or may transfer any of these items to persons authorized by the Service to possess them, provided that no money or other consideration is involved.

(9) *Recordkeeping.* A permittee must maintain complete and accurate records of all operations, to include the following:

(i) Acquisition of raptors, eggs, or semen from sources other than production.

(A) Description of stock:

(*1*) Species, sex, age of each (if applicable),

(*2*) Genotype-natal area (geographical breeding site or area that captive stock represents, e.g. Colville River, Alaska; unknown; migrant taken in Missouri, etc.), and

(*3*) Marker number (if applicable).

(B) Type of stock (including number or amount):

(*1*) Semen,

(*2*) Egg, or

(*3*) Bird.

(C) How acquired:

(*1*) Purchase, barter, or transfer (include the purchase price or a description of any other consideration involved), or

(*2*) Taken from the wild.

(D) Date acquired: month, day, and year.

(E) From whom or where stock acquired:

(*1*) Name, address, and permit number of seller, barterer, or transferor; or

(*2*) Location where stock taken from the wild.

(ii) Disposition of raptors, eggs, or semen.

(A) Description of stock:

(*1*) Species, sex, age of each (if applicable),

(*2*) Genotype-natal area (geographical breeding site or area that captive stock represents, e.g., Colville River, Alaska; unknown; migrant taken in Missouri, etc.), and

(*3*) Marker number (if applicable).

(B) Type of stock (including number or amount):

(*1*) Semen,

(*2*) Egg, or

(*3*) Bird.

(C) Manner of disposition:

(*1*) Sale, barter, or transfer (include the sale price or a description of any other consideration involved),

(*2*) Live loss,

(*3*) Intentional release to the wild, or

(*4*) Death.

(D) Date of disposition: month, day, and year.

(E) To whom or where stock disposed:

(*1*) Name, address, and permit number of purchaser, barterer, or transferee, or

(*2*) Description and location of other disposition:

(iii) Production and pedigree record.

(A) Mother and father(s):

(*1*) Species,

(*2*) Genotype-natal area, and

(*3*) Marker number.

(B) Insemination:

(*1*) Natural,

(*2*) Artificial, or

(*3*) Combined.

(C) Eggs laid:

(*1*) Total,

(*2*) First date, and

(*3*) Last date.

(D) Eggs hatched:

(*1*) Total,

(*2*) First date, and

(*3*) Last date.

(E) Young raised to 4 weeks of age:

(*1*) Total produced, and

(*2*) Marker number and date marked for each raptor.

(10) *Annual report.* A permittee must submit an annual report by January 31 of each year for the preceding year to the Director. The report must include the following information for each species possessed by the permittee:

(i) Number of raptors possessed as of December 31.

(ii) Number of females laying eggs.

(iii) Number of eggs laid.

(iv) Number of eggs hatched.

(v) Number of young raised to 4 weeks of age.

(e) *Tenure of permit.* The tenure of raptor propagation permits is 5 years from the date of issuance, unless a shorter period of time is prescribed in the permit.

Dated: December 3, 1982.

P. Craig Potter,

Deputy Assistant Secretary for Fish and Wildlife Parks.

[FR Doc. 83-763 Filed 1-11-83; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 48, No. 8
Wednesday, January 12, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

January 7, 1983.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Charles E. Caudill, Acting Statistical Clearance Officer, (202) 447-6201.

New

• Animal and Plant Health Inspection Service
U.S. Interstate and International Animal Health Certificate VS-18-1
On occasion
Individuals, business: 467,999 responses; 81,106 hours; not applicable under 3504(h)
Francis W. Germaine (202) 436-7830
• Human Nutrition Information Service
Pilot Study or Measures of Individual Food Intakes of the Low-Income Population
Quarterly
Individuals or households: 15,760 responses; 15,760 hours; not applicable under 3504(h)
Robert Reese (301) 436-8485

Extension

• Agricultural Cooperative Service
New Cooperative Volume and Structure
On occasion
Individuals, farms, business: 350 responses; 350 hours; not applicable under 3504(h)
William R. Seymour (202) 447-8396
• Agricultural Marketing Service
Cotton Sampling Inspection Report
CN 59
Three times annually
Business: 4,500 responses; 225 hours; not applicable under 3504(h)
Loyd R. Frazier (202) 447-2147
• Rural Electrification Administration
Engineers Monthly Report of Substation Progress
REA 457
Monthly
Business: 516 responses; 516 hours; not applicable under 3504(h)
Archie W. Cain (202) 382-9082

Reinstatement

• Agricultural Marketing Service
Irish Potatoes Grown in Southeastern States (Marketing Order 953)
On occasion
Business: 42,894 responses; 13,742 hours; not applicable under 3504(h)
Charles W. Porter (202) 447-2615
• Agricultural Stabilization and Conservation Service
7 CFR—Part 1435 Support Loan Program for 1982—Crop Sugarbeets and Sugarcane
SU-2, CCC-188
Annually
Business: 235 responses; 470 hours; not applicable under 3504(h)
Steve Gill (202) 477-8480

Charles E. Caudill,
Acting Statistical Clearance Officer.

[FR Doc. 83-808 Filed 1-11-83; 8:45 am]
BILLING CODE 3410-01-M

Forest Service

Modoc National Forest Grazing Advisory Board; Meeting

The Modoc National Forest Grazing Advisory Board will meet at 10:00 a.m., January 28, 1983, in the Conference Room of the Supervisor's Office at 441 North Main Street, Alturas, California.

The purpose of this meeting is to discuss expenditures of Range Betterment Funds for FY 83 and FY 84.

The meeting will be open to the public. Persons who wish to attend or who would like further information should notify William E. Britton, Modoc Supervisor's Office, telephone 916-233-5811. Written statements may be filed with the Board before or after the meeting.

January 4, 1983.

Glenn Bradley,
Forest Supervisor.

[FR Doc. 83-792 Filed 1-11-83; 8:45 am]
BILLING CODE 3410-11-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Renewal

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463) and the Office of Management and Budget Circlar No. A-63, as Revised, I have determined that the renewal of the General Advisory Committee (GAC) is in the public interest. This determination is based on the important word the GAC conducts in advising the President, the Secretary of State and the Director of the U.S. Arms Control and Disarmament Agency (ACDA) on matters effecting arms control, disarmament; and world peace.

This renewal is effective January 5, 1983 and is for period of two years.

Dated: January 4, 1983.

Eugene V. Rostow,
Director.

[FR Doc. 83-855 Filed 1-11-83; 8:45 am]
BILLING CODE 6820-32-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Members of the Bureau of the Census Performance Review Board

The following individuals will serve as members of the Bureau of the Census Performance Review Board:

(1) Barabara Bailar
(2) O. Bryant Benton, Jr.
(3) William P. Butz
(4) Shirley Kallek
(5) Jerome A. Mark
(6) Stanley D. Moore
(7) Katherine K. Wallman.

Dated: January 7, 1983.

Bruce Chapman,

Director, Bureau of the Census.

[FR Doc. 83-848 Filed 1-11-83; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

Preliminary Determination of Sales at Less Than Fair Value; Tool Steel From the Federal Republic of Germany

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary determination of sales at less than fair value; tool steel from the Federal Republic of Germany.

SUMMARY: We have preliminarily determined that tool steel from the Federal Republic of Gemany (FRG) is being sold, or is likely to be sold, in the United States at less than fair value. Therefore, we have notified the U.S. International Trade Commission (ITC) of our determination, and we have directed the U.S. Customs Service to suspend liquidation of entries of the subject merchandise except imports from Buderus which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice and to require a cash deposit or bond for each such entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

We have also preliminarily determined that imports of tool steel from Edelstahlwerke Buderus AG should be excluded from the preliminary determination because we found a 0.4% weighted-average margin. This margin is *de minimis*.

If this investigation proceeds normally, we will make a final determination within 75 days of the publication of this notice in the **Federal Register.**

EFFECTIVE DATE: January 12, 1983.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 377-2438.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

As provided in section 733 of the Tariff Act of 1930, as amended (the Act), we have preliminarily determined that there is a reasonable basis to believe or suspect that tool steel from the FRG is being sold, or is likely to be sold, in the United States at less than fair value.

We have also preliminarily determined that imports of tool steel from Edelstahlwerke Buderus AG should be excluded from the preliminary determination because we found a 0.4% weighted-average margin. This margin is *de minimis*.

The estimated margins for Thyssen Edelstahlwerke AG (Thyssen) and Saarstahl GmbH (Saarstahl) are based on the best information available as explained in the section of this notice which describes our fair value comparisons. These margins could change substantially in the final determination if verifiable information is furnished in a timely fashion. The margin calculations for Edelstahlwerke Buderus AG (Buderus) are discussed in the section of this notice which describes our fair value comparisons.

We found margins for Buderus on approximately 8 percent of its sales. The margins ranged from 1.6 percent to 95.8 percent and the weighted-average margin was 0.4 percent. We found an estimated margin for Thyssen and Saarstahl of 61.0 percent on all sales.

If this investigation proceeds normally, we will make a final determination within 75 days of the publication of this notice in the **Federal Register.**

Case History

On July 30, 1982, We received a petition filed by counsel on behalf of nine U.S. specialty steel producers and on behalf of the United Steelworkers of America. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports from the FRG of tool steel are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that these imports are materially injuring, or are threatening to materially injure, a U.S. industry.

After reviewing the petition, we determined it contained sufficient grounds on which to initiate an antidumping investigation. We notified the ITC of our action and initiated such investigation on August 18, 1982 (47 FR 36875). On September 13, 1982, the ITC found that there is a reasonable indication that imports of tool steel are materially injuring, or are threatening to materially injure, a U.S. industry.

Questionnaires were presented to Buderus, on September 9, 1982, Saarstahl on September 10, 1982, and Thyssen on September 21, 1982. Responses were received on November 1, 1982 from Buderus on November 15, 1982 from Thyssen, and on December 20, 1982 from Saarstahl. The response from Saarstahl was not received in time to be considered for the purposes of the preliminary determination. Our review of the Buderus response revealed numerous deficiencies and we requested additional information which was submitted on December 6, 1982.

Thyssen furnished computer printouts on November 19, 1982, a partial narrative response on December 6, 1982, and additional information on December 23, 1982 which was not in time to be considered for purposes of the preliminary determination. The need for additional information from all respondents is discussed in detail in the "Supplemental Information Required" section of this notice.

Scope of Investigation

The product covered by this investigation is tool steel as used in hand tools or for cutting, shaping, forming, and blanking of materials at either ordinary or elevated temperatures. Tool steel covers hot-finished tool steel and cold-finished tool steel, high speed tool steel, chipper knife steel, and band saw steel bars and rods. The merchandise is currently classified under item numbers 606.9300, 606.9400, 606.9505, 606.9510, 606.9520, 606.9525, 606.9535, 606.9540, 607.2800, 607.3405, 607.3420, 607.4600, 607.5405, and 607.5420 of the *Tariff Schedules of the United States Annotated.*

Since Saarstahl, Thyssen and Buderus manufacture and export virtually all of the tool steel exported from the FRG to the United States, we limited our investigation to them.

This investigation covers the period from February 1 to July 31, 1982, for United States sales and from November 1, 1981 to July 31, 1982, for home market transactions. This period for home market transactions was used in order to include sales in the home market at the time of exportation of tool steel where exporter's sales price is the proper basis for United States price.

Supplemental Information Requested

Section 776(b) of the Act states that whenever any party refuses or is unable to produce information requested, the Commerce Department may use the best information otherwise available for determining the existence of sales at less than fair value. We did so with respect to the following companies, except Buderus, for purposes of this preliminary determination for the reasons indicated below:

1. Thyssen

The questionnaire was presented to Thyssen on September 20, 1982, and the response due date was extended to November 16, 1982. Thyssen submitted computer printouts in a response to our questionnaire on November 15, 1982. A partial narrative response was furnished on December 6, 1982, which did not include cost data. The cost data was submitted only on December 23, 1982. This did not allow sufficient time for a proper analysis of the information for purpose of the preliminary determination. In addition, Thyssen reported sales to the United States using a mixture of currencies. We are unable to determine which currency was used for individual numeric reporting. We requested clarification by phone on December 19, 1982. Since we did not have adequate information in time to allow for sufficient analysis, we used the best information available as described in the "United States Price" section of this notice.

We will ask Thyssen once again to provide additional information before verification. If this information is not submitted by January 31, 1983, we will be unable to verify it. Where information is not furnished, or is furnished too late to verify, we will use the best information available for our final determination. The analysis and verification of Thyssen's response could substantially change the sales at less than fair value margins calculated for our preliminary determination for Thyssen.

2. Saarstahl

The questionnaire was presented to Saarstahl on September 10, 1982, and the response was originally due on October 10, 1982. Saarstahl did not request an extension of the due date. The cover letter for the questionnaire stated that failure to submit a timely response would result in use of the best information available. The Department did not receive a response from Saarstahl to our questionnaire until December 20, 1982. Since this did not allow sufficient time for a proper analysis of the information contained in this response, we used the best information available as described in the "United States Price" section of this notice for our preliminary determination. We are currently reviewing the Saarstahl response and will request additional information if necessary. Any additional information provided by Saarstahl by January 31, 1983 will also be considered by the Department for the final determination if the information is verified.

We will be unable to verify any information received after January 31, 1983. Where information is not furnished, or furnished too late to verify, we will use best information available for our final determination. The analysis and verification of Saarstahl's response could substantially change the sales at less than fair value margins calculated for our preliminary determination for Saarstahl.

3. Buderus

We are requesting additional information from Buderus concerning the general expenses incurred in the production and sale of the merchandise under investigation, adjustments for differences in merchandise and for differences in circumstances of sale. Buderus did not furnish expenses on which a circumstance of sale adjustment might be based in its computer format response. However, Buderus had not made a specific claim for such an adjustment. The fact that the reporting of general expenses and differences in merchandise was inadequate was not discovered until it was too late for us to request correction and use the corrected information for purposes of the preliminary determination. Since we had not identified the additional deficiencies until it was too late for Buderus to correct them for the preliminary determination, we used the response, but disallowed the claim for differences in merchandise and added the statutory minimum general expenses to the costs reported.

We will ask Buderus to provide the additional information before verification. If this information is not submitted by January 31, 1983, we will be unable to verify the Buderus response. Where information is not furnished, or is furnished to late to verify, we will use the best information available in our final determination.

Fair Value Comparison

To determine whether sales by Buderus of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value as reported by Buderus.

To determine whether sales by Thyssen and Saarstahl of the subject merchandise in the United States were made at less than fair value we used the best information available as required by section 776(b) of the Act to make fair value comparisons. We used the best information available for these manufacturers because adequate responses were not submitted in time to allow analysis of the information. A full discussion of the reasons for using the best information available is contained in the "Supplemental Information Requested" section of this notice. Where we used the margins contained in the petition, we used the average of those margins which appeared to be reasonably calculated as the best information available.

United States Price

As provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent the United States price for sales by Buderus because the merchandise was sold prior to the date of importation to unrelated United States purchasers. We made deductions, where appropriate, for foreign inland freight, foreign inland insurance, ocean freight, United States customs duty, and commissions to unrelated parties.

Since the Department received a response from Thyssen which did not include cost information and reported United States sales in a mixture of currencies, and did not receive a response from Saarstahl until December 20, 1982, we used the best information available as required by section 776(b) of the Act for reasons described in the "Supplemental Information Requested" section of this notice. We used the average of those margins reported in the petition which appeared to be reasonably calculated as the best information available.

Foreign Market Value

In accordance with section 773 of the Act, we calculated foreign market value for Buderus based on home market prices where we found such or similar merchandise sold in the home market. For these comparisons where we did not find sales of such or similar merchandise in the home market or all sales in a subgroup of such or similar merchandise were at less than cost, we calculated the foreign market value for Buderus based on the constructed value. For Thyssen and Saarstahl we used the best information available as required by section 776(b) of the Act.

The petitioners alleged that sales in the home market were made at prices below the cost of production. We compared the home market prices from Buderus to its cost of production and found 56 percent of these sales were made above cost, although all sales in one subgroup of such or similar merchandise were at less than costs. This constituted a sufficient number of sales for use as the basis for determining the foreign market value. Since Buderus sold the merchandise under consideration on a delivered basis, we made deductions for inland freight and inland insurance.

Buderus made a claim for differences in merchandise. This claim was not quantified in Buderus' computer submission. We are requesting a revised computer tape including the necessary information (see the "Supplemental Information Requested" section of this notice). Buderus indicated possible circumstances of sale adjustments might be appropriate under 19 CFR 353.15 (a); however, this information was not deemed sufficient to constitute a claim for an adjustment.

Where we used constructed value as the basis for the foreign market value for Buderus, we calculated the constructed value on the basis of the costs of production reported by Buderus. These costs were for materials and fabrication, including general, selling and administrative expenses. Since we could not determine whether the general expenses were above the 10 percent minimum, we applied the 10 percent minimum to the costs reported.

We used the statutory 8 percent minimum profit since we had no specific information on Buderus' usual profit. We also added packing to the United States as appropriate. We are requesting additional information concerning Buderus' costs as discussed in the "Supplemental Information Requested" section of this notice.

We used the best information available with regard to Thyssen and Saarstahl as discussed in the "United States Price" section of this notice.

Verification

We will verify all data used in reaching the final determination in this investigation, as provided in section 776(a) of the Act.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of tool steel from the FRG with the exception of imports from Buderus. This suspension of liquidation applies to all merchandise entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated margin amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The estimated antidumping duty margins are as follows:

Manufacturer/Seller/Exporter	Margin (percent)
All manufacturers/sellers/exporters (except Buderus)	61.0

The weighted-average margin for Buderus is 0.4% which is *de minimis*.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non privileged and non confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports are materially injuring or threatening to materially injure a U.S. industry, before the latter of 120 days after the Department makes its preliminary affirmative determination or 45 days after the Department makes its final affirmative determination.

Public Comment

In accorance with § 353.47 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on February 8, 1983, at the U.S. Department of Commerce, Conference Room D, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least ten copies must be submitted to the Deputy Assistant Secretary by February 1, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within thirty days of this notice's publication, at the above address and in at least ten copies.

Judith H. Bello,

Acting Deputy Assistant Secretary for Import Administration.

January 5, 1983.

[FR Doc. 83-793 Filed 1-11-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Dr. Daniel P. Costa; Issuance of Permit

On November 26, 1982, Notice was published in the **Federal Register** (47 FR 52739), that an application had been filed with the National Marine Fisheries Service by Dr. Daniel P. Costa, Center for Coastal Marine Studies, University of California at Santa Cruz, Santa Cruz, California 95064, for a permit to take sixty (60) Northern elephant seals (*Mirounga angustirostris*) for the purpose of scientific research.

Notice is hereby given that on January 7, 1983, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (6 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Scientific Research Permit for the above taking to Dr. Daniel P. Costa subject to certain conditions set forth therein.

The Permit is available for review in the following officer:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: January 7, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-645 Filed 1-11-83; 8:45 am]

BILLING CODE 3510-22-M

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by

section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), will meet review the red drum fishery profile; discuss amendments to the Stone Crab and Shrimp Fishery Management Plans; review proposed mandatory statistics provisions of regulations; discuss the Council's administrative budget, as well as discuss other administrative and fishery management business as appropriate.

ADDRESS: The public meetings will convene on Monday, January 31, 1983, at approximately 1:30 p.m., adjourn at approximately 5 p.m.; reconvene on Tuesday, February 1, 1983, at approximately 8 a.m.; adjourn at 5 p.m.; reconvene on Wednesday, February 2, 1983, at approximately 8:30 a.m., and adjourn at approximately noon on February 3, 1983. The public meetings will take place at the Ramada Inn, Rooms I and II, 3719 West Beach Boulevard, Biloxi, Mississippi.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228–2815.

Dated: January 6, 1983.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-843 Filed 1-11-83; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), will meet to discuss gear conflict regulations; discuss the Surf Clam and Ocean Quahog and Summer Flounder Fishery Management Plans (FMP's); discuss the status of other FMP's, joint ventures, and other fishery management and administrative matters.

DATES: The public meetings will convene on Wednesday, February 9, 1983, at approximately noon and will adjourn on Thursday, February 10, 1983, at approximately 5 p.m. The meetings may be lengthened or shortened depending upon progress on the agendas.

ADDRESS: The public meetings will take place at the Best Western Airport Motel, Philadelphia International Airport, Route 201, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: January 6, 1983.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-844 Filed 1-11-83; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

President's Commission on Strategic Forces; Advisory Committee Meeting

The President's Commission on Strategic Forces will meet in closed session on January 10, 1983 at the Pentagon, Washington, D.C.

The mission of the Commission is to review the strategic modernization program for United States forces, with particular reference to the intercontinental ballistic missile system and basing alternatives for that system, and provide appropriate advice to the President, the National Security Council, and the Department of Defense.

Because of the significance of the project to national security and the urgent need for the Commission's recommendation, the President has directed that the Commission submit its report to him by February 18, 1983. To meet the stringent deadline imposed by the President, the second meeting of the Commission has been scheduled for January 10, 1983.

Discussions during the meeting will involve classified matters of national security concern throughout. Such discussion cannot reasonably be segregated into separate classified and unclassified categories without defeating the effectiveness and purpose of the overall meetings.

Accordingly, consistent with Section 10(d) of Pub. L. 92–463, the "Federal Advisory Committee Act," and Section 552b(c)(1) of Title 5, United States Code, this meeting will be closed to the public.

M. S. Healy

OSD Federal Register Liaison Officer, Department of Defense.

January 6, 1983.

[FR Doc. 83-808 Filed 1-11-83; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group C (Mainly Imaging and Display) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session 23, 24 March 1983 at AGED Secretariat Office, 1925 North Lynn Street, Suite 1000, Arlington, VA., 22209.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This special device area includes such programs as infrared and night sensors. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App 1, 10(d)(1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

Dated: January 7, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-838 Filed 1-11-83; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electronic Devices (AGED) will meet in closed session on 8 February 1983, at AGED Secretariat Office, 1925 North Lynn Street, Suite 1000, Arlington, VA 22209.

The Mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The

review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92-463, as amended, (5 U.S.C. App 1, 10(d) (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

Dated: January 7, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-839 Filed 1-11-83; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electronic Devices; Advisory Committee Meeting

Working Group B (Mainly Low Power Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session 9 February 1983, at the AGED Secretariat Office, 1925 North Lynn Street, Suite 1000, Arlington, Virginia 22209.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The low power device area includes such programs as integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92-463, as amended, (5 U.S.C. App 1, 10(d)(1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552(b)(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

Dated: January 7, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-840 Filed 1-11-83; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electronic Devices; Advisory Committee Meeting

Working Group D (Mainly Laser Devices) of the DoD Advisory Group on Electronic Devices (AGED) will meet in closed session 15 March 1983, at Stanford Institute, Menlo Park, 94025 and 16 and 17 March at Stanford University, Stanford, CA.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group D meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92-463, as amended, (5 U.S.C. App 1, 10(d)(1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552(b)(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

Dated: January 7, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-841 Filed 1-11-83; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

Privacy Act of 1974; Addition of Systems of Records

AGENCY: Department of the Navy, DOD.

ACTION: Corrections to Systems notices.

SUMMARY: The Department of the Navy proposes to make corrections to three notices for systems of records previously published. The corrected systems notices are set forth below.

DATE: The proposed corrections will be effective January 12, 1983.

ADDRESS: Send any comments to the Systems Managers as identified in the notices.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, privacy Act Coordinator, Office of the Chief of Naval Operations (Op09B1P), Department of the Navy, The Pentagon, Washington, DC 20350. Telephone: (202) 694-2004

SUPPLEMENTARY INFORMATION: The Department of the Navy inventory of systems of records notices as prescribed by the Privacy Act have been published in the **Federal Register** at:

FR Doc. 81-674 (47 FR 2574) January 18, 1982
FR Doc. 81-9204 (47 FR 14944) April 7, 1982
FR Doc. 82-9844 (47 FR 15636) April 12, 1982
FR Doc. 82-12593 (47 FR 20018) May 10, 1982
FR Doc. 82-15596 (47 FR 25041) June 9, 1982
FR Doc. 82-23533 (47 FR 37948) August 27, 1982
FR Doc. 82-27420 (47 FR 44134) October 6, 1982
FR Doc. 82-27692 (47 FR 44381) October 7, 1982
FR Doc. 82-28879 (47 FR 46879) October 21, 1982
FR Doc. 82-29834 (47 FR 49067) October 29, 1982
FR Doc. 82-30225 (47 FR 50069) November 4, 1982
FR Doc. 82-32787 (47 FR 54139) December 1, 1982

These corrections do not require an altered system report in accordance with 5 U.S.C. 552a(o).

M. S. Healy,

OSD Federal Register Liaison Officer Department of Defense.

January 7, 1983.

NO1070-2

System name:

Naval Attache Files (47 FR 2638) January 18, 1982.

Change:

Systems exempted from certain provisions of the Act:

Delete the entire entry and substitute with the word: "None."

NO3810-1

System name:

Naval Intelligence Management Information System (47 FR 2667) January 18, 1982.

Change:

Systems exempted from certain provisions of the Act:

Delete the entire entry and substitute with the word: "None."

NO3461-1

System name:

Summary Debriefs of Former Prisoners of War (47 FR 2665) January 18, 1982.

Change:

Systems exempted from certain provisions of the Act:

Delete the entire entry and substitute with the word: "None."

NO1070-2

SYSTEM NAME:

Naval Attache Files.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

NO3810-1

SYSTEM NAME:

Naval Intelligence Management Information System.

* * * * *

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

NO3461-1

SYSTEM NAME:

Summary Debriefs of Former Prisoners of War.

* * * * *

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83-805 Filed 1-11-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Council's Legislative Committee; Meeting

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of Public Meeting of the Council's Legislative Committee.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the Legislative Committee of the National Advisory Council on Vocational Education. It also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act, and is intended to notify the general public of its opportunity to attend.

DATE: January 27 and 28, 1983: Noon–5:00 P.M. 1/27; 9:00 AM–2:00 PM 1/28.

ADDRESS: The Hotel Sahara, 2535 Las Vegas Boulevard South, Las Vegas, Nevada.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Vocational Education is established under Section 104 of the Vocational Education Amendments of 1968, Pub. L. 90-576. The Council is established to:

(A) Advise the President, the Congress, and the Secretary of Education concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

The meeting of the Legislative Committee is open to the public. The proposed Agenda will include:

Review of Job Training Partnership Act Regulations as they pertain to vocational education

Consideration of vocational education reauthorization issues.

Records are kept of the Committee's proceedings and are available for public inspection at the office of the National Advisory Council on Vocational Education from 9:00 a.m. to 5:00 p.m., 425—13th Street NW, Suite 412, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Virginia Solt, NACVE Staff, at above address. Telephone: (202) 376-8873.

Signed at Washington, DC on January 7, 1983:

George Wallrodt,

Director of Communications, National Advisory Council on Vocational Education.

[FR Doc. 83-856 Filed 1-11-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP82-114-000]

Cities Service Gas Co.; Settlement Conference

January 6, 1983.

Take notice that an informal settlement conference in the above-captioned docket will be convened on Tuesday and Wednesday, January 18 and 19, 1983, at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in a Commission meeting room to be announced. Please note the following time changes. The conference on Tuesday will commence at 2:00 p.m. and the conference on Wednesday will commence at 10:00 a.m.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-785 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-114-002]

Cities Service Gas Co.; Rate Change

January 6, 1983.

Take notice that on December 21, 1982, Cities Service Gas Company (Cities) [1] tendered for filing, pursuant to Section 4 of the Natural Gas Act and the applicable provisions of the Commission's Regulations thereunder, and in accordance with the Commission's order issued July 28, 1982, in Docket No RP82-114-000, Substitute Thirteenth Revised Sheet No. 6 to Original Volume No. 1 and Substitute Fourth Revised Sheet No. 91 to Original Volume No. 2 of its FERC Gas Tariff, to become effective December 23, 1982.

On June 28, 1982, Cities filed tariff sheets in this proceeding designated Thirteenth Revised Sheet No. 6 to Original Volume No. 1 and Fourth Revised Sheet No. 91 to Original Volume No. 2 of its FERC Gas Tariff. Cities originally proposed that Sheet Nos. 6 and 91 be made effective on July 23, 1982, but by its order of July 28, 1982, the Commission, among other things, accepted such tariff sheets for filing and suspended their effectiveness to December 23, 1982, subject to refund and subject to the condition that Cities file revised tariff sheets to reflect certain changes discussed below. On August 27, 1982, Cities filed an application for rehearing of the Commission's July 28, 1982 order in this proceeding regarding, among other things, the denial of Cities' request for limited waiver of Order Nos. 144 and 144-A. On September 23, 1982, the Commission issued its order granting rehearing for purposes of further consideration.

A Stipulation and Agreement (Settlement) covering the matters in Cities' Docket No. RP81-78, as well as certain matters in Docket Nos. RP79-76 and RP82-114, was filed with the Commission on November 19, 1982, and is currently pending approval. At the settlement conferences held in Docket No. RP82-114 on December 7, 1982, as well as by other means, certain of our customers and affected state

[1] On November 17, 1982, the name of Cities Service Gas Company was changed to Northwest Central Pipeline Corporation. Appropriate filings will soon be made to make this change on all the Commission's records.

commissions have stated their concern as to the level of Cities' rates. In order to help meet such concerns Cities proposes the following changes, in addition to those required by the Commission to its original filing in this docket:

1. Cities proposes to reduce its rates to give effect to the settlement in Docket No. RP79-76, *et al.*, of the issues of Comprehensive Interperiod Allocation of Income Taxes and Investment in Storage Gas Inventory.

2. Additionally, Cities proposes to reduce its rates to reflect a reduction in the rate of return due to a recent sale of $35,000,000 of preferred stock.

In addition, the following changes are required by the Commission's July 28, 1982 suspension order:

3. A reduction in the amount of plant in service at November 30, 1982, in the amount of $748,632.

4. An increase in the amount of outstanding advance payments at November 30, 1982, of $545,035.

The amount of reductions is $10,804,224 and the net amount of the required changes is a reduction of $1,331,051 for a total jurisdictional reduction of $12,135,275. This reduction has been applied on a volumetric basis to the jurisdictional sales volumes of 220,359,613 Mcf used in the Docket No. RP82-114 filing and amounts to 5.51 cents per Mcf.

The following changes were also reflected to Substitute Thirteenth Revised Sheet No. 6 to give effect to the PGA increase which became effective on October 23, 1982:

5. The current average cost of purchase gas of 309.68 cents per Mcf reflected in Cities' PGA filing in Docket No. TA83-1-43 (PGA83-1).

6. A surcharge adjustment from the PGA filing in Docket No. TA83-1-43, which became effective on October 23, 1982, of 51.44 cents per Mcf.

Copies of the filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket No. RP82-114-000.

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 the 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 January 19, 1983. 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. 83-784 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-120-002]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

January 6, 1983.

Take notice that on December 29, 1982, Columbia Gas Transmission Corporation (Columbia) tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1.

Original Sheet No. 16B
Original Sheet No. 16C
Original Sheet No. 16D
Fourth Revised Sheet No. 41
Fourth Revised Sheet No. 43
Twenty-seventh Revised Sheet No. 64
Twenty-ninth Revised Sheet No. 64A
Twenty-fourth Revised Sheet No. 64B
Fifth Revised Sheet No. 64C
Third Revised Sheet No. 64D
First Revised Sheet No. 64D1
Original Sheet No. 64D2
Original Sheet No. 64D3

The subject tariff sheets bear an issue date of December 29, 1982, and an effective date of January 1, 1983.

Pursuant to Ordering Paragraph (E) of the Commission's order of July 30, 1982, Columbia was directed to file further revisions to the unit of sales method to reflect a proper allocation of fuel and line loss costs between transportation and sales customers. The above referenced tariff sheets are being filed pursuant to the aforementioned Commission order and in accordance with an agreement in principle reached among the parties held at technical conferences on this issue.

The revised tariff sheets filed herein provide for the billing of an estimated monthly surcharge amount to SGES customers for the months of January and February 1983. Columbia proposes not to change its rates applicable to Sales Rate Schedules to become effective January 1, 1983. Such change, if effectuated, would be effective for a short period of time, the months of January and February 1983. Moreover, the dollar impact is de minimus and will be recognized through Columbia's Account 191.

Columbia respectfully requests such waivers of the Commission's Regulations as may be deemed necessary to permit the revised tariff sheets to become effective January 1, 1983.

Copies of the filing were served by Columbia upon its jurisdictional customers, interested state commissions and to each of the parties set forth on the official service list in this proceeding.

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 the Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before January 19, 1983. 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. 83-786 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-44-004]

Commercial Pipeline Company, Inc.; Proposed Changes in FERC Gas Tariff

January 6, 1983

Take notice that on December 14, 1982, Commercial Pipeline Company (Commercial) tendered for filing its Corrected Forty-first Revised Sheet No. 3A Superseding Second Corrected Fortieth Revised Sheet No. 3A to its FERC Gas Tariff, First Revised Volume No. 1.

On November 22, 1982, Commercial filed its Forty-first Revised Sheet No. 3A, plus supporting schedules, and requested a waiver of the Commission's Regulations and Commercial's Tariff to permit said tariff sheet to become effective December 23, 1982. The sole purpose of that filing was to track an increase in rates to be paid Commercial's only supplier, Cities Service Gas Company (Cities).

Following an informal inquiry from the Commission's Staff regarding the November 22, 1982 filing, Commercial has recalculated the current adjustment in its rates in a manner which complies with the objectives of the purchased gas adjustment clause (PGA) in its tariff and which protects the integrity of the PGA's operation. The corrected tariff sheet filed permits the recognition for

Commercial's lost and unaccounted for gas in a manner consistent with the operation of its PGA and allows the tracking of Cities' increase for sales to Commercial, which is to be effective December 23, 1982. Similar to the filing of November 22, 1982, the corrected tariff sheet is also proposed to be effective December 23, 1982.

In addition, Commercial also submitted a Revised Schedule A to replace the corresponding schedule which was filed in support of its tariff sheet on November 22, 1982.

Copies of the filing were served upon Commercial's customers, the Missouri Public Service Commission, and the Kansa Corporation 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 the 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 January 19, 1983. 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. 83-767 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP81-80-005, (Phase II)]

Consolidated Gas Supply Corp.; Proposed Changes in Rates

January 6, 1983.

Take notice that on December 20, 1982, Consolidated Gas Supply Corporation (Consolidated) tendered for filing, pursuant to a settlement agreement dated September 2, 1982, in Docket No. RP81-80, approved by Commission letter order issued November 19, 1982, revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1:

	Effective date
Revised Twenty-Eighth Revised Sheet No. 16.	Jan. 1, 1982.
Revised Twenty-Ninth Revised Sheet No. 16.	Mar. 1, 1982.
Revised Substitute Twenty-Eighth Revised Sheet No. 16.	June 1, 1982.
Revised Substitute Twenty-Ninth Revised Sheet No. 16.	Aug. 1, 1982.
Revised Substitute Thirty-First Revised Sheet No. 16.	Sept. 1, 1982.

The revised tariff sheets are being filed to reflect a settlement agreement approved on November 19, 1982, and cover all issues except rate of return in Docket No. RP81-80.

The revised tariff sheets effective June, August and September 1982 also reflect a change to the "Base Cost of Gas from Producer Suppliers" due to a reduction in the unit cost of old pipeline production pursuant to the September 2, 1982 settlement. Schedule 1 shows the revised cost of service for old pipeline production resulting in a reduction to the "Base Cost of Gas from Producer Suppliers" of 0.60 cents per dekatherm.

Consolidate also submits a summary of the principal refunds resulting from the proposed tariff changes for the eleven months ended November 30, 1982, which are being made this date. Consolidated proposes to implement the revised rates to be effective with December 1982 billings.

Copies of the filing have been sent to the applicable state commissions and parties to these proceedings.

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 the 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 January 19, 1983. Protests will be considered by the Commission in determining the approproiate 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. 83-768 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-81-000]

Edward S. Cruz and William L. Geaver; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 7, 1983.

On December 6, 1982, Edward S. Cruz and William L. Beaver of Route 4, Box 15, Bishop, California 93514, 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 facility will be a 948 kilowatt hydroelectric installation located in Mono County, Califorina, near the Town of Bishop. Applicant states that no other hydroelectric facilities owned by the applicant located within one mile of the site. 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 Capital 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 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. 83-769 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-34-000]

Great Lakes Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

January 6, 1983.

Take notice that on December 29, 1982, Great Lakes Gas Transmission Company (Great Lakes), tendered for filing proposed changes to the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2.

First Revised Volume No. 1

Twelfth Revised Sheet No. 4
Forty-Third Revised Sheet No. 57

Original Volume No. 2

Eighteenth Revised Sheet No. 53
Ninth Revised Sheet No. 77
Third Revised Sheet No. 183
Third Revised Sheet No. 223
Third Revised Sheet No. 245
Second Revised Sheet No. 294

The proposed tariff changes would produce increased revenues of $14,014,190, based on sales and transportation volumes for the base period (twelve months ended September 30, 1982) as adjusted. The changes would also establish new Base Tariff Rates for future purchased gas adjustments.

Great Lakes states that the proposed rates are necessary because of increased operating expenses, increased depreciation expense resulting from increased plant in service, increased *ad valorem* and other taxes, increased return and income tax requirements and reduced transportation service volumes. Great Lakes' proposed rates include an overall return of 12.67 percent reflecting its increased imbedded debt cost of 10.05 percent and a return on equity of 16.50 percent.

Great Lakes further states that copies of this filing have been served upon its customers and the Public Service Commissions of Minnesota, Wisconsin and Michigan.

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 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 protest should be filed on or before January 19, 1983. 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. 83-770 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

High Island Offshore System; Amendment

[Docket No. CP80-408-001]

January 7, 1983.

Take notice that on November 19, 1982, High Island Offshore System (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP80-408-001 an amendment to its application filed June 19, 1980, in Docket NO. CP80-408-000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize Applicant to install 25,000 horsepower of compression at High Island Block 264 and to tender firm transportation service of up to 2,048,700 Mcf per day, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that on June 19, 1980, it filed an application in Docket No. CP80-408-000 for authorization to construct, install, and operate 66 miles of 36-inch pipeline loop between High Island Block 264 and West Cameron Block 167 and 45,800 horsepower of compression at High Island 264 as well as to render increased firm transportation service up to 2,610,500 Mcf per day.

Applicant states that as a result of the passage of time since the filing of the original application, it has recanvassed all the High Island Offshore System (HIOS) shippers in order to assess their current needs for additional capacity on the HIOS system. It is further stated that the results of that survey now indicate a current long haul equivalent capacity requirement of 2,048,700 Mcf per day.

Applicant avers that in view of the shippers' revised requirements it now proposes to install only 25,000 horsepower of compression at High Island Block 264 in lieu of the combined compression and looping originally proposed which applicant asserts would enable it to render firm transportation service of 2,048,700 Mcf per day. Applicant estimates that the cost of the additional compression would be approximately $23,600,000 which would be financed with treasury bonds, retained earnings and other funds generated internally together with borrowings from banks under short-term lines of credit as required.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 28, 1983, 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 157.110). 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 of 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. 83-771 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-54-001]

Louisiana Nevada Transit Co.; Proposed Changes in FERC Gas Tariff

January 6, 1983.

Take notice that on December 20, 1982, Louisiana-Nevada Transit Company (LNT) tendered for filing Revised Substitute First Revised Sheet No. 4 superseding Original Sheet No. 4. This tariff sheet which is LNT's PGA adjustment tariff sheet reflects a total purchased gas cost rate adjustment of 28.36 cents per Mcf which includes a deferred gas cost adjustment of 04.24 cents per Mcf and a cumulative cost of gas adjustment of 24.12 cents per Mcf. Also attached to the filing was Schedule 1 showing the computation of the deferred purchased gas cost adjustment and Schedule 2 showing the computation of the current purchased gas cost adjustment.

On November 19, 1982, LNT transmitted to the Commission its semi-annual purchased gas adjustment filing to be effective December 1, 1982. Subsequently, the Commission Staff determined certain changes should be made to the filing. Accordingly, LNT retendered such filing with the changes requested by the Commission Staff.

Copies of the filing were mailed to LNT's two jurisdictional customers, Arkansas Louisiana Gas Company and United Gas Pipe Line Company, and the Arkansas and Louisiana public service 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 the

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 January 19, 1983. 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. 83-772 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-15-000 (PGA83-1 And IPR83-1)]

Mid Louisiana Gas Co.; Proposed Change in Rates

January 6, 1983.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on December 27, 1982, tendered for filing as a part of First Revised Volume No. 1 of its FERC Gas Tariff, Forty-sixth Revised Sheet No. 3a and Seventh Revised Sheet No. 3c to become effective February 1, 1983.

Mid Louisiana states that the purpose of the filing of Forty-sixth Revised Sheet No. 3a is to reflect a Purchased Gas Cost Current Adjustment, a Purchased Gas Cost Surcharge and a Transportation Cost Adjustment resulting in a rate after current adjustment of 455.16 cents. The filing is being made in accordance with Section 19 of Mid Louisiana's FERC Gas Tariff, and the Purchased Gas Cost Current Adjustment reflects rates payable to Mid Louisiana's suppliers during the period February 1, 1983 through July 31, 1983.

Copies of the filing have been mailed to Mid Louisiana's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protests 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petition or protests should be be filed on or before Janaury 19, 1983. 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. 83-774 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA82-2-16-003, RP82-87-002 and TA83-1-16-001]

National Fuel Gas Supply Corp., Proposed Tariff Change

January 6, 1983.

Take notice that on December 10, 1982, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Traiff, Original Volume No. 1, the following sheets:

Substitute Revised Thirty-Ninth Revised Sheet No.4, proposed to be effective August 1, 1982

Second Substitute Revised Thirty-Ninth Revised Sheet No. 4, proposed to be effective November 1, 1982

Substitute Fortieth Revised Sheet No. 4, Proposed to be effective January 1, 1983

National states that the purpose of these revised tariff sheets is to comply with Commission order dated October 22, 1982, requiring that national reflect the proper rates of Texas Eastern Transmission Corporation. National further states that these revised tariff sheets reflect a decrease in National's rates of .14 cents.

National states that copies of the filing have been mailed to all of its jurisdictional 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, N.E., Washington, D.C. 20426, in accordance with the 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 January 19, 1983. 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. 83-773 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-71-007]

Northern Natural Gas Co.; Proposed Tariff Change

January 6, 1983.

Take notice that on December 23, 1982, Northern Natural Gas Company (Northern) tendered for filing Substitute Fourth Revised Sheet No. 17. On October 26, 1982, Northern filed in the above-captioned docket a motion to have certain tariff sheets go into effect October 27, 1982. Among those sheets was Fourth Revised Sheet No. 17 of Northern's FERC Gas Tariff, Third Revised Volume No. 1, which was intended to reflect certain cross-referencing revisions pertaining to penalty and Btu-adjusted billing. These revisions, however, were inadvertently omitted from Fourth Revised Sheet No. 17 as enclosed with the filing. In correcting this omission Northern requests that the Commission waive its regulations to the extent necessary to permit this tariff sheet to become effective October 27, 1982.

Northern states that copies of this filing have been served upon all parties who were served with the October 26th Motion in compliance with the Commission's Regulations.

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 the 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 January 19, 1983. 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. 83-775 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-123-000]

Northern Natural Gas Company, Division of InterNorth, Inc.; Application

January 7, 1983.

Take notice that on December 10, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska

68102, filed in Docket No. CP83-123-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to Panhandle Eastern Pipe Line Company (Panhandle) or Truckline Gas Company (Truckline), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that it has acquired the right to purchase the natural gas reserves attributed to West Delta Area Blocks 137 and 138 offshore Louisiana, from Anadarko Production Company and Koch Industries, Inc. Northern asserts that it has entered into certain transportation arrangements with Panhandle and Truckline which provide for the transportation and redelivery of such gas to United Gas Pipe Line Company (United) for Northern's account.

Northern further states that as partial consideration for the transporation of such offshore gas, it has extended to Panhandle or Truckline an option to purchase up to 20 percent of the volumes of Northern's West Delta Area Blocks 137/138 gas received by Truckline.

Accordingly, Northern proposes to sell natural gas to Panhandle or Truckline for resale in interstate commerce. It is stated that the gas would be sold to Panhandle or Truckline on a monthly cost of service basis which cost represents Northern's cost of gas at the point of delivery to Truckline. Northern's estimated average cost of service per Mcf for the first year of operation is $5.34.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 28, 1983, 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 procedures herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-776 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-116-003]

Southern Natural Gas Co.; Proposed Changes In FERC Gas Tariff

January 6, 1983.

Take notice that Southern Natural Gas Company (Southern) on December 29, 1982, tendered for filing proposed changes in its FERC Gas Tariff, Sixth Revised Volume No. 1. The revised tariff sheet would reduce the jurisdictional revenues for gas sales by $40,962,061 annually over the rates originally filed in Southern's Docket No. RP82-116.

Southern states that on July 1, 1982, Southern filed a general rate increase in Docket No. RP82-116 to become effective on August 1, 1982. By its order issued July 30, 1982, the Commission accepted the revised tariff sheets for filing and suspended their effectiveness until January 1, 1983, subject to certain conditions. In compliance with the Commission's July 30, 1982 order, Southern filed revised tariff sheets on December 2, 1982 to reflect the elimination of costs associated with facilities that will not be in service as of December 31, 1982, the actual balance of advance payments in Account No. 166 as of December 31,1982, and the current GRI surcharge adjustment as of December 31, 1982. That filing also reflects the current level of purchased gas costs as represented in Southern's purchased gas adjustment filing of November 2, 1982 and the terms of a Stipulation and Agreement in Docket Nos. RP80-102 and RP81-86 in which Southern agreed to reduce its main line depreciation rate from 3.85% to 3.30% and to reflect a zero allowance for cash working capital.

On December 8, 1982, the Commission issued an order requiring Southern to file revised tariff sheets, on or before December 31, 1982, to reflect working capital allowance for gas prepayments no higher than $34,663,701. Southern states that this filing is in compliance with the Commission's December 8, 1982 order.

Southern requests that the proposed tariff sheet be allowed to be subsituted for the tariff sheet previously suspended by the Commission's order of July 30, 1982 and the Fifty-Fourth Revised Sheet No. 4A that Southern filed on December 2, 1982. Since the proposed tariff sheet contains the same costs included in Southern's rate filing, modified in accordance with the Commission's orders of July 30, 1982 and December 8, 1982 in this docket, Southern requests the Commission to grant such waivers as may be necessary to allow the proposed tariff sheet to become effective January 1, 1983 as contemplated by the Commission's July 30, 1982 orders.

Copies of this filling were served upon Southern's jurisdictional customers, interested state public service commissions and all parties of record.

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 385.214 or 385.211). All such petitions or protests should be filed on or before January 19, 1983. Protest 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. 83-777 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-78-000]

Sunlaw Energy Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

January 7, 1983.

On December 3, 1982, Sunlaw Energy Corp. of 14651 Ventura Boulevard, Sherman Oaks, California 91403, 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 4224 District Boulevard, Vernon, California 90058. The primary energy source to the facility will be natural gas with distillate fuel oil as a backup. The electric power production capacity will be 26,960 kilowatts. Thermal output in the form of steam will be used to produce −35°F ammonia through a refrigeration process to be used for blast freezing, food processing, cold storage, and other intended processes. Installation of the facility will be completed by December, 1984. 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. 83-778 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-18-001]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

January 6, 1983.

Take notice that Texas Gas Transmission Corporation, on December 29, 1982, tendered for filing Fortieth Revised Sheet No. 7 and Seventh Revised Sheet No. 7–B to its FERC Gas Tariff, Third Revised Volume No. 1. These sheets are being issued to reflect changes in the cost of purchased gas pursuant to Texas Gas' Purchased Gas Adjustment Clause.

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, 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 petitions or protests should be filed on or before January 19, 1983. 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. 83-779 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-18-004]

Texas Gas Transmission Corp.; Proposed Changes in Rates

January 6, 1983.

Take notice that on December 20, 1982, Texas Gas Transmission Corporation (Texas Gas) tendered for filing Fourth Substitute Thirty-sixth Revised Sheet No. 7 to its FPC Gas Tariff, Third Revised Volume No. 1. The substitute tariff sheet filed reflected downward modifications in the rates of one of Texas Gas' pipeline suppliers, United Gas Pipe Line Company (United). The Letter Order issued October 27, 1982, by the Director of the Office of Pipeline and Producer Regulations, in Docket No. TA82–2–18–001, accepted Texas Gas' Revised August 1, 1982 PGA rates subject to the condition that they reflect any downward modification of United's PGA rates. Submitted in the filing were Second Revised Schedules 1, 3, 5 and 7 to the August 1 PGA which reflect the United reduction.

Texas Gas requests waiver of Section 154.22 of the Commission's regulations to permit the substitute sheet to become effective on August 1, 1982.

Copies of the filing were mailed to all of Texas Gas' jurisdictional sales customers, interested state commissions and parties of record in this proceeding.

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 the 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 January 19, 1983. 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. 83-780 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of November 15 Through November 19, 1982

During the week of November 15 through November 19, 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

Wang Laboratories, 11/17/82, HFA–0091

Wang Laboratories filed an Appeal from a denial by the Director of Personnel (Director) of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the Director failed to identify which DOE documents were responsive to the Wang request and also failed to cite a specific FOIA exemption as justification for denying the request. The DOE therefore remanded the matter to the Director and ordered him either to release to Wang all documents responsive to the firm's request, or to issue a new determination identifying the material withheld, providing a detailed explanation of the reasons for the withholding, and including citation to appropriate exemptions.

Request for Exception

Petraco-Valley Oil and Refining Company, 11/18/82, BEE-0878

Petraco-Valley Oil and Refining Company filed an Application for Exception with the Office of Hearings and Appeals of the Department of Energy requesting that the DOE issue the firm additional entitlements for the crude oil that it purchased in August 1979 as a start-up inventory for a new refinery. In considering that submission, the DOE determined that Petraco-Valley was entitled to a start-up inventory adjustment equal to the number of barrels of crude oil it held in inventory on January 27, 1981, the date of the termination of the Entitlements Program, multiplied by the value of a runs credit for August 1979, the month in which it purchased its initial inventory. This exception relief amounted to $68,995.68. However, the DOE noted that Petraco-Valley

postponed payment of a $3.8 million entitlements purchase obligation pursuant to the September 1979 Entitlements Notice, from the date of publication of that Notice in November 1979, until August 4, 1980. The DOE found that by refusing to discharge its entitlements obligation promptly, Petraco-Valley realized substantial benefits at the expense of other participants in the Entitlements Program. The DOE pointed out that Petraco-Valley had benefited from the use of the $3.8 million for more than four months and that the benefits the firm realized from the use of this money far exceeded the exception relief that was otherwise appropriate. Accordingly, Petraco-Valley's Application for Exception was denied.

Request for Stay

Crown Central Petroleum Corp., 11/18/82, *HRS-0019*

Crown Central Petroleum Corporation requested that the Office of Hearings and Appeals stay an enforcement proceeding initiated against Crown, pending resolution of a judicial proceeding initiated by Crown against the DOE. Alternatively, Crown requested a 16-day extension of time in which to file a Statement of Objections to a Proposed Remedial Order issued to the firm. The DOE denied the request for stay, finding that Crown did not satisfy any of the stay criteria specified in 10 CFR § 205.125(b). However, the DOE found that good cause existed for granting Crown's request for an extension of time to file its Statement of Objections.

Motion for Discovery

M&M Minerals Corp., et al., 11/17/82, *HRZ-0112, HRH-0018, HRD-0023, HRD-0086, HRD-0087, HRD-0088, HRD-0089.*

M&M Minerals Corp. and four individuals (respondents) filed a Motion to Dismiss a Proposed Remedial Order (PRO) issued to the firm on October 2, 2981 by the Southeast District Office of the Economic Regulatory Administration (ERA). The DOE denied respondents' motion, finding that the PRO established a prima facie case and that respondents did not present any clear and convincing grounds for dismissal of the PRO.

The DOE also considered respondent's motions seeking administrative record discovery and contemporaneous construction discovery of the definition of the term property in DOE regulations. The DOE denied the respondents' request for administrative record discovery of Rulings 1977–1 and 1977–2. That determination was based on the DOE'S conclusion that since the agency has considerable flexibility in choosing when and how to issue interpretative rulings, the process by which such rulings are formulated is not a relevant concern. The DOE also found that contemporaneous construction discovery was not warranted because the respondents that failed to show that the term property and the related rulings were ambiguous as they applied to the respondents' factual situation.

The DOE also denied respondents' request for discovery of information that is publicly available and for discovery of information concerning matters not relevant to any factual dispute in this proceeding. However, discovery of documents pertaining to the determination of the applicable posted price used in the PRO, and to the calculation of alleged overcharges was granted because such documents contained essential factual information upon which the legal conclusions of the PRO are based.

The respondents' Motion or an Evidentiary Hearing regarding the ERA's method of calculating overcharges was dismissed without prejudice. The DOE stated that the request for an evidentiary hearing on this issue could be renewed if, after obtaining the discovery granted by this Order, respondents believed that a hearing on this issue was necessary.

Supplemental Order

Atlantic Richfield Company, HRX0052; Gulf Oil Corporation, HRX0053; Marathon Oil Company, HRX0054; Texaco Inc., HRX0057; Louisiana Land and Exploration Co., 11/15/82, HRX0055

The Atlantic Richfield Company, the Gulf Oil Corporation, the Marathon Oil Company, Texaco Inc., and the Louisiana Land and Exploration Company ("the producers") filed a motion to compel the Office of Special Counsel for Compliance to produce certain documents which the OSC identified in response to the OHA's discovery order in *Atlantic Richfield Co.*, 5 DOE ¶ 82, 521 (1980) and for which the OSC asserted claims of privilege. In a prior decision, the OHA upheld approximately 90 OSC privilege claims, rejected approximately 45 other privilege claims, and ordered that 140 other documents be produced for *in camera* review. In this Order the OHA set forth the results of that *in camera* review. The OHA found that most of the 140 documents were protected by the deliberative process privilege or the work product doctrine. In several instances, however, the OHA rejected the OSC's privilege claims and ordered material released to the producers.

Refund Applications

Pennzoil Company/B & L Motor Freight, Inc., et al., 11/18/82, RF10-2

On March 10, 1982, the Office of Hearings and Appeals issued a Decision and Order implementing special refund procedures with respect to a $3,000,000 fund obtained by the DOE through a consent order with Pennzoil Company. *See Office of Special Counsel (Pennzoil)*, 9 DOE ¶ 82,545 (1982). The March 10 Decision stated that the DOE would accept applications for refund filed by purchasers of Pennzoil's covered products during the period March 8, 1973 through December 31, 1980. The present Decision considered applications for refund filed by 25 firms. After reviewing each applicant's claim the Office of Hearings and Appeals determined that all the applicants were adversely affected by Pennzoil's alleged violations and were eligible for a portion of the consent order funds. Accordingly, those applications were granted.

Vickers Energy Corp./Standard Oil Co. (Indiana), 11/17/82, RF1-354

Standard Oil Company (Indiana) filed an Application for Refund seeking a portion of the fund obtained by the DOE through a consent order entered into by the agency and Vickers Energy Corporation. In considering the application, the DOE determined that the firm should be required to show that it was charged a price for the product which it purchased from Vickers in excess of the prevailing market price paid by its competitors. Since Standard paid less than market prices for the Vickers product, the DOE concluded that Standard did not experience any injury of the type that is properly cognizable in a Subpart V proceeding. Accordingly, the DOE concluded that Standard's refund application should be denied.

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 firm. 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./State of MD/ ERA, HRJ-0028

Dismissals

The following submissions were dismissed without prejudice:

Name and Case No.

Associated Service Corp, HEE-0046
City of Long Beach, CA, DRO-0161
Fulbright & Jaworski, HFA-0088
Sonat, Inc., HRO-0039
Taylor & Stauffer, HFA-0094
Taylor & Stauffer, HFA-0095
Taylor & Stauffer, HFA-0096

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.

Dated: January 6, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 83-821 Filed 1-11-83; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of December 13 Through December 17, 1982

During the week of December 13 through December 17, 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.

Appeals

Nuclear Fuel, 12/17/82, HFA-0099

Nuclear Fuel, a trade publication covering the nuclear power industry, filed an Appeal from a partial denial by the Assistant Manager for Administration at DOE's Oak Ridge Operations Office of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that release of the requested information would likely result in substantial competitive harm to one of the firms from whom the information had been obtained. The DOE thus determined that the withheld materials were exempt from mandatory disclosure pursuant to Exemption 4 of the FOIA. The DOE also concluded that release of the documents on public interest grounds would constitute a violation of the Trade Secrets Act, 18 U.S.C. § 1905. Accordingly, *Nuclear Fuel's* Appeal was denied.

Jerry L. Peterson, 12/15/82, HFA-0098

Jerry L. Peterson filed an appeal from a deniel by the Privacy Act Officer for the Albuquerque Operations Office of the Department of Energy of a request for information pursuant to the Privacy Act. In considering the Appeal, the DOE found that information contained in Peterson's security clearance file was improperly withheld under Exemption (k)(2) and (k)(5). The case was remanded to the Albuquerque Operations Office for the issuance of a new determination consistent with the principles set forth in the Decision and Order.

Petition for Special Redress

Attorneys General of Delaware, Iowa, Louisiana, North Dakota and Rhode Island, 12/13/82, HEG-0023

The Attorneys General of Delaware, Iowa, Louisiana, North Dakota and Rhode Island jointly filed a Peition for Special Redress concerning the distribution of funds received by the DOE pursuant to Consent Orders and deposited in escrow accounts administered by the Office of Hearings and Appeals pursuant to 10 CFR, Part 205, Subpart V. In this Petition, the States requested that all funds remaining in escrow after OHA has distributed refunds to claimants which have demonstrated injury due to the alleged regulatory violations, be remitted to state governments for use in energy-related programs or projects. In evaluating the Petition, the DOE found that the refund procedure advocated by the Attorneys General would not in all cases result in a close correspondence between the injured class of consumers and the beneficiaries of the refunds. Therefore the DOE ruled that the distribution of residual Subpart V refunds should be determined on an individual case basis. The DOE concluded that the Petition should be dismissed without prejudice and, in the interest of administrative efficiency, be deemed an Application for Refunds in each Subpart V proceeding pending before the Office of Hearings and Appeals.

Request for Exception

New York State Energy Office, 12/16/82, HEE-0030

The New York State Energy Office filed an Application for Exception from the provisions of 10 CFR Part 455 in which the firm sought additional federal funds to defray expenses incurred in administering Cycle IV of the DOE Institutional Building Grant Program. In considering the request, the DOE found that because New York had a low level of fixed administrative costs, administrative expense reductions were available to it. The DOE further found that in view of the size of New York's grant, the state had an incentive to continue participating in the program, even if additional state expenditures or cost-cutting measures were necessary. Accordingly, exception relief was denied.

Motion for Discovery

Exxon Company, U.S.A./Little America Refining Company, 12/13/82, HED-0091, HEJ-0027

On November 19, 1982, Exxon Company, U.S.A. filed a Motion for Discovery in connection with its Statements of Objections submitted in two year-end review proceedings for entitlement exception relief received by Little America Refining Company (Larco) for 1979 and 1980. In its Motion, Exxon requested access to confidential versions of decisions and orders that the OHA issued to Larco in thirteen prior proceedings. Subsequent to Exxon's filing, Larco agreed to amend the Stipulation for Access to Confidential Information previously signed by the two parties and approved by the OHA. The amended Stipulation permits Exxon access to the confidential version of the thirteen prior decisions as the firm requested. The OHA therefore approved the amended Stipulation and dismissed Exxon's Motion for Discovery.

Supplemental Orders

Office of Enforcement: in the matter of Lyon County Co-Operative Oil Company, 12/17/82; HEX-0065

The Office of Hearings and Appeals issued a Supplemental Order which provided for the distribution of a portion of the funds obtained as a result of the settlement which DOE entered with Lyon County Co-Operative Oil Company. The funds will be distributed to thirteen customers which purchased motor gasoline or middle distillates from Lyon during the period of November 1, 1973 through December 31, 1974.

Office of Special Counsel for Compliance, 12/14/82; HRX-0050

On July 16, 1982, the Office of Hearings and Appeals issued a decision and order requiring the Atlantic Richfield Company (ARCO) to conduct an additional search for documents responsive to OHA's discovery order in *Atlantic Richfield Co.*, 8 DOE ¶ 82,585 (1981). *See Office of Special Counsel (Arco)*, 9 DOE ¶ 82,595 (1982). In the July 16, 1982, decision, OHA did not specify the scope of the additional search Arco was to conduct but instead stated that it would insure a supplemental order specifying the scope of the additional search after the parties had filed comments on the matter. On September 14, 1982, the Office of Special Counsel for Compliance (OSC) filed a list of offices it stated Arco should search in its additional search. Arco and OSC were subsequently able to resolve their disputes concerning the majority of the items on OSC's list. On November 19, 1982, OHA convened a hearing at which the Presiding Office ruled on the few outstanding OSC search requests. The rulings made at this hearing were confirmed in a Supplemental Order OHA issued on December 14, 1982.

Refund Applications

Alfred B. Alkek/Adams Resources v. Energy Inc./Navajo Refining Company, 12/14/82; RF8-16

On April 8, 1982, the OHA issued a Decision and Order instituting special refund procedures for the distribution of funds obtained by the DOE in connection with consent orders entered into by Adams Resources and Energy, Inc. and the other firms and individuals listed in Appendix A of that Decision and Order. *Office of Enforcement*, 9 DOE ¶ 82,553 (1982) (*Alkek/Adams*). Navajo Refining Company (Navajo) filed an Application for Refund on May 3, 1982, pursuant to the special refund procedures established in *Alkek/Adams*. In considering the request, the OHA determined that Navajo's alleged injury was based upon a delay in the issuance of the January 1981 Entitlements Notice and was therefore unrelated to the violations referred to in *Alkek/Adams*. Accordingly, the firm's Application for Refund was denied.

Pennzoil Company/Barney Holland Oil Company, 12/13/82; RF10-57

On March 10, 1982, the Office of Hearings and Appeals issued a Decision and Order implementing special refund procedures with respect to a $3,000,000 fund obtained by the DOE through a consent order with Pennzoil Company. *See Office of Special Counsel (Pennzoil)*, 9 DOE ¶ 82,545 (1982). The March 10 Decision stated that the DOE would accept applications for refund filed by purchasers of Pennzoil's covered products during the period March 6, 1973 through December 31, 1980. The December 13, 1982 Decision addresses an Application for Refund filed by an applicant claiming purchases of less than 50,000 gallons per month of motor oil only during the consent order period. In considering Barney Holland Oil Company's claim for refund, the DOE determined that the cost of processing such a claim outweighs the potential refund of less than $15. Accordingly, the DOE concluded that the application should be denied.

Tenneco Oil Company/Hoffman Enterprises, Inc., 12/16/82; RF7-103

Hoffman Enterprises, Inc. filed an Application for Refund in the Tenneco Oil Company Refund Proceeding pursuant to 10 CFR Part 205, Subpart V. The firm requested a refund based on its purchases of No. 2 fuel oil from Tenneco during the consent order period. Since Hoffman's purchases of covered petroleum products were below the small claim threshold level of 600,000 gallons per year, the Office of Hearings and Appeals determined that the firm should be granted a

refund for the full extent of its purchases from Tenneco based on a pro rata share of the consent order fund and accrued interest.

Dismissals

The following submissions were dismissed without prejudice:

Company Name and Case No.

Secor Petroleum, Inc., HRO–0059
Standard Oil Co. of Ohio, HRO–0029

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.

Dated: January 4, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 83-822 Filed 1-11-83; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of November 29 Through December 3, 1982

During the week of November 29 through December 3, 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.

Request for Exception

State Of Rhode Island, Governor's Energy Office, 11/29/82, *HEE–0039*

The State of Rhode Island Governor's Energy Office filed an Application for Exception from the provisions of 10 CFR 455.83(a)(2) in which the State sought permission to use more than five percent of the total funds allotted to the State for Cycle IV of the Institutional Conservation Grant Program in order to defray administrative costs associated with running the Program. In considering the request, the DOE found that exception relief was appropriate since the State's current grant for administrative expenses was less than 25 percent of its actual administrative expenses, the State had implemented cost-cutting measures, and a disproportionate amount of the States' administrative costs are fixed. Accordingly, exception relief was granted.

Request for Modification and/or Rescission

Office of Enforcement/Raymond S. Williams, d.b.a Broadway Shell, 11/29/82, *HRR–0039*

The Office of Enforcement of the Economic Regulatory Administration (ERA) filed a Motion to Modify a Proposed Remedial Order (PRO) which the DOE had remanded previously in *Raymond S. Williams d.b.a. Broadway Shell,* 10 DOE ¶ 83,013 (1982), to clarify certain errors contained in the audit workpapers. The Modified PRO alleged that during the audit period, Broadway Shell's gasoline prices exceeded the maximum lawful selling prices for each product, calculated pursuant to 10 CFR 212.93. Broadway Shell failed to respond to the Motion or the Modified PRO. The DOE found that the ERA corrected the errors in the original PRO and therefore issued the Modified PRO as a final Remedial Order.

Interlocutory Orders

Atlantic Richfield Company, HRZ–0071; Gulf Oil Corporation, HRZ–0072; Marathon Oil Company, HRZ–0073; Texaco Inc., HRZ–0075; Louisiana Land and Exploration Company, 11/29/82, HRZ–0076

On July 9, 1982, the Atlantic Richfield Company, the Gulf Oil Corporation, the Marathon Oil Company, Texaco Inc., and the Louisiana Land and Exploration Company (collectively "the producers") filed a motion to compel additional discovery. In that motion, the producers sought to compel the Office of Special Counsel for Compliance (OSC) to produce certain documents which the OSC has identified in response to the discovery order in *Atlantic Richfield Co.*, 5 DOE ¶ 82,521 (1980) (*ARCO I*), and for which the OSC has asserted claims of privilege. The documents sought by the producers were identified in an index which the OSC filed with the Office of Hearings and Appeals on June 4, 1982. In considering the producers' motion, the OHA upheld the OSC's privilege claims for 18 of the documents at issue and for portions of two others. In three instances, the OHA rejected the OSC's claim of privilege. Finally, in two instances, the OHA ordered the OSC to produce documents for *in camera* inspection.

Economic Regulatory Administration, Office of Special Counsel, 12/3/82, HRZ–0106 through HRZ–0109

The Office of Speical Counsel for Compliance of the Economic Regulatory Administration (OSC) filed a motion to strike three affidavits submitted by Marathon Oil Company as part of its Statement of Objections to a Proposed Remedial Order issued to the firm. The three affidavits set forth the opinions of two former Cost of Living Council officials regarding the meaning of the three cent rule and the equal application rule in the DOE refiner price regulations. The DOE determined that the affidavits should be accorded no probative value because they contained opinions regarding the ultimate legal issues that the agency would be called upon to decide in the Marathon compliance proceeding. In this regard, the DOE pointed out that contentions concerning ultimate legal issues should properly be raised in a Statement of Objections, rather than in affidavits. The DOE denied the OSC motion to strike, however, on the grounds that no prejudice to any party would occur if the material remained in the record.

The DOE also considered an OSC motion to strike two other affidavits and business records submitted by Marathon after the date on which the firm's Statement of Objections was due. Since the affidavits did not contain opinions regarding ultimate legal issues, and since no delay had resulted from the fact that the filings were not concurrently submitted with the Statement of Objections, the DOE decided to accept the material into the record, and accord it due consideration.

Finally, the DOE determined that it was not necessary to announce the imposition of any specific sanctions upon Marathon if the firm submitted any untimely filings in the future. However, the DOE stated that it would consider summarily dismissing excessive or untimely filings made by any party to the Marathon compliance proceeding.

Implementation of Special Refund Procedures

Office of Special Counsel: In the Matter of The Charter Company 11/29/82, HEG–0005

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 Order which the DOE entered into with The Charter Company. The funds will be available to customers which purchased No. 2–D diesel fuel from Charter during the period December 1, 1973 through June 20, 1975. Applications for refund must be postmarked within 90 days of the publication of the Decision and Order in the **Federal** Register. Specific information to be included in refund applications is discussed in the Decision.

Refund Applications

Tenneco Oil Co./McCurley Oil Co., 11/29/82, RF7–102

McCurley Oil Company filed an Application for Refund from the Tenneco Oil Company consent order fund pursuant to 10 CFR Part 205, Subpart V. The firm requested a refund based on its purchases of motor gasoline and diesel fuel from Tenneco during the consent order period. Since the firm elected to limit its refund claim on its purchases of motor gasoline from Tenneco to 600,000 gallons per year, and purchased less than 600,000 gallons of diesel fuel annually from Tenneco, the Office of Hearings and Appeals determined that the firm should be granted a refund for those purchases based on a pro rata share of the consent order fund an accrued interest.

Vickers Energy Corp./Hudson Oil Co., Inc., 12/3/82, RF1–237, RF1–238, RF1–239

Hudson Oil Company filed an Application for Refund in the Vickers Energy Corporation Special Refund Proceeding pursuant to 10 CFR Part 205, Subpart V. Hudson requested a refund on the basis of its entire purchases of motor gasoline from Vickers during the period August 19, 1973 through March 31, 1979. The firm purchased more than 600,000 gallons of motor gasoline from Vickers in each year of the consent order period. In reviewing the refund application, the OHA

found that Hudson failed to provide detailed market information regarding the operation of the firm as a whole. The OHA determined that information regarding Hudson's firmwide operations was a necessary prerequisite to establishing its eligibility for a refund in order to determine the extent of any injury it might have suffered as a result of Vickers' alleged regulatory violations. Hudson's refund, therefore, was limited to its pro rata share of the consent order fund based on its purchases of 600,000 gallons of motor gasoline per year.

Dismissals

The following submissions were dismissed without prejudice:

Name and Case No.

Bill Forney, Inc., HEG-0025 HRS-0020
Central Louisiana Electric Co., Inc., HEE-0050
Champlin Petroleum Company, BRA-0510
Mercury Production Company, HRO-0079
Tipperary Corporation, HRO-0078, HRD-0078, HRH-0078
Ms. Aida Waserstein, HFA-0100

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.

Dated: January 4, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 83-823 Filed 1-11-83; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed; Week of November 22 Through 26, 1982

During the week of November 22 through November 26, 1982, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: January 4, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

Burgess Marketing, Inc., Waco, Texas, HRO-0097

On November 24, 1982, Burgess Marketing, Inc., 315 South University Park, Waco, Texas, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southeast District Office of Enforcement issued to the firm on September 21, 1982. In the PRO, the Southeast District Office found that from March 1, 1979 to March 31, 1980, Burgess Marketing, Inc. sold motor gasoline at prices exceeding lawful limits as determined under DOE price regulations. According to the PRO, the Burgess Marketing, Inc. violation resulted in $504,697.55 of overcharges.

Evett Oil Co., Comanche, Texas, HRO-0098

On November 24, 1982, Evett Oil Company, 707 East Central, P.O. Box 129, Comanche, Texas filed a Notice of Objection to a Proposed Remedial Order which the DOE Southeast District Office of Enforcement issued to the firm on September 20, 1982. In the PRO, the Southeast District Office found that during March 1, 1979 to March 31, 1980, Evett Oil Company sold motor gasoline at prices exceeding lawful limits as determined under DOE price regulations. According to the PRO, Evett Oil Company violation resulted in $308,336.11 of overcharges.

[FR Doc. 83-824 Filed 1-11-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30222; PH-FRC 2283-8]

Certain Companies; Applications To Register Pesticide Products Containing New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended.

DATE: Comment by February 11, 1983.

ADDRESS: Written comments, identified by the document control number [OPP-30222] and the file or registration number, should be submitted to the product manager (PM) cited at the address below: Registration Division (TS-767C, Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: The product manager at the telephone number cited.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Applications Received

1. File Symbol: 8489-EA. Applicant: Cosan Chemical Corp., 400 14th St., Carlstadt, NJ 07072. Product name: Cosan 145. Preservative. Active ingredient: Methanol, [[[2-(dihydro-5-methyl-3(2*H*)-oxazolyl)-1-methylethoxy]methoxy] methoxy] 50%. Proposed classification/Use: General. For the manufacture of latex paints, resin emulsions, adhesives, dispersed colors, pigment slurries, and ready mixed cements. (Product Manager (PM) 31-John Lee, (703-557-3663)).

2. File Symbol: 45177-E. Applicant: Thiokol/Specialty Chemicals Div., PO Box 8296, Trenton, NJ 08650. Product name: "CI-193C". Bactericide. Active ingredient: 1-Dodecanamium, *N,N'*-(methlyenebis(oxy 2,1-ethanediyl))bis (*N,N*-dimethly-,dichloride) 96.82%. Proposed classification/Use: General. For the formulation of a bactericide to be used in oil field operations (corrosion inhibitor). (PM 31-John Lee, (703-557-3663)).

3. File Symbol: 45177-G. Applicant: Thiokol/Specialty Chemicals Div. Product name: CI-93. Bactericide. Active ingredient: 1-Dodecanamium, *N,N'*-(methylenebis(oxy 2,1-ethanediyl))bis (*N,N'*-dimethyl-,dichloride) 50%. Proposed classification/Use: General. For use in oil field drilling operations (corrosion inhibitors). (PM 32-John Lee, (703-557-3663)).

4. File Symbol: 47374-R. Applicant: Inolex Chemical Co., 4221 S. Western Blvd., Chicago, IL 60609. Product name: Lexgard Bronopol. Disinfectant. Active ingredient: 2-Bromo-2-nitro-1,3-propanediol 98%. Proposed classification/Use: General. A technical product for formulating biocides. PM 31-John Lee, (703-557-3663)).

5. File Symbol: 1471-RGG. Applicant: Elanco Products Co., 740 S. Alabama St., Indianapolis, IN 46285. Product name:

Bant. Insecticide. Active ingredient: *N*-[2,-Amino-3-nitro-5-(trifluoromethly)phenyl]-2,2,3,3-tetrafluoropropanamide 0.75%. Proposed classification/Use: General. For the control of imported fire ants and use on noncropland areas only. Treated areas should not be grazed. Type registration: Conditional. (PM 15–George LaRocca, (703–557–2400)).

6. File Symbol: 1471–RGU. Applicant: Elanco Products Co. Product name: Rubigan 50W. Fungicide. Active ingredient: Alpha-(2-chlorophenyl)-alpha-(4-chlorophenyl)-5-pyrimidinemethanol 50%. Proposed classification/Use: General. For the control of dollar spot, large brown patch, fusarium blight, stripe smut, and pink or gray snow mold or turfgrass; for use of Gold Courses, Parks, Athletic Fields, and Commercial Turf Areas. Type registration: Conditional. (PM) 21-Henry Jacoby, (703–557–1900)).

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: January 5, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-714 Filed 1-11-83; 8:45 am]

BILLING CODE 6560-50-M

[PF-304]; PH-FRL 2284-1]

Certain Companies; Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide petitions relating to establishment of tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities.

ADDRESS: Written comments to: Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments may be submitted while the petitions are pending before the agency. The comments are to be identified by the document control number "[PF–304]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–1800).

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide petitions (PP) relating to establishment of tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues where required is given in each petition.

1. *PP 3F2794.* Velsicol Chemical Corp., 341 East Ohio St., Chicago, IL 60611. Proposes amending 40 CFR 180.227 by establishing tolerances for the combined residues of the herbicide dicamba (3,6-dichloro-*o*-anisic acid) and its metabolite 3,6-dichlorosalicylcic acid in or on the raw agricultural commodity cottonseed at 3.0 parts per million (ppm). The proposed analytical method for determining residues is gas chromatography with an electron capture detector.

2. *PP 3F2788.* American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540. Proposes amending 40 CFR 180.361 by establishing tolerances for the combined residues of the herbicide pendimethalin [*N*-(1-ethylpropyl)-3,4-dimethylethyl-2,6,-dinitrobenzamine] and its metabolite (4-[(1-ethylpropyl] amino)-2-methyl-3,5-dinitrobenzyl alcohol] in or on the raw agricultural commodities forage, grain, and straw of wheat and forage, grain, and straw of barley at 0.1 ppm. The proposed analytical method for determining residues is gas chromatography using an electron capture detector.

3. *PP 3F2792.* American Cyanamid Co. Proposes amending 40 CFR 180.361 by estabishing tolerances for the combined residues of the herbicide pendimethalin in or on the raw agricultural commodities pea pods, shelled peas, pea vines, and peas plus pods at 0.1 ppm. The proposed analytical method for determining residues is gas chromatography using an electron capture detector.

(Sec. 408(d)(1) 68 Stat. 512 (7 U.S.C. 136))

Dated: December 28, 1982.

Robert Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-713 Filed 1-11-83; 8:45 am]

BILLING CODE 6560-50-M

[Opp 42054E; PH-FRL 2268-4]

Commonwealth of Kentucky; Approval of Amendments to State Plan for Certification of Applicators of Restricted Use Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In the **Federal Register** of September 8, 1982 (47 FR 39609), the Agency announced its intent to approve certain proposed amendments to Kentucky's State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides. The Plan had been approved on August 27, 1980, and notice of the approval appeared in the **Federal Register** of October 10, 1980 (45 FR 67452). The comment period for the proposed amendments ended on October 8, 1982; no comments were received. Accordingly, this notice announces the Agency's approval of Kentucky's proposed amendments.

DATE: This approval is effective January 12, 1983.

FOR FURTHER INFORMATION CONTACT: Kent Williams, Pesticides and Toxic Substances Branch, Environmental Protection Agency, Region IV, 345 Courtland St., NE., Atlanta, GA 30365, (404–881–3222).

SUPPLEMENTARY INFORMATION: The Kentucky State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides was approved on August 27, 1980. Kentucky requested to amend its Plan by establishing additional commercial applicator subcategories. In the **Federal Register** of September 8, 1982 (47 FR 39609), the

Agency announced its intent to approve these proposed amendments to Kentucky's State Plan.

Under the Plan as origianlly approved, the Kentucky Agricultural Pest Control category contained two subcategories, Plant and Animal, which remain unchanged. The Agency approved the addition of a third subcategory, entitled Fumigation—Agricultural-related—Non-residential, to the established Agricultural Pest Control category.

The Agency also approved the expansion of Kentucky's Ornamental and Turf Pest Control category into two separate subcategories, one, Ornamental Pest Control, and the other, Turf Pest Control.

In the amendments, Kentucky defines the new subcategories and provides specific standards of competency for each. Also provided is an estimate of the numbers to be certified in the new subcategories and sample test questions and training materials.

The Agency received no comments on the proposed amendments and hereby approves them.

Dated: November 24, 1982.

Charles Jeter,

Regional Administrator, Region IV.

[FR Doc. 83-329 Filed 1-11-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-66096; PH-FRL 2278-6]

Certain Pesticide Products; Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice lists the name of firms requesting voluntary cancellation of registration of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Production of these products after the effective date of cancellation will be considered a violation of the Act unless continued registration is requested.

EFFECTIVE DATE: February 11, 1983.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lela Sykes, Process Coordination Branch (TS-767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 706, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7406).

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of their intent to voluntarily cancel registration of their pesticide products.

Registration No.	Product name	Registrant	Date registered
61-145	Koppers Antifoulant Coating 990 Green	Koppers Company, Inc., Environmental Resources Department, Pittsburgh, PA 15219.	Oct. 18, 1973.
61-146	Koppers Antifoulant Coating 990 White	do	Oct. 15, 1973.
61-147	Koppers Antifoulant Coating 990 Blue	do	Oct. 18, 1973.
61-156	Brolite Z SPAR SAC-115 Racing Bronz Antifouling	do	Aug. 2, 1974.
148-749	De Pester Thiram-Maneb 3.3-6	Thompson Hayward Chemical Co., P.O. Box 2382, Kansas City, KS 66110.	Nov. 20, 1967.
239-97	Ortho Parathion 15 Wettable	Chevron Chemical Co., Ortho Division, 940 Hensley St., Richmond, CA 94801.	July 24, 1948.
239-322	Ortho Parathion 25 Wettable	do	Oct. 23, 1957.
239-400	Ortho Parathion-Sulfur 2-50 Dust	do	Dec. 27, 1957.
239-547	Orthophos 4 Emulsive	do	July 8, 1957.
239-613	Ortho Parathion 4 Emulsive	do	Feb. 27, 1958.
239-944	Ortho Chevron Parathion 25 Dust Concentrate	do	Apr. 18, 1966.
239-1070	Ortho Parathion-Zinc Coposil 2-25 Dust	do	Mar. 13, 1958.
239-1268	Ortho Parathion 8 Flow Concentrate	do	May 1, 1959.
239-1305	Ortho Thiodan 2 Emulsive	do	Apr. 10, 1959.
239-1354	Ortho Thiodan Sulfur 3-50 Dust	do	May 20, 1959.
239-1355	Ortho Thiodan 3 Dust	do	Do.
239-1357	Ortho Thiodan 25 Dust Concentrate	do	May 25, 1959.
239-1426	Ortho Lawn and Turf Fungicide	do	Nov. 6, 1959.
239-1561	Ortho Thiodan 50 Wettable	do	Jan. 9, 1961.
239-1616	Ortho Thiodan 4 Dust	do	June 1, 1961.
239-1685	Ortho Parathion 8 Flow Concentrate (LF)	do	June 26, 1966.
239-1855	Ortho Thiodan Kelthane 4-4 Dust	do	Aug. 20, 1963.
239-1856	Ortho Thiondan Kelthane Sulfur 4-4-30 Dust	do	Aug. 27, 1963.
239-1861	Ortho Thiodan 5 Dust	do	Sept. 10, 1963.
239-1862	Ortho Thiodan Sulfur 5-25 Dust	do	Do.
239-1930	Orthocide Thiodan 5-2 Dust	do	May 12, 1964.
239-1955	Ortho Thiodan Sulfur 4-50 Dust	do	July 1, 1964.
239-1962	Ortho Thiodan Sulfur 4-25 Dust	do	July 20 1964.
239-2014	Ortho Thiodan Sulfur 5-40 Dust	do	Oct. 8, 1964.
239-2112	Ortho Thiodan Diazinon 3-2 Dust	do	July 12, 1965.
239-2132	Ortho Thiodan Karathane 3-1 Dust	do	Aug. 30, 1965.
239-2223	Ortho Thiodan 2 C.O. Emulsive	do	May 27, 1967.
239-2228	Ortho Golf and Turf Fungicide	do	July 3, 1967.
239-2231	Ortho Methyl Parathion Thiodan 2-3 Emulsive	do	July 14, 1967.
239-2236	Ortho Thiodan Parathion 2-1 C.O. Emulsive	do	June 27, 1968.
239-2256	Ortho M-P Citrus Spray	do	May 16, 1968.
239-2282	Ortho Thiodan Phosdrin 2-1 Emulsive	do	Nov. 4, 1968.
239-2324	Ortho Tomato and Potato Dust	do	Sept. 9, 1970.
239-2384	Ortho Thiodan Methyl Parathion Toxaphene 2.5-2.5-10 Dust	do	Mar. 19, 1972.
239-2410	Ortho MCP 4 Weed Killer	do	Feb. 6, 1973.
279-1017	Niacide M	FMC Corporation, Agricultural Chemical Division, 2000 Market St., Philadelphia, PA 19103.	Feb. 3, 1956.
279-1043	Niacide M Dust	do	Apr. 11, 1956.
279-1074	Niacide M Phos Kil 1.5 Dust	do	June 7, 1956.
279-1561	Thiram 4-9 Dust	do	May 4, 1960.
279-1583	Niacide M4 Parathion 1.5 Zineb 4 Dust	do	May 19, 1960.
279-1623	Niacide M4 Sevin 10 Dust	do	July 8, 1960.

Registration No.	Product name	Registrant	Date registered
279-1845	Niacide M7 Sevin 10 Dust	do	Sept. 15, 1961.
279-1941	Niacide M4 G/3 Dust	do	June 22, 1962.
279-1964	Methyl Parathion 2 Sevin 7.5 Dust	do	Aug. 10, 1962.
279-2716	Nynamite 44 Insecticide	do	Apr. 21, 1969.
279-2733	Methyl Parathion 2 Toxaphene 15 Dust	do	July 7, 1970.
506-118	Tat Go Animal Repellent Concentrate	Linck O. E. Company Division, 1234 State Highway, Clifton, NJ 07015.	Apr. 12, 1967.
524-121	PCNB 80 Percent Dust Concentrate	Monsanto, 1101 17th St., NW., Suite 604, Washington, D.C. 20036.	Dec. 27, 1961.
802-87	Miller's Lawn Weed Killer	The Chas. H. Lilly Company, 7737 NE. Killingsworth, Portland, OR 97218.	Feb. 28, 1952.
829-62	SA-50 Brand 2 Percent Parathion Dust	Southern Agricultural Insecticides, Inc., P.O. Box 218, Palmetto, FL 33561.	Apr. 23, 1954.
829-73	SA-50 Brand Manzate Dust With 1 Percent Parathion	do	Apr. 27, 1955.
829-164	SA-50 Brand 2 Percent Parathion With 60 Percent Sulfur	do	Apr. 19, 1966.
904-255	Agriseot Malathion 57 Emulsifiable Liquid	Miller Chemical & Fertilizer Corp., Pratt-Gabriel Division, 204 21st Ave.,	Jan. 21, 1964.
904-303	Agriseot Malathion 57-E	do	Dec. 29, 1971.
1439-129	Chem-VAPE	Blue Spruce Company, 50 Division Ave., Millington, NJ 07946, Patterson, NJ 07509.	Nov. 30, 1956.
1812-198	2-3 Tobacco Dust	Griffin Corp., P.O. Box 1847, Valdosta, GA 31601.	May 14, 1973.
2342-907	Alkron—100	Kerr McGee Chemical Corp., Kerr-McGee Building, Oklahoma City, OK 73125.	Sept. 9, 1973.
2342-908	Trona Metron—80	do	Aug.9, 1973.
2460-53	Gowen's 28 Cotton Spray	Howerton Gowen Chemicals, Inc., P.O. Box 247, Roanoke Rapids, NC 27870.	June 15, 1973.
2460-54	Gowen's 6—3 Emulsifiable Insecticide Concentrate	do	Oct. 24, 1974.
2693-86	Wide Spectrum Speed Cote Antifouling Red 3220	International Paint Co., P.O. Box 386, Union, NJ 07083.	Nov. 3, 1972.
2693-89	Polaris Antifouling Red 3040	do	Mar. 23, 1973.
2693-91	Wide Spectrum Speed Cote Antifouling Matson Blue 5755	do	Oct. 16. 1975.
3051-65	Parathion 8 EC	AGCO Agricultural Products Co., P.O. Box 696, Mesquite, NM 88048.	Sept. 23, 1968.
3051-66	AGCO Parathion 4 Insecticide	do	Sept. 24, 1968.
4389-3	Chemprocide Detergent and Sanitizer	Pacific Chemical, 500 7th Ave., South, Kirkland, WA 98033.	July 9, 1953.
4581-155	Parathion E-4	Pennwalt Corporation, 3 Parkway, Philadelphia, PA 19102.	May 9, 1961.
4581-273	Parathion W-15	Pennwalt Corporation, P.O. Box 3, King of Prussia, PA 19406.	Oct. 24,1970.
5535-34	Gro-Well Lawn Fungicide	Seacoast Laboratories, Inc., 257 Highway 18, East Brunswick, NJ 08816.	Nov. 25, 1960.
5905-39	4 lb. Methyl Parathion	Helena Chemical Co., Clark Tower, Suite 2900, 5100 Poplar Ave., Memphis, TN 38137.	Jan. 24, 1962.
5905-179	Ethyl Methyl 6-3	do	July 1, 1972.
5905-240	Helena Brand Methyl 4-EC	do	Mar. 20, 1974.
5905-307	Helena Brand Methyl Parathion 4 E	do	Jan. 21, 1974.
5905-315	Helena Parathion 8-E	do	Mar. 22, 1965.
5905-347	Helena Parathion 6 Methyl 3	do	July 7, 1970.
6079-8	Methyl Parathion 4	North Louisiana Chemicals, Inc., P.O. Box 127, Gilliam, LA 71029.	May 23, 1967.
6079-11	Eight-Two Toxaphene-Methyl Parathion	do	June 12, 1972.
6079-12	Six-Three Toxaphene-Methyl Parathion	do	Do.
8590-274	Thiram-Tinasad 5-5G	Agway, Inc., Fertilizer-Chemical Division, P.O. Box 4933, Syracuse, NY 13221.	May 15, 1967.
9779-99	Riverside T-Man Cotton Seedling Fungicide	Riverside Chemical Co., 5900 Poplar Ave., P.O. Box 171367, Memphis, TN 38117.	Apr. 25, 1968.
9779-158	Riverside Stimusoy Seed Protectant	do	Jan. 17, 1968.
9779-169	Protex A Plenty Seed Pro	do	Dec. 23, 1971.
9782-23	Parathion 2 Dust	Woodbury Chemical Co., P.O. Box 4319, Princeton, FL 33032.	Feb. 14, 1975.
9782-24	Parathion Sulfur 2-80 Dust	do	Aug. 19, 1975.
9782-25	Paren 6-3 E	do	Oct. 14, 1976.
9782-26	Parthion 8-E	do	June 10, 1975.
10226-5	Rockwood Brand Systemic T	Rockwood Chemical Company, P.O. Box 34, Brawley, CA 92227.	Mar. 11, 1969.
10513-1	No. 91 Germicidal Sanitizing Solution Concentrate	Fend-All Company, 5 E. College Drive, Arlington Heights, IL 60004.	Jan. 19, 1970.
11547-6	Super Aquatic Weed Control	Share Corporation, P.O. Box 23053, Milwaukee, WI 53223.	July 18, 1972.
12310-13	Misco Aqua-Check	Misco International Chemicals, Inc., 1021 South Noel Ave., Wheeling, IL 60090.	Dec. 11, 1974.
33955-90	Basic Cooper Arsenate	PBI Gordon Corporation, Acme Division, 300 South St.,	Aug. 19, 1974.
39335-21	Thiram 75%	Fallek-Lankro Corp. P.O. Box H Tuscaloosa, AL 35401.	Feb. 2, 1978.
45639-22	Methyl Parathion	FBC Chemicals, Inc., P.O. Box 2867, Wilmington, DE 19805.	May 11, 1961.

Registration No.	Product name	Registrant	Date registered
46148-1	Fresh Protected 100	Citrus Machinery and Coatings, Inc., 306 Nolana McAllen, TX 78501.	Mar. 5, 1982.
46148-2	Fresh Protected 200	do	Do.
46148-3	Fresh Protected 300	do	Mar. 15, 1982.

The Agency has agreed that such cancellation shall be effective February 11, 1983, unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for 1 year after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Production of these products as pesticide formulations after the effective date of cancellation will be considered to be a violation of the Act.,

Requests that the registration of these products be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP-66096]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in the Document Control Office, Room E-107, at the above address from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

(Sec. 6(a)(1) of FIFRA as amended 86 Stat. 973 89 Stat. (751, 7 U.S.C. 136))

Dated: December 22, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 83-186 Filed 1-11-83; 8:45 am]

BILLING CODE 6560-50-M

[OPRM—FRL 2284-6]

Agency Forms Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers; Office of Standards and Regulations; Information Management Section (PM-223); U.S. Environmental Protection Agency; 401 m Street, SW.; Washington, D.C. 20460; telephone (202) 382-2742 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Air Programs

• Title: NSPS—Volatile Organic Compound: Fugitive Emission Sources, Synthetic Organic Chemical Manufacturing Industry (SOCMI) (EPA ID 0662)

Abstract: Owners of new plants producing any organic chemicals from a list of over 300 must document their control of fugitive emission sources at various intervals. EPA and plant management use these records to ensure compliance with the standards.

Respondents: Owner or operators of new plants producing certain chemicals.

* * * * *

Agency Forms Cleared by OMB Between December 10 and December 21, 1982

• EPA ID 0573, Premanufacture Notification Interim Policy, was cleared on December 20 (OMB #2000-0054).

• EPA ID 0995, Information Requirements for RCRA Land Disposal Facilities, was cleared on December 20 (OMB #2050-0007).

• EPA ID 0944, RCRA C Compliance Survey, was cleared on December 21 (OMB #2010-0001).

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Comments on all parts of this notice should be sent to:

David Bowers, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223), 401 M Street SW., Washington, D.C. 20460

and

Anita Ducca, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228); 726 Jackson Place NW., Washington, D.C. 20503.

Dated: January 5, 1983.

C. Ronald Smith,

Director, Office of Standards and Regulations.

[FR Doc. 83-819 Filed 1-11-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

National Industry Advisory Committee, Long Range Planning Subcommittee; Meeting

January 5, 1983.

Pursuant to the provisions of Pub. L. 92-463, announcement is made of a public meeting of the Long Range Planning Subcommittee of the National Industry Advisory Committee (NIAC) to be held on Thursday, January 27, 1983. The Subcommittee will meet at the FCC Commission Meeting Room (Room 856) located at 1919 M Street, NW., Washington, D.C. at 2:00 p.m.

Purpose: To initiate activities of the Subcommittee; to consider defense preparedness and emergency communications matters.

The meeting agenda is as follows:

1. Welcome by Defense Commissioner Mimi Weyforth Dawson.
2. Opening remarks by Chairman Mark S. Fowler.
3. Introduction of members of the Subcommittee and of other attendees.
4. Selection of Subcommittee Chairman and Vice Chairman.
5. Briefing by FCC staff on defense preparedness and emergency communications activities of the Commission.
6. Discussion of the functions of the National Industry Advisory Committee and the role of the Long Range Planning Subcommittee.
7. Other business by the Subcommittee.
8. New business.
9. Adjournment.

Any member of the general public may attend or file a written statement with the Committee either before or

after the meeting. Those desiring more specific information about the meeting may telephone the Executive Secretary at the Emergency Communications Division, FCC, (202) 634–1600.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-807 Filed 1-11-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 82-836; File No. BML-810618AA]

Salter Broadcasting Co.; Designating Application for Hearing on Stated Issues

Hearing Designation Order

Adopted: December 27, 1982.

Released: December 30, 1982.

In re Application of Salter Broadcasting Company, WBEL, Beloit, Wisconsin, Has: 1380 kHz, 5 kW, DA–N, U South Beloit, Illinois; Req: 1380 kHz, 5 kW, DA–N, J Beloit, Wisconsin, For Modification of License.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the application Salter Broadcasting Company to change the city of license of AM station WBEL from South Beloit, Illinois, to Beloit, Wisconsin. WBEL is presently the only station licensed to South Beloit (population 4,088). Beloit (population 34,207) in contrast has two licensed stations, one a noncommercial FM facility.

2. Section 307(b) of the Communications Act of 1934, as amended, requires in pertinent part that broadcast facilities be distributed among the several States and communities so as to provide "a fair, efficient, and equitable distribution of radio service to each of the same." In line with this statutory mandate, we have established as our second highest priority in the assignment of AM stations the provision of at least one outlet for self-expression for as many independent communities as possible,[1] *AM Station Assignment Standards*, FCC 63–486, 25 RR 1615, 1626 (1963). To the extent that a license seeks to significantly reduce, or in this case eliminate, local service in order to provide service to an already well-served community, this important assignment goal is compromised. Hence we have consistently designated such proposals for hearing. *See e.g., Rust Communications Group, Inc.*, 52 FCC 2d 1252 (1975).

3. There is no sound basis for a different approach here. In seeking approval of its proposal, Salter maintains that Beloit and South Beloit are for all practical purposes a single entity. Our grant of its license to operate in South Beloit represents a conclusion to the contrary, however, and we are not persuaded from the information before us that this conclusion was either erroneous when made [2] or incorrect now in light of changed circumstances. As for the argument, finally, that WBEL's coverage of South Beloit would remain unchanged by a grant, it is the loss of a local outlet, not the loss of a reception service, which is at issue here.

4. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the application of Salter Broadcasting Company is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues.

1. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, whether the proposal advanced by Salter Broadcasting Company would provide a fair, efficient and equitable distribution of radio service.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, whether a grant of the application would serve the public interest, convenience and necessity.

5. It is further ordered, That, to avail itself of the opportunity to be heard, the applicant 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 applicant 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 manner prescribed in that 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, Audio Service Division, Mass Media Bureau.

[FR Doc. 83-806 Filed 1-11-83; 8:45 am]

BILLING CODE 6712-01-M

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[1] Our first priority, the provision of at least one service to as many people as possible, is not at issue as Salter proposes no changes in its existing coverage.

[2] WBEL was originally licensed to serve Beloit. In 1958, the station moved to South Beloit so as to qualify for a nighttime operating authority under then existing Commission Rules.

FEDERAL MARITIME COMMISSION

Mr. Cyrus C. Guidry; Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T–3576–3.

Filing party: Mr. Cyrus C. Guidry, Port Counsel, Board of Commissioners of the Port of New Orleans, P.O. Box 60046, New Orleans, Louisiana 70160.

Summary: Agreement No. T–3576–3 modifies the basic agreement between the Board of Commissioners of the Port of New Orleans (Board) and the Puerto Rico Maritime Shipping Authority (PRMSA), which provides for the Board's 25-year renewable term lease to PRMSA of France Road Berth No. 4, Container Terminal at the Port of New

Orleans. The purpose of the modification is to provide for the construction of a new wharf approach ramp and 25 reefer outlets at the terminal. Board is to assume ownership of these facilities, and PRMSA is to pay additional rent equal to 13.75 percent of the total cost of said facilities.

Agreement No. T-3985-1.

Filing party: Mr. Frank H. Clark, Associate Director of Real Estate, Facilities, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T-3985-1, between the Port of Seattle (Port) and Seacon Terminals, Inc. (ST) provides for the lease by the Port to ST of certain premises at Port's Terminal 25, as well as preferential use of the Port-owned cranes and straddle carrriers. The modification provides for the deletion of the use of two Port-owned straddle carriers on an "as available" basis, and to provide that payment for use of the three Port-owned container cranes and three Port-owned gantry cranes is to be based solely upon actual hours of use pursuant to Port Tariff No. 3. The agreement will become effective upon Commission approval.

Agreement No. T-4042-1.

Filing party: Mr. J. H. Fox, Director of Marine Services, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T-4042-1, between the Port of Seattle (Port) and Seattle Stevedore Company (SSC) modifies Agreement No. T-4042 which provides for the lease by the Port to SSC of certain premises located at Terminal 18/20 complex in the Port of Seattle for use as a container and/or breakbulk operation including functions for a marine yard. The amendment assigns the Agreement to Seattle International Terminal (SIT), a subsidiary of SSC. SIT will assume all SSC's responsibilities and obligations under the basic agreement. The agreement will become effective upon Commission approval.

Agreement No. 131-252.

Filing party: Charles L. Coleman, III, Lillick McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

Summary: Agreement No. 131-252 modifies the qualifications for membership in the Pacific Cruise Conference Agreement (No. 131) by (1) deleting the requirement that members' cruise operations must commence or terminate at a Pacific coast port; and (2) restricting membership to cruise vessel operators, rather than boat or ferry operators.

Agreements Nos. 8760-13 and 9247-10.

Filing party: Charles L. Coleman, III, Lillick McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

Summary: Agreement No. 8760-13, the West Coast United States and Canada/India, Pakistan, Bangladesh, Sri Lanka and Burma Rate Agreement; and Agreement No. 9247-10, the India, Pakistan, Bangladesh, Sri Lanka and Burma/West Coast United States and Canada Rate Agreement amend the basic agreements to exempt the agreements from the requirements of 46 CFR Part 528, Commission rules governing self-policing, when the membership falls to two parties.

Agreement No. 10378-2.

Filing Party: William H. Fort, Esquire, Kominers, Fort, Schlefer & Boyer, 1776 F Street NW., Washington, D.C. 20006

Summary: Agreement No. 10378-2, between Trailer Marine Transport Corporation, Naviera Central, C. A. and Naviera Continental, S. A. provides for the cancellation of the agreement by mutual agreement of the parties.

Dated: January 7, 1083.

By Order of the Federal Maritime Commission

Francis C. Hurney,

Secretary.

[FR Doc. 83-629 Filed 1-11-83; 8:45 am]

BILLING CODE 6730-01-M

Robert L. McGeorge; Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the justification offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10427; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, Chicago, Illinois, and San Juan, Puerto Rico. Interested parties may submit comments on the agreement, including request for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 15 days after the date of the **Federal Register** in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreement and the statement should indicate that this has been done.

Agreement No.: 10463.

Filing Party: Robert L. McGeorge, Johnston, McGeorge & Davidson, 1000 Potomac Street, N.W., Washington, D.C. 2007.

Summary: Agreement No. 10463 is a sailing and space charter (space-available) agreement between Lineas Maritimas Paraguayas S.A. and the Holland Pan-American Line applying to the trades between points and ports on the Atlantic and Gulf Coasts of the United States and points and ports in Argentina, Paraguay, Uruguay and Brazil. The agreement has a 5-year term.

Dated: January 7, 1983.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-631 Filed 1-11-83; 8:45 am]

BILLING CODE 6730-01-M

Filing and Approval of Agreement

The Federal Maritime Commission hereby gives notice that on December 21, 1982, the following agreement was filed with the Commission pursuant to section 15 of the Shipping Act, 1916, as amended by section 4 of the Maritime Labor Agreements Act of 1980, Pub. L. 96-325, 94 Stat. 1021, and was deemed approved that date, to the extent it constitutes an assessment agreement as described in the fifth paragraph of section 15, Shipping Act, 1916.

Agreement No.: LM-82-1.

Filing Party: Royston, Rayzor, Vickery, & Williams, 220 Texas Commerce Tower, Houston, Texas 77002.

Summary: Basic Agreement No. LM-82 is a Resolution of the West Gulf Maritime Association establishing the Guaranteed Annual Income Program and Fringe Benefits Contract Administration Assessment. The amendment, LM-82-1 provides for an increase in the amount of the assessments set out in the original Resolution.

Dated: January 7, 1983.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-830 Filed 1-11-83; 8:45 am]

BILLING CODE 6730-01-M

South African Marine Corporation, Ltd., Springok Shipping Company, Ltd. and Springbok Lines, Ltd. Sailing/ Berthing Agreement; Cancellation of Agreement No. 9816

Filing Party: Frank Picciolo, Pricing Manager, South African Marine Corporation (N.Y.), One Bankers Trust Plaza, New York, New York 10006.

Summary: On December 22, 1982, the Commission received notice from South African Marine Corporation that Agreement No. 9816, a berthing and sailing agreement with Springbok Shipping Company, Ltd. and Springbok Lines, Ltd. is no longer active and should be cancelled. Therefore, Agreement No. 9816 has been terminated effective December 22, 1982.

Dated: January 7, 1983.

Robert G. Drew,

Director, Bureau of Agreements.

[FR Doc. 83-832 Filed 1-11-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Norstar Bancorp Inc.*, Albany, New York; to acquire 100 percent of the voting shares or assets of Northeast Bankshares Association, Portland, Maine. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York. Comments on this application must be received not later than February 4, 1983.

Board of Governors of the Federal Reserve System, January 6, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-785 Filed 1-11-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Security Bancorp, Inc.*, Southgate, Michigan; to acquire 100 percent of the voting shares of the successor by consolidation to The First National Bank of Monroe, Monroe, Michigan, which will change its name to Security Bank of Monroe upon conversion to a Michigan banking organization. Comments on this application must be received not later than February 4, 1983.

Board of Governors of the Federal Reserve System, January 6, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-789 Filed 1-11-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 115.4(b)(1)), for permission to engage de novo, directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "resaonably be expected to product 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 comment that requests a hearing must include 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 that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Chemical New York Corporation*, New York, New York (financing and insurance activities; Winston-Salem, North Carolina): To continue to engage, through its subsidiary, Sunamerica Corporation, in the previously approved activities of making direct loans, purchasing installment sales finance contracts, and acting as agent or broker for the sale of life, accident and health, and property and casualty insurance directly related to such extensions of credit. These activities will be conducted from an office on Winston-Salem, North Carolina, servicing the city of Winston-Salem and its environs. This application is for the relocation of an office within the same city. Comments on this application must be received not later than Feburary 4, 1983.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *NBD Bancorp, Inc.*, Detroit, Michigan (mortgage banking activities; Michigan): To engage, through its subsidiary, NBD Mortgage Company, in

mortgage banking activities, including the making or acquiring for its own account and for the account of others, mortgage loans and such other extensions of credit, as would be made by a mortgage company. These activities would be conducted from an office in Saginaw, Michigan, serving the counties of Saginaw, Midland, Bay and Tuscola, Michigan. Comments on this application must be received not later than February 1, 1983.

Board of Governors of the Federal Reserve System, January 6, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-790 Filed 1-11-83; 8:45 am]

BILLING CODE 6210-01-M

European American Bancorp; Proposed Acquisition of a Limited Partnership Interest in Pilgrim Baxter, Hoyt, and Greig

European American Bancorp, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire, through its subsidiary, EAB Holding Corp., a 40 percent limited partnership interest in Pilgrim, Baxter, Hoyt, and Greig, Philadelphia, Pennsylvania.

Applicant states that the proposed subsidiary would engage in the business of rendering to clients investment management advice with respect to securities. These activities would be performed from offices of Applicant's subsidiary in Philadelphia, Pennsylvania, and the geographic area to be served is the United States. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resoures, 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 New York.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 4, 1983.

Board of Governors of the Federal Reserve System, January 6, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-794 Filed 1-11-83; 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 or assets of a bank. The factors that are considered in acting on the applications are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice president) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Citizens Bancorp, Inc.*, New Tazewell, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens Bank, New Tazewell, Tennessee. Comments on this application must be received not later than February 4, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Illinois Valley Bancorp, Inc.*, Morris, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to The Grundy County National Bank, Morris, Illinois. Comments on this application must be received not later than February 4, 1983.

C. *Federal Reserve Bank of Dallas* (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Smithville Bankshares, Inc.*, Smithville, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank of Smithville, Smithville, Texas. Comments on this application must be received not later than February 4, 1983.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Empire Bancorp*, Rancho Cucamonga, California; to become a bank holding company by acquiring 100 percent of the voting shares of Empire Bank, N.A. (in organization), Rancho Cucamonga, California. Comments on this application must be received not later than February 4, 1983.

E. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *High Point Financial Corporation*, Branchville, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of The National Bank of Sussex County, Branchville, New Jersey. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York. Comments on this application must be received not later than February 4, 1983.

Board of Governors of the Federal Reserve System, January 6, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-796 Filed 1-11-83; 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 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, indentifying 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 Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Palmetto Bancshares, Inc.*, Laurens, South Carolina; to become a bank holding company by acquiring 80 percent of the voting shares of The Palmetto Bank, Laurens, South Carolina. Comments on this application must be received not later than February 4, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Mid Illinois Bancorp, Inc.*, Peoria, Illinois; to become a bank holding company by acquiring 80 percent of the voting shares of South Side Trust & Savings Bank of Peoria, Peoria, Illinois. Comments on this application must be received not later than February 4, 1983.

2. *Town & Country Bancorp, Inc.*, Springfield, Illinois, to become a bank holding company by acquiring 80 percent of the voting shares of Town & Country Bank, Springfield, Illinois. Comments on this application must be received not later than February 4, 1983.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *CNB of Lebanon Bancorp, Inc.*, Lebanon, Kentucky; to become a bank holding company by acquiring 80 percent of the voting shares of Citizens National Bank, Lebanon, Kentucky. Comments on this application must be received not later than February 4, 1983.

2. *Central Banc System, Inc.*, Granite City, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Granite City Trust and Savings Bank, Granite City, Illinois. Comments on this application must be received not later than February 4, 1983.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Trans Bankcorp, Inc.*, San Francisco, California; to become a bank holding company by acquiring 97.5 percent of the voting shares of trans American National Bank, Monterey Park, Calfornia. Comments on this application must be received not later than February 2, 1983.

Board of Governors of the Federal Reserve System, January 6, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-786 Filed 1-11-83; 8:45 am]

BILLING CODE 6210-01-M

Norstar Bancorp Inc.; Proposed Acquisition of Northeast Bankshares Association

Norstar Bancorp Inc., Albany, New York, has applied, pursuant to section 4(c)(3) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Northeast Bankshares Association, Portland, Maine, and thereby indirectly acquire its nonbank subsidiaries, Northeast Consumer Services Corporation and Northeast Data Processing Corporation.

Applicant states that Northeast Consumer Services Corporation will provide credit functions for all Bankshares' subsidiary banks and act as a card issuing and servicing agent for two other financial institutions in Maine; Northeast Data Processing Corporation will engage in automatic payroll accounting, check reconciliation, electronic funds transfer services and, incidental to these activities the sale of excess computer processing to Bankshares' subsidiary banks, or other non-banking subsidiary and two correspondent banks. These activities would be performed from offices in Portland, Maine and the offices of Bankshares' banking affiliates, and the geographic area to be served in the State of Maine. 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 accompained by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than February 4, 1983.

Board of Governors of the Federal Reserve System, January 6, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-787 Filed 1-11-83; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Office of the Administrator

Advisory Board; Meeting

Notice is hereby given that the GSA Advisory Board will meet on January 18, 1983, from 10:00 a.m. to 4:00 p.m., in Room 6120, GSA Central Office, 18th and F Streets, NW., Washington, DC20405. This session will be open to the public and will be devoted to a discussion and review of general management issues of interest to the agency and plans for Board activities during 1983.

Less than fifteen (15) days notice of this meeting is being provided due to scheduling difficulties.

For further information, contact Roger C. Dierman, Deputy Associate Administrator, on 523-1141.

Charles S. Davis III,

Associate Administrator.

[FR 83-966 Filed 1-11-83; 9:05 am]

BILLING CODE 6820-26-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Availability of Geophysical Logs: Wyoming

Notice is hereby given that Bureau of Land Management geophysical logs of 71 coal test holes, located in Sweetwater County (12 holes), Sheridan County (28 holes), and Johnson County (31 holes), Wyoming are now available to the public. The drilling, completed in October, 1982, in support of the Federal Coal Management Program, provides geologic information necessary to evaluate and classify coal resources on lands in the public domain.

The Sweetwater County test holes, located in Township 22 North, Range 94 West and Township 23 North, Ranges 94 and 95 West, Sixth Principal Meridian, Wyoming, were designed to investigate coal beds in the Wasatch formation of Tertiary are in the Red Desert Basin of south-central Wyoming.

The Sheridan County test holes, located in Township 53 North, Ranges 81 and 82 West; Township 54 North, Ranges 80 and 82 West; Township 55 North, Ranges 80 to 85 West, inclusive; Township 56 North, Ranges 80, 81, and 82 West; and Township 57 North, Range 82 West, Sixth Principal Meridian, Wyoming, were designed to investigate coal beds in the Wasatch and Fort Union Formations of Tertiary age in the Western Powder River Basin of north-central Wyoming.

The Johnson County test holes, located in Township 47 North, Range 80 West; Township 48 North, Ranges 80 and 81 West, Township 49 North, Ranges 79, 80, and 81 West; Township 50 North, Ranges 80 and 81 West; Township 51 North, Ranges 81 and 82 West; and Township 52 North, Ranges 81 and 82 West, Sixth Principal Meridian, Wyoming, were also designed to investigate coal beds in the Wasatch and Fort Union Formations of Tertiary age in the Western Powder River Basin.

The geophysical logs are available for reproduction from the Bureau of Land Management, North Central Region, 2001 Federal Building, P.O. Box 2859, Casper, Wyoming 82602. (307) 261–5421.

Dwayne E. Hull,

Acting Minerals Manager, North Central Region.

[FR Doc. 83–781 Filed 1–11–83; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

Agency Forms Submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

PURPOSE OF INFORMATION COLLECTION: The proposed information collection is for use by the Commission in connection with investigation No. 332–145, Report to the U.S. House of Representatives on the economic effects of terminating the manufacturing clause of the Copyright law, as requested by the Committee on Ways and Means.

SUMMARY OF PROPOSALS:

(1) Number of forms submitted: Five

(2) Title of forms: Book Publishers, Book Manufacturers, Book Binders, Commercial Publishers, and Commercial Printers

(3) Type of request: Initial

(4) Frequency of use: One time

(5) Description of respondents: U.S. book publishers, manufacturers, and binders; and commercial publishers and printers

(6) Estimated number of respondents: 400

(7) Estimated total number of hours to complete the forms: 8,000

(8) Information obtained from the forms that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm

(9) Section 3504(h) of Pub. L. 96–511 does not apply.

ADDITIONAL INFORMATION OR COMMENT: Copies of the proposed forms and supporting documents may be obtained from Charles Ervin, the USITC agency clearance officer (telephone no. 202–523–4463). Comments about the proposals should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for U.S. International Trade Commission. If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting them promptly you should advise OMB of your intent as soon as possible. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436).

Issued: January 7, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–853 Filed 1–11–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–127]

Certain Amino Acid Formulations

Notice is hereby given that a prehearing conference will be held in this case at 9:00 a.m. on February 22, 1983, in the Waterfront Center, Room 201, 1010 Wisconsin Avenue, NW., Washington, D.C., and the hearing will commence immediately thereafter.

The purpose of the prehearing conference is to review the trial memoranda submitted by the parties, to stipulate exhibits into the record, and to discuss any questions raised by the parties relating to the hearing.

The Secretary shall publish this notice in the **Federal Register.**

Issued: January 4, 1983.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 83–850 Filed 1–11–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 731–TA–118 and 119 (Preliminary)]

Certain Lightweight Polyester Filament Fabric From Japan and the Republic of Korea

AGENCY: International Trade Commission.

ACTION: Institution of preliminary antidumping investigations and scheduling of a conference to be held in connection with the investigations

EFFECTIVE DATE: January 4, 1983.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of preliminary antidumping investigations under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United states is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan and the Republic of Korea of certain lightweight polyester filament fabric, provided for in items 338.5009, 338.5011, 338.5012, 338.5013, and 338.5015, of the Tariff Schedules of the United States Annotated, which are alleged to be sold in the United States at less than fair value.

FOR FURTHER INFORMATION CONTACT: Mr. Reuben Schwartz, Office of Industries, U.S. International Trade Commission, 701 E St. NW., Washington, D.C. 20436, telephone 202–523–0114.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed January 4, 1983, on behalf of the American Textile Manufacturers Institute, Inc. (ATMI) and certain member companies. The Commission must make its determination in these investigations within 45 days after the date of the filing of the petition or by February 18, 1983 (19 CFR 207.17).

Participation.—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided for in § 201.11 of the

Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, February 10, 1982), not later than seven (7) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

Service of documents.—The Secretary will compile a service list from the entries of appearance filed in these investigations. Any party submitting a document in connection with the investigations shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 6188, February 10, 1982, and 47 FR 13719, April 1, 1982), serve a copy of each such document on all other parties to the investigations. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 201.17(b), as amended by 47 FR 33682, August 4, 1982).

In addition to the foregoing, each document filed with the Commission in the course of these investigations must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written submissions.—Any person may submit to the Commission on or before January 28, 1983, a written statement of information pertinent to the subject matter of these investigations (19 CFR 207.15, as amended by 47 FR 6190, February 10, 1982). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8, as amended by 47 FR 6188, February 10, 1982, and 47 FR 13791, April 1, 1982).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m., on January 26, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contact Mr. Reuben Schwartz (202/523-0114), not later than January 24, 1983, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public inspection.—A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washingtom, D.C.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and B (19 CFR Part 207, as amended by 47 FR 6182, February 10, 1982, and 47 FR 33682, August 4, 1982), and part 201, subparts A through E (19 CFR Part 201, as amended by 47 FR 6182, February 10, 1982, 47 FR 13791, April 1, 1982, and 47 FR 33682, August 4, 1982). Further information concerning the conduct of the conference will be provided by Mr. Schwartz.

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: January 6, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-831 Filed 1-11-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-113]

Certain Log Splitting Pivoted Lever Axes; Termination of Investigation

AGENCY: International Trade Commission.

ACTION: Termination of investigation on the basis of a settlement agreement.

SUMMARY: Complainant Chopper Industries, Inc., respondent Alltrade, Inc., and the Commission investigative attorney moved on July 8, 1982, to terminate this investigation with respect to all respondents on the basis of a settlement agreement. On August 6, 1982, the presiding officer recommended that the investigation by terminated.

On September 22, 1982, the Commission issued a notice of proposed termination based on the settlement agreement and requested public comment. On December 20, 1982, the moving parties again moved for termination based on the agreement as modified to incorporate changes based on certain comments made by the Department of Justice. On January 5, 1983, the Commission terminated Inv. No. 337-TA-113 on the basis of the settlement agreement as modified.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and concerns alleged unfair trade practices in the importation into and sale in the United States of certain log splitting pivoted lever axes. Notice of the institution of the investigation was published in the **Federal Register** of January 6, 1982 (47 FR 3688).

Copies of the Commission's action and order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Sheila Landers, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0421.

Issued: January 6, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-852 Filed 1-11-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-165 (Final)]

Small Diameter Welded Carbon Steel Pipes and Tubes From Brazil

AGENCY: International Trade Commission.

ACTION: Suspension of final countervailing duty investigation.

EFFECTIVE DATE: December 17, 1982.

SUMMARY: On December 27, 1982, the United States Department of Commerce suspended its countervailing duty investigation involving small diameter welded carbon steel pipes and tubes from Brazil (47 FR 57551). The basis for the suspension is an agreement by the Government of Brazil to offset with an export tax all benefits determined by commerce to be subsidies on exports of the subject products to the United States. Accordingly, the United States International Trade Commission hereby gives notice of the suspension of its countervailing duty investigation involving small diameter welded carbon steel pipes, and tubes, currently

provided for in item 610.32 of the Tariff Schedules of the United States, from Brazil (investigation No. 701-TA-165 (Final)).

FOR FURTHER INFORMATION CONTACT: Ms. Judith Zeck (202-523-0339), Office of Investigations, U.S. International Trade Commission.

This notice is published pursuant to § 207.40 of the Commission's Rules of Practice and Procedure (19 CFR 207.40).

Issued: January 5, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-849 Filed 1-11-83; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications; Decision Notice

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 1181.4 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 Dowell.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 3, (202) 275-5223.

Volume No. OP3-MC-FC-76

Decided: January 4, 1983.

MC-FC-81084. By decision of January 4, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to DAVID MIRES, doing business as SPRINGFIELD-SEDALIA EXPRESS, Springfield, MO, of Certificate No. MC-161635, issued November 9, 1982, to ORVAL E. AND LILLIAN T. SMITH, doing business as SPRINGFIELD-SEDALIA EXPRESS, Springfield, MO, authorizing the transportation of general commodities with exceptions, over irregular routes, between Boonville, Buffalo, Cole Camp, Columbia, Cross Timber, Fristoe, Hermitage, Knob Knoster, LaMonte, Lincoln, Louisburg, Marshall, Preston, Sedalia, Smithton, Springfield, Tipton, Urbana, Warrenburg, Warsaw and Windsor, MO. No temporary authority has been filed. Representative: Stephen G. Newhouse, 312 East Capitol Avenue, P.O. Box 456, Jefferson City, MO 65101, (314) 635-7166.

MC-FC-81086. By decision of December 29, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to T-N-T SERVICES, INC., Santa Ana, CA, of Certificate No. MC-153134, Subs 2 and 4, issued October 21, 1981, and January 4, 1982, respectively, and Permit No. MC-153134, Subs 1, 3, 5, and 6, issued October 21, 1981, October 21, 1981, January 14, 1982, and September 14, 1982, respectively, to HI COUNTRY CARRIERS, INC., Englewood, CO, authorizing *clay, concrete, glass or stone products*, between points in Wichita County, TX, on the one hand, and, on the other, those points in the U.S. in an west of MT, WY, CO, and NM, *metal products* and *clay, concrete, glass or stone products*, between points in San Bernardino County, CA, on the one hand, and, on the other, points in the U.S.; *such commodities* as are dealt in or used by manufacturers and distributors of items used in the installation of floor coverings, between points in Orange, Los Angeles, Ventura, San Bernardino, and Riverside Counties, CA, on the one hand, and, on the other, points in the U.S.; *such commodities* as are dealt in by manufacturers and distributors of fiberglass reinforcements, between points in the U.S., under continuing contract(s) with Thalco, A Division of United Merchants Manufacturers, Inc., of Los Angeles, CA; *such commodities* as are dealt in or used by manufacturers and distributors of fiberglass products, between points in the U.S. (except AK and HI), under continuing contract(s) with Kimstock, Inc., of Santa Ana, CA; *such commodities* as are dealt in by manufacturers and distributors of electrical equipment, between points in the U.S., under continuing contract(s) with Westinghouse Electric Corporation, of Pittsburgh, PA; *machinery* and *those commodities which because of size or weight require the use of special handling or equipment*, between points in the U.S., under continuing contract(s) with Seaward Construction Co., Inc., of Portsmouth, NH; *such commodities* as are dealt in or used by manufacturers and distributors of household appliances, televisions, air conditioners, audio systems and electronic sound equipment, between points in the U.S. (except AK and HI), under continuing contract(s) with Western Supply Co., Inc., of Salt Lake City, UT; *printed material*, and *pulp, paper and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Rocky Mountain Bank Note, of Denver, CO; and *such commodities* as are dealt in or used by manufacturers and distributors of floor coverings, between points in the U.S. (except AK and HI), under continuing contract(s) with L. D. Brinkman, Inc., of Denver, CO. Representative: Charles J. Kimball, #865 Capitol Life Center, 1600 Sherman St., Denver, Co 80203. NOTE: An application for temporary authority has been filed.

Status calls: Team 4 at 202-275-7669.

Volume No. OP4-FC-100

(Member Dowell not participating.)

MC-FC-81045. By decision of January 3, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to R & G LEASING SERVICES, INC., Hyde Park, NY, of Certificate No. MC-156397 issued to SENTRY LEASING, INC., Hyde Park, NY, authorizing the transportation of scrap materials, between points in CT, RI, MA, ME, VT, NH, NY, NJ, PA, OH, DE, and MD. Transferee is not a carrier. Representative: Michael R. Werner, Attorney, 241 Cedar Lane, Teaneck, NJ 07666.

MC-FC-81051. By decision of January 3, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to ROY-L-T TRUCKING, INC., Whittier, CA, of Certificates Nos. MC-136257 and MC-136257 (Sub-No. 3), and Permits Nos. MC-138059 (Sub-No. 1) and MC-138059 (Sub-No. 3) issued to RABBIT TRANSIT, INC. (formerly Northwest Transport), Fontana, CA, authorizing the transportation of (1) expanded plastic articles, with certain restrictions, from Fullerton, LA Mirada, Pico Rivers, Santa Ans, and Torrance, CA, to points in AZ, NM, and NV, (2) plastic bathtubs and plastic shower stalls, from the facilities of American Standard, Inc., at Stockton, CA, to points in AZ, CO, ID, MT, NM, OR, UT, WA, and WY, (3) paper products, from Flagstaff, AZ, to points in TX, NM, CA, NV, CO, OR, WA, ID, UT, MT, WY, OK, KS, NE, and SD, and chemicals, supplies and machinery in the reverse direction, (4) scrap paper, between points in AZ, TX, NM, CA, NV, CO, OR, WA, ID, UT, WY, OK, KS, NE, and SD; the operations authorized in (3) and (4) above are to be performed under continuing contract(s) with Ponderosa Paper Products, of Flagstaff, AZ, (5) bead bags, pillows, pads, and cushions, and new chairs and tables, from the facilities of Plymouth Enterprises, Inc., in Los Angeles County, CA, to points in AZ, CA, CO, ID, KS, MT, NE, NV, NM, OK, OR, SD, TX, UT, WA, and WY, and matersials and supplies in the reverse direction above, under continuing contract(s) with Plymouth Enterprises, Inc., of Walnut, CA, (6) cushioning, padding, wadding, and packaging articles, products and materials, from the facilities of Paper-Pak Products, Inc., at La Verne, CA, to points in AZ, CA, CO, ID, KS, MT, NE, NV, NM, OK, OR, SD, TX, UT, WA, and WY, and materials and supplies in the reverse direction, under continuing contract(s) with Paper-Pak Products, Inc., of La Verne, CA, and (7) paper and paper products, advertising matter, premiums, and display materials, from points in Orange and Los Angeles Counties, CA, to points in AZ, CA, ID, NV, NM, OR TX, UT, and WA, and materials and supplies in the reverse direction, under continuing contract(s) with Potlatch Corporation, of Pomona, CA. Transferee holds Permit No. MC-151418. An application for temporary authority has been filed. Representative: Miles Kavaller, Attorney 315 S. Beverly Dr., Suite 315, Beverly Hills, CA 90212.

Note.—The authority being transferred represents all of transferor's operating authority. Transferor has pending No. MC-136257 (Sub-No. 4X) in which it seeks removal of certain restrictions in the operating authority being transferred. Upon approval of the restriction removal, request, the resulting operating authority will be issued to transferee.

MC-FC-81062. By decision of January 4, 1983, issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to NAKANO WAREHOUSE & TRANSPORTATION CORP., Compton, CA of Certificate of Registration No. MC-121197 (Sub-No. 1) issued July 28, 1981, to NAKANO EXPRESS SERVICE, INC., Compton, CA, evidencing a right to engage in transportation in interstate commerce corresponding in scope to State certificate No. 62554, dated September 12, 1961, and reissued in No. 88136 dated November 22, 1977, issued by the Public Utilities Commission of California authorizing the transportation of general commodities (except, among others, used household goods, automobiles, trucks, buses, livestock, liquids, and logs), between points in the Los Angeles, CA Basin Territory. Transferee is not a carrier, but is in common control with transferor. Representative: Denny D. Chen, 624 S. Grand Ave., #2600, Loss Angeles, CA 90017.

Volume No. OP4-FC-103

MC-FC-81053, filed November 22, 1982. By decision of January 3, 1983, issued under U.S.C. 10926 and 10932 and the transfer rules at 49 CFR 1181, Review Board Number 3, approved the tranfer to W. W. Koelling, dba H & K Truck Lines, Great Bend, KS, of Certificate No. MC-108066 and Certificate of Registration No. MC-108066 (Sub-No. 4), both issued September 28, 1966, to D. G. Koelling, dba H & K Truck Lines, Great Bend, KS, authorizing the transportation of general commodities (with the usual exceptions), over regular routes, (a) between Great Bend and Galatia, KS, and (b) between Otis and Great Bend, KS, and (2) between named points in KS. Representative: D. G. Koelling, 2530-20th St., Great Bend, KS 67530 for transferee and transferor. Condition: Part (2) of this proceeding is conditioned upon the applicants submitting a certified copy of the order which approves the transfer of the underlying Kansas Intrastate certificate.

MC-FC-81092, filed December 9, 1982. By decision of January 4, 1983, issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 C.F.R. 1181, Review Board Number 3, approved the transfer to T. B. TRANSPORT, INC., Monahans, TX, of Certificate of Registration No. MC-157347, issued February 18, 1982, to Graham Trucking, Inc., Pecos, TX, evidencing a right to engage in transportation in interstate commerce corresponding in scope to Certificate No. 6195, date May 27, 1981, issued by the Railroad Commission of Texas, authorizing the transportation of oilfield equipment and pipe, when moving as oilfield equipment, pipe, other than used as oilfield equipment, and machinery and other specified commodities, between all points in TX located west of U.S. Hwys 81 and 181, from Ringold to San Antonio and Aransas Pass, subject ot certain restrictions. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767, for the transferee.

Status calls: Team 5 at 202-275-7289.

Volume No. OP5-FC-309

MC-FC-81083. By decision of December 17, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1181, Review Board Number 3 approved the transfer to BEST WAY TRANSPORT, INC., Kokomo, IN of Permit No. MC-146259F issued November 26, 1979, to JAMES R. JARRETT, INC., of Kokomo, IN, authorizing the transportation over irregular routes of *iron and steel articles*, between the facilities of Southern Strip Steel, Inc., at or near (a) Eminence, KY, (b) Columbus, OH, and (c) Peru and Kokomo, IN, on the one hand, and, on the other, points in AL, CO, GA, IL, IN, IA, KY, MI, MN, MO, NC, OH, OK, PA, TN and WI, under continuing contract(s) with Southern Strip Steel, Inc., of Louisville, KY. Representative: Walter F. Jones, Jr., 1111 East 54th Street, Indianapolis, IN 46220.

[FR Doc. 83-800 Filed 1-11-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket: and "Sub" number and quoting the particular portion of

authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-229

The following applications were filed in Region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 68717 (Sub-4-1TA), filed December 28, 1982. Applicant: W.N. DAUL TRANSFER LINES, INC., 1521 Ellis Street, Kewaunee, WI 54216. Representative: John L. Bruemmer, P.O. Box 927, Madison, WI 53701. *General commodities* (except Classes A and B explosives), (1) between points in Brown, Calumet, Door, Kewaunee, Manitowoc, Outagamie and Sheboygan Counties, WI. and(2) between points in (1) above and Chicago, IL and Milwaukee, WI and points in their respective commercial zones. An underlying ETA seeks 120 days authority. Supporting shippers: There are twelve (12) statements in support of this application which may be examined at the ICC Regional Office, Chicago, IL.

MC 113855 (Sub-4-8TA), filed December 28, 1982. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Representative: Thomas J. Van Osdel, 15 Broadway—Suite 502, Fargo, ND 58102. *General commodities* (except classes A and B explosives, household goods, and commodities in bulk), between the facilities of The Trane Company at LaCrosse, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), under a continuing contract(s) with The Trane Company of LaCrosse, WI. Supporting shipper: The Trane Company, 3600 Pammel Creek Road, LaCrosse, WI 54601.

MC 134167 (Sub-4-TA), filed December 23, 1982. Applicant: CARRIER SERVICE CO. OF WISCONSIN, INC., 2621 South 5th Place, Milwaukee, WI 53207. Representative: Michael J. Wyngaard 150 E. Gilman St., Madison, WI 53703. *Contract irregular: Equipment, parts, materials and supplies used or useful in the manufacture, sale or distribution or motor vehicles,* between Kenosha and Milwaukee, WI, on the one hand, and, on the other, points in IL, IN, MI, OH, PA, TN, and VA under continuing contract(s) with American Motors Corporation. An underlying ETA seeks 120 day authority. Supporting shipper: American Motors Corporation, 5626 25th Avenue, Kenosha, WI 53140.

MC 146846 (Sub-4-5TA), filed December 27, 1982. Applicant: LOUIS LANE, INC., 1025 S. 3rd Avenue, Wausau, WI 54401. Representative: Nancy J. Johnson Attorney, 103 East Washington, Street; Box 218, Crandon, WI 54520. *Paper and paper products* from Wood and Portage Counties, WI to points in San Francisco, Alameda, Contra Costa, Marin, Sonoma, Napa, Solano, Sacramento, Santa Clara and San Mateo Counties, CA. Supporting shipper: J.C. Papers, 650 Brennan St., San Jose, CA 95131.

MC 152954 (Sub-4-1TA), filed December 22, 1982. Applicant: RALPH MEYERS d.b.a. RALPH MEYERS TRUCK COMPANY, 9585 Lake Michigan Drive, Allendale, MI 49401. Representative: D. Richard Black, Jr., 285 James Street, P.O. Box 638C, Holland, MI 49423. *Food and related products* between points in MI on the one hand and on the other points in IL, OH, IN, WI, IA. Supporting shippers: Bil-Mar Foods, Inc. 8300—96th Avenue, Zeeland, MI 49464 and Campbell Soup Company, Napoleon, OH 43545.

MC 164889 (Sub-4-1TA), filed December 23, 1982. Applicant: DANIEL J. PERDUE TRUCKING INC., One South Tekoppel Avenue, Evansville, IN 47712. Representative: Richard A. Huser, Locke Reynolds Boyd & Weisell, 2120 One Indiana Square, Indianapolis, IN 46204. *Contract:* Irregular; *General Commodities.* Between the Evansville and Terre Haute, IN, Ownesboro and Hopkinsville, KY commercial zones, on the one hand, and, on the other, points in the U.S. Restricted to service performed under continuing contract(s) with ACH Supply Company, Inc., Craddock Finishing Corporation and Uniseal, Inc., of Evansville, IN.

MC 165234 (Sub-4-TA) filed December 27, 1982. Applicant: COLE TRUCKING CO., INC., 404 South 52nd Avenue West, P.O. Box 6007, Duluth, MN 55806. Representative: Thomas J. Van Osdel, 15 Broadway—Suite 502, Fargo, ND 58102. *Lumber and wood products and construction materials,* from the facilities of American Canadian Distribution Center, Inc. at Duluth and Minneapolis, MN, to points in MN, WI, IA, IN, MI, ND, SD, NE, MO and IL. Supporting shipper: American Candian Distribution Center, Inc., P.O. Box 6007, Duluth, MN 55806.

MC 165351 (Sub-4-1), filed December 23, 1982. Applicant: ATOMIC INTERPROVINCIAL TRANSPORT (EASTERN) LTD., 2070 Logan Avenue, P.O. Box 1045, Winnipeg, Manitoba, Canada R3C 2X6. Representative: Daniel W. Krane, P.O. Box E, Shiremanstown, PA 17011. *Offal for pet fopod,* from Sioux Falls, SD, in foreign commerce only, to ports of entry on the international boundary line between the U.S. and Canada in ND, MN, MI and NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: Northam Food Trading, Inc., 300 Cote Bertu—Suite 318, Montreal, Quebec, Canada H4R 2B7. S.A.N. International Services, Inc., 68 University Avenue—Suite 607, Toronto, Ontario, Canada M5J 1T6.

MC 165354 (Sub-4-1TA), filed December 27, 1982. Applicant: KIM W. LOWARY, P.O. Box 1252, Aberdeen, SD 57401. Representative: Joseph A. Nemecek, 1992 Suan Avenue, Neenah, WI54956. *Paper and Paper Articles* Between points in Menasha and Neenah, WI, on the one hand and points in the states of AZ, CA, NV, OR, WA, on the other, for a period of 270 days. Supporting shipper: Wisconsin Tissue Mills, Inc., 3rd St., Menasha, WI 54952.

MC 165355 (Sub-4-ITA), filed December 27, 1982. Appicant: TOM VIA d.b.a. TOM VIA TRUCKING, Rte. 1, Box 227, Simpson, IL 62985. Representative: Jack L. Schiller, 111-56 76th Dr., Forest Hills, NY 11375. *Contract,* irregular: transporting *iron and steel articles and resins* from the facilities of Pattin-Marion (Division of Eastern Company) located at or near Marion, IL, on the one hand, and, on the other, points in KY, MI, MO, NC, NY, OH, PA and TN, under account with Pattin-Marion (Division of Eastern Company of Marion, IL, for 270 days. An underlying ETA seeks 30 days authority. Supporting shipper: Pattin-Marion (Division of Eastern Company) 1003 S. Court St., Marion, IL 62959.

MC 165357 (Sub-4-1TA), filed December 27, 1982. Applicant: RUSS' DISTRIBUTING, INC., 55—76th Street, SW., Grand Rapids, MI 49509. Representative: J. Michael Smith, 800 Calder Plaza Building, Grand Rapids, MI

49503. *Contract irregular, Transporting general merchandise as is usually dealt in and handled by wholesale and retail establishments, including household appliances; new household furniture and household furnishings; musical instruments; plumbing and heating equipment, fixtures, accessories and supplies; office equipment; building and remodeling equipment, accessories and supplies; and other retail merchandise* from points in the Counties of Montcalm, Ionia, Newaygo, Muskegon, Kent, Allegan, Barry, Kalamazoo and Ottawa in the State of MI for consolidation at Grand Rapids, MI to interline with Signal Delivery Service, Inc. for movement to Chicago, IL and beyond, under a continuing contract with Sears, Roebuck & Co., Chicago, IL 60608. Supporting shipper: Sears, Roebuck & Co., 7447 Skokie Blvd., Skokie, IL 60077.

MC 6992 (Sub-4–9TA), filed January 3, 1983. Applicant: AMERICAN RED BALL TRANSIT CO., INC., 1335 Sadlier Circle, East Drive, Indianapolis, IN 46239. Representative: John F. Spickelmier (same address as applicant). Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Hughes Aircraft Company, P.O. Box 90515, Los Angeles, CA 90009.

MC 118806 (Sub-4–9TA), filed December 30, 1982. Applicant: ARNOLD BROS. TRANSPORT, LTD., 851 Lagimodiere Blvd., Winnipeg, Manitoba, R2J 3K4. Representative: Bernard J. Kompare, 180 N. Michigan Ave. Suite 1700, Chicago, IL 60601. *Such Commodities* as are dealt in or used by manufacturers of glass and glass products, between the facilities of Libbey-Owens-Ford Company, located at points in CA, CO, GA, IA, IL, MA, NC, OH, PA and TX, on the one hand, and on the other, the ports of entry on the International Boundary Line between the U.S. and Canada. Supporting Shipper: Libbey-Owens-Ford Company, 811 Madison Ave., Toledo, Ohio 43695.

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 157309 (Sub-4–2TA), filed January 3, 1983. Applicant: WALTER C. TECHMEIER, 620 N. Michigan De Pere, WI 54115. Representative: James Robert Evans, 145 W. Wisconsin Avenue, Neenah, WI 54956. Butter, cheese and citrus fruit juice from Green Bay, WI, and its commercial zone, to East Bridgewater, MA, Grand Rapids, MI, Jamestown, NY, Philadelphia and Pittsburgh, PA and Rochester, N.Y. Supporting shippers: Northland Cold Storage, Inc., 1132 Lincoln St., Green Bay, WI 54302.

MC 165398 (Sub-4–1), filed November 29, 1982. Applicant: M & J CARRIERS, INC., Rural Route #1, Box 111A, Oakley, IL 62552. Representative: James E. Ashby (same address as applicant), (217) 763–2111. *General commodities* (except Classes A and B explosives and household goods) as defined by the Commission to points within the U.S. except AK and HI. There are ten supporting shippers.

MC 165411 (Sub-4–1TA), filed December 30, 1982. Applicant: NORTHUMBERLAND LINES, INC., Mankato, 16 Riverview, MN 56001. Representative: Richard L. Gill, 1805 American National Bank Building, St. Paul, MN 55101. *Contract*, by motor vehicle, transporting passengers and their baggage and express and newspapers in the same vehicle with passengers: Between Mankato, MN and Rochester, MN, serving all intermediate points: From Mankato, MN over MN Hwy 22 to Juncture of MN hwy 109, then over MN Hwy 109 to juncture of Interstate Highway 90, then over Interstate Hwy 90 to Rochester, and return over the same route.

MC 165437 (Sub-4–1TA), filed January 3, 1982. Applicant: DAVE R., TIMOTHY D. and THOMAS C. JOHANNING d.b.a. DAVE R. JOHANNING & SONS, Rt. 4, P.O. Box 125, Part Rapids, MN 56470. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Building materials*, between Menahga and Alexandria, MN, on the one hand, and, on the other, points in IA, ND, SD and WI, for 270 days. Supporting shipper(s): North Star Lumber & Supply, Inc., P.O. Box 151, Menahga, MN 56464.

The following applications were filed in Region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 67234 (Sub-5–41TA), filed December 27, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract, irregular *General Commodities* (except Classes A and B explosives and commodities in bulk) between points in the U.S. (including AK and HI) under continuing contract(s) with Sears, Roebuck and Co. Supporting shipper: Sears, Roebuck and Co., Chicago, IL.

MC 67234 (Sub-5–42TA), filed December 27, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract, irregular *General Commodities (except Classes A and B explosives and commodities in bulk)* between points in the U.S. (including AK and HI) under continuing contract(s) with Technicare. Supporting shipper: Technicare Solon, OH 44139.

MC 104758 (Sub-5–1TA), filed December 27, 1982. Applicant: PAT'S VAN LINES, INC., 3616 Indiana, Kansas City, MO 64128. Representative: Donald J. Quinn, Commerce Bank Building, 8901 State Line—Suite 232, Kansas City MO 64114. *Household goods*, between points in AL, AR, CO, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MS, MO, NE, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA and WV. Supporting shippers: 5.

MC 115730 (Sub-5–9TA), filed December 27, 1982. Applicant: THE MICKOW CORP., P.O. Box 1774, Des Moines, IA 50306. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50307. *Metal articles* between Ramsey Co. and St. Louis Co., MN, Muscatine Co., IA, Monroe Co. and Wayne Co., MI, on the one hand, and on the other, points in the U.S. (except AK and HI). Supporting shipper: North Star Steel Co., Minneapolis, MN.

MC 121293 (Sub-5–2TA), filed December 27, 1982. Applicant: PHILIP E. REEDY d.b.a. VALLEY TRANSFER, Elkhorn NE 68022. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *General commodities (except commodities in bulk, household goods, and Classes A & B exposives)*, between Council Bluff, IA and Fremont and Norfolk, NE on the one hand, and, on the other, points in IA and NE, restricted to shipments having prior or subsequent movement by rail. Supporting shipper: Chicago & Northwestern Transportation Co., Chicago, IL.

MC 147552 (Sub-5–8TA), filed December 27, 1982. Applicant: CAJUN CARTAGE AND WAREHOUSING CORPORATION., P.O. Box 96211, Houston, TX 77213–6211. Representative: Doyle G. Owens, P.O. Box 7735, Beaumont, TX 77706. *General commodities, including bulk liquid and dry bulk shipments only when moving in ocean containers (Except Class A & B Explosives and Household Goods)*, restricted to shipments having a prior or subsequent movement via water, between the Ports of Gulfport, MS and Mobile, AL, on the one hand, and on the other, the Ports of New Orleans, LA and Lake Charles, LA. Supporting shippers: (8).

MC 150093 (Sub-5–6TA), filed December 27, 1982. Applicant: THE TOM DAVIS CORP. d.b.a. DAVIS LINES, 5335 N.W. 111th Drive, Grimes, IA 50111. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Metal products,* between Story County, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: General Filter Company, a Division of Marley Cooling Tower, Ames, IA.

MC 156840 (Sub-5–2TA), filed December 27, 1982. Applicant: STRICKLIN TRUCKING COMPANY, 108 College, Arcadia, MO 63621. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102. Common, irregular, *transporting roofing materials and materials, equipment and supplies used in the manufacture thereof, and scrap paper,* between North Little Rock, AR and Prior, OK. Supporting shipper: Tarco, Inc., North Little Rock, AR.

MC 163503 (Sub-5–9TA), filed December 27, 1982. Applicant: NATIONAL FREIGHT SYSTEM, INC., 2305 Oak Lane, Suite 115, Grand Prairie, TX 75051. Representative: Stephen W. Mitchell, 2305 Oak Lane, Suite 115, Grand Prairie, TX 75051. *Such Commodities as are dealt in or used by Printers* between points in the continental U.S. Supporting shipper(s): 8.

MC 163625 (Sub-5–1TA), filed December 27, 1982. Applicant: McMANUS BROS. INC., RR #1, Highway 67, Camanche, IA 52730. Representative: Carl E. Munson, P.O. Box 796, Dubuque, IA 52001. *Food and food products (except commodities in bulk),* from points in Carroll County, IL, to points in Clinton County, IA. Supporting shipper: American Xyrofin Inc., Thomson, IL.

MC 164072 (Sub-5–3TA), filed December 27, 1982. Applicant: WINGS TRANSPORTATION, INC., 717 South 9th, Omaha, NE 68102. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. *Food products,* From the facilities of Prime International Corp. at Omaha, NE to points in the U.S. (except AK and HI). Supporting shipper: Prime International Corporation, Omaha, NE.

MC 165353 (Sub-5–1TA), filed December 27, 1982. Applicant: CATHY K. DUGAN d.b.a. C & D TRUCKING, Box 101, Colesburg, IA 52035. Representative: Carl E. Munson, P.O. Box 796, Dubuque, IA 52001. *Lumber, wood and wood products,* between points in IL, IA, Omaha and South Sioux City, NE, and WI. Supporting shipper: S & J Pallet Co., Inc., Guttenburg, IA.

MC 121637 (Sub-5–2TA), filed December 29, 1982. Applicant: C and P TRANSPORTATION, INC., P.O. Box 50460, Tulsa, OK 74120. Representative: G. Timothy Armstrong, P.O. Box 1124, El Reno, OK 73036. *General commodities, (except classes A and B explosives, household goods, and commodities in bulk),* between Tulsa, OK and Oklahoma City, OK: from Tulsa over U.S. Hwy 66 and Interstate Hwy 44 to Oklahoma City and return over the same routes, serving all intermediate points. Supporting shipper: 5.

MC 156293 (Sub-5–2TA), filed December 30, 1982. Applicant: MADDEN TRUCKING, INC., 805 E. 10th, Leon, IA 50144. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. *Potash, in bulk,* from Carlsbad, NM to points in IA, KS and MO. Supporting shipper(s): Mid-West Fertilizer, Inc., Paola, KS.

MC 156503 (Sub-5–2TA), filed December 30, 1982. Applicant: WILLIAM J. TEMAAT d.b.a. TEMAAT PRODUCE, 615 Parkview, Oakley, KS 67748. Representative: Clyde N. Christey, Ks. Credit Union Bldg., 1010 Tyler, Suite 110–L, Topeka, KS 66612. *Beer,* Between the Commercial Zone of Omaha, NE., on the one hand, and the Commercial Zone of Denver, CO., on the other hand. Supporting shipper: Mile High Wholesale Liquor, Denver, CO.

MC 157278 (Sub-5–2 TA), filed December 29, 1982. Applicant: FARM TRANSPORT CO., 1685 K Street, Gering, NE 69341. Representative: Philip M. Kelly, 105 East 16th Street, Scottsbluff, NE 69361. *General commodities except A & B explosives* between points in Sioux, Dawes, Box Butte, Morrill, Garden, Cheyenne, Kimball, Banner and Scotts Bluff Counties in NE, and Goshen and Laramie Counties in WY, on the one hand and on the other hand, points in the U.S. except HI and AK. Supporting shippers: Panhandle Cooperative Association, Scottsbluff, NE; Slafter Oil Company, Scottsbluff, NE; Simplot Soilbuilders, Scottsbluff, NE; National Drinks, Inc., Scottsbluff, NE.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 165412 (Sub-G–1 TA), filed January 3, 1983. Applicant: BANNOCK PAVING COMPANY, INC., P.O. Box 4002, Pocatello, ID 83201. Representative: Dennis M. Olsen, 485 "E" St., Idaho Falls, ID 83401. *Contract Carrier,* irregular routes: *Coke* derived from coal from points in UT to Pocatello, ID for the account of FMC Corporation for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: FMC Corporation, P.O. Box 4111, Pocatello, ID.

MC 165428 (Sub-6–1 TA), filed January 3, 1983. Applicant: CAROL L. SHEALY d.b.a. C. N. FARM LINE, P.O. Box 243, Raynesford, MT 59469. Representative: Hughan R. H. Smith, 28 Kenwood Place, Lawrence, MA 01841. *Contract carrier:* Irregular routes, *pressure sensitive adhesive coated products and all materials, equipment and supplies used in the manufacture, sale and distribution of these items,* between points in the U.S. (except AK and HI) under continuing contracts with Pres-on Products, Inc./Merchandise Division, Addison, Ill 60101, for 270 days. Supporting Shipper: Pres-on Products, Inc./Merchandise Division, 1020 South Westgate St., Addison, IL 60101.

MC 115904 (Sub-6–2TA), filed January 3, 1983. Applicant: GROVER TRUCKING CO., 1710 W. Broadway, Idaho Falls, ID 83401. Representative: Irene Warr, 311 S. State St. Ste. 280, Salt Lake City, UT 84111. *Contract carrier,* irregular routes, *packaging and packaging products; equipment, materials and supplies used in the manufacture, assembly, sales and distribution thereof,* (a) between IA, on the one hand, and, on the other, ID and WA; (b) between MT, on the one hand, and, on the other, ID and WA, under continuing contract(s) with Boise Cascade Corporation, for 270 days. ETA seeking up to 120 days authority has been filed. Supporting shipper: Boise Cascade Corporation, POB 7747, Boise, ID 83707.

MC 153412 (Sub-6–1TA), filed January 3, 1983. Applicant: QUALITY COACH LINES, INC., 1923 N. Carson St., #104, Carson City, NV 89701. Representative: Mike Pavlakis, Box 646, Carson City, NV 89702. *Passengers and their baggage,* in charter and special operations, between points in the US (including AK but excluding HI), for 270 days. Supporting shippers: There are 10 supporting shippers. Their statements may be examined at the regional office listed. An application under 49 U.S.C. 11343 has been filed concurrently with the filing of this application.

MC 165414 (Sub-6–1TA), filed December 30, 1982. Applicant: GREGORY JAMES TREAT, 1602 Plaza Dr., Post Falls, ID 83854. Representative: Gregory James Treat (same as applicant). *Contract carrier,* irregular route; *wholesale photo finishing* between points in Spokane, Whitman and Lewis Counties WA and Nezperce, Latah and Kootenay Counties ID under continuing contract(s) with Transamerica Film Service of Spokane,

WA, and Comtrex Inc. of Spokane, WA for 270 days. Supporting shippers: Transamerica Film Service, 1401 N. Calispel, Spokane, WA 99204; Comtrex, Inc., E. 3107 Mission Ave., Spokane, WA 99202.

MC 142186 (Sub-6-3TA), filed December 30, 1982. Applicant: WHEELS WEST, INC., P.O. Box F, Olympia, WA 98502. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421. *Contract Carrier*, Irregular Routes: *Truck Parts and Equipment*, from points in the states of AL, AR, CA, ID, IL, IN, KS, KY, MO, MI, NV, NY, OH, TN, TX, and WA to Lane County, OR, for 270 days. Supporting shipper: General Trailer Co., 1492 South B St., Springfield, OR 97477.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-799 Filed 1-11-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon 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, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note. All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 2, (202) 275-7030.

Volume No. OP2-012

Decided: January 6, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 134822 (Sub-2), filed December 21, 1982. Applicant: RANDELL BUS COMPANY, Box 1345, 1652 Monmouth Blvd., Galesburg, IL 61401. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Rd., Omaha, NE 68106, 402-392-1220. Transporting *passengers*, in charter or special operation, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 136743 (Sub-2), filed Novembe 23, 1982. Applicant: PEGGY BRAAMSE d.b.a. MARQUETTE BUS SERVICE, 1414 Garfield Ave., Marquette, MI 49855. Representative: Peggy Braamse (same as applicant), (906) 225-0294. Transporting *passengers*, in charter and special operations, between points in the U.S. (including AK but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special operations.

MC 165263, filed December 17, 1982. Applicant: ROYAL COACH LINES INCORPORATED, 1652 Meadowglen Rd., Diamond Bar, CA 91765. Representative: Ottie Vea Wade (same address as applicant), 714-598-9662. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165332, filed December 21, 1982. Applicant: BABYLON TRANSIT, INC., 243 Deer Park Avenue, Babylon, NY 11702. Representative: Edward L. Nehez, P.O. Box Y—7 Becker Farm Road, Roseland, NJ 07068, (201) 992-2200. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status calls to Team 3 at (202) 275-5230.

Volume No. OP 3-69

Decided: January 3, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 70384 (Sub-5), filed December 16, 1982. Applicant: SHOUP BUSES, INC., P.O. Box 271, Middlebury, IN 46540. Representative: Robert B. Walker, 915 Pennsylvania Bldg., 425—13th St., N.W., Washington, DC 20004, (202) 737-1030. Transporting *passengers*, in charter and

special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 121564 (Sub-3), filed December 16, 1982. Applicant: ABBOTT BUS LINES, INC., 1703 Granby St., N.E., Roanoke, VA 24012. Representative: Robert J. Brooks, 1828 L St., N.W., Suite 1111, Washington, DC 20036, (202) 822–8200. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 129134 (Sub-5(b)), filed December 13, 1982. Applicant: CARLYLE VAN LINES, INC. d.b.a. SAFEWAY VAN LINES, 600 North Main St., P.O. Box 25, Warrensburg, MO 64093. Representative: Gerald Moore (same address as applicant), (816) 747–8128. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 139455 (Sub-4), filed December 16, 1982. Applicant: RALPH OWNBEY, d.b.a. TWIN STATE COACH LINES, P.O. Box 816, Bristol, VA 24203. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 141144 (Sub-1), filed December 13, 1982. Applicant: LAKE CRYSTAL BUS SERVICE, INC., Lake Crystal, MN 55066. Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *passengers*, in charter and special operations, (1) between points in MN, IA, SD, ND, and WI, and (2) beginning and ending at points in MN, IA, SD, ND, and WI, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 145224 (Sub-9), filed December 16, 1982. Applicant: ALL-CAL TOURS, INC., 2000 Marconi Avenue, Sacramento, CA 95821. Representative: James R. Benoit, P.O. Box 5110, Santa Rosa, CA 95402, (707) 523–1230. Transporting *passengers*, in charter and special operations, beginning and ending at points in CA and NV, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 151164 (Sub-4), filed December 13, 1982. Applicant: T.L.C. CHARTER COACH, INC., 118 Brook St., Scarsdale, NY 10583. Representative: L. C. Major, Jr., Suite 304, Overlook Bldg., 6121 Lincolnia Rd., P.O. Box 11278, Alexandria, VA 22312, (703) 750–1112. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 155765 (Sub-1), filed December 16, 1982. Applicant: A-WARE CHARTER LEASING, INC., 2712 N. New Ave., Rosemead, CA 91770. Representative: Donald R. Hedrick, P.O Box 4334, Santa Ana, CA 92702, (714) 667–8107. Transporting *passengers*, in charter and special operations, beginning and ending at points in Los Angeles, Orange, San Bernardino and Riverside Counties, CA and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 162874(b) , filed December 16, 1982. Applicant: BILL LUNA d./b./a. BILL LUNA TRUCKING, 1418 E. Elgin, Caldwell, ID 83605. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting for or on behalf of the United States Government, (b) *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions), between points in the U.S.

MC 165185, filed December 14, 1982. Applicant: WILLIAM H. CAMPBELL, 512 Kohl St., Macon, MO 63552. Representative: William H. Campbell (same address as applicant), (816) 385–3577. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165204 (Sub-1), filed December 14, 1982. Applicant: BROADWAY CAB COOPERATIVE, INC., 234 N.W. First Ave., Portland, OR 97209. Representative: Russell M. Allen, 1200 Jackson Tower Portland, OR 97205 (503) 224–4840. Transporting *passengers*, in charter and special operations, beginning and ending at points in OR and WA and extending to points in the U.S. (except AK and HI).

Note: Applicant seeks to provide privately-funded special and charter transportation.

Volume No. OP3–72

Decided: January 5, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 148274 (Sub-3), filed December 21, 1982. Applicant: M & S TRANSPORT, INC., 140 Broadway, Hawthorne, NY 10532. Representative: A. David Millner, P.O. Box Y—7 Becker Farm Rd., Roseland, NJ 07068, (201) 992–2200. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 148934 (Sub-1), filed December 17, 1982. Applicant: RICHARD TWAIT d.b.a. MINNESOTA CITY BUS SERVICE, Rt. 1, Minnesota City, MN 55959. Representative: Steven C. Schoenebaum, 1100 Carriers Bldg., 601 Locust, Des Moines, IA 50309, (515) 283–2076. Transporting *passengers*, in charter and special operations, between points in the U.S. Condition: The person or persons who appear to be in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary to the Secretary's Office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application for common control to Team 3, Room 2158.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 150555 (Sub-1), filed December 21, 1982. Applicant: BRANNOCK'S BUS SERVICE, INC., 6 Maryland Ave., Pasadena, MD 21122. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *passenger*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 161895 (Sub-1), filed December 22, 1982. Applicant: KING TRUCKING, INC., Rt. 1, Box 151, King City, MO 64463. Representative: G. C. King (same address as applicant), (816) 535–6398. (1) Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions),

between points in the U.S., (2) transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S., (3) transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S., (4) transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. and (5) as a *broker*, of *general commodities*, (except household goods), between points in the U.S.

MC 165244, filed December 16, 1982. Applicant: TOWN & COUNTRY LIMOUSINE, LTD., 42-14 21st St., Long Island City, NY 11101. Representative: Edward J. Kiley, 1730 M St., NW., Washington, D.C. 20036, (202) 296-2900. Transporting *passengers*, in charter and special operations, between points in ME, VT, NH, MA, CT, RI, NY, NJ, PA, OH, DE, WV, VA, NC, SC, GA, FL and DC.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165265, filed December 20, 1982. Applicant: GREGORY E. CHIARELLA d.b.a. CHIARELLA TRANSPORTATION SYSTEMS, INC., 48 Birch St., Watertown, CT 06795. Representative: Gregory E. Chiarella (same address as applicant), (203) 274-3778. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 165254, filed December 17, 1982. Applicant: BELLEVILLE-ST. LOUIS COACH CO., INC., 7000 Collinsville Rd., East St. Louis, IL 62201. Representative: James Robert Evens, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722-2848. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165284, filed December 20, 1982. Applicant: DALE A. BERGLUND, Route 6, Box 596, Bemidji, MN 56601. Representative: Charles E. Dye, Swan Lake Village, Saddle Ridge #832, Portage, WI 53901, (608) 742-3579. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165285, filed December 20, 1982. Applicant: CALIFORNIA MESSENGER, INC., 394 Orange Show Lane, San Bernardino, CA 92408. Representative: David A. Sarver (same address as applicant), (714) 889-2758. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 165295, filed December 20, 1982. Applicant: ROCKTON BUS COMPANY, INC., 720 N. Blackhawk Blvd., Rockton, IL 61072. Representative: Harold D. Orlofkse, P.O. Box 368, Neenah, WI 54956, (414) 722-2848. Transporting *passengers*, in charter and special operations, beginning and ending at points in Winnebago, Boone, McHenry, De Kalb, Ogle, Stephenson, Jo Daviess, Whiteside, Carroll, Lee, Kendall, Du Page, Cook, Lake, La Salle, Bureau, Grundy, Kankakee, Marshall, Warren, Rock Island, and Henry Counties, IL; Rock, Green, Walworth, Racine, Kenosha, Milwaukee, Waukesha, Jefferson, Dane, Lafayette, Grant, Crawford, Richland, Sauk, Columbia, Dodge, Washington, Ozaukee, Sheboygan, Fond du Lac, Adams, Juneau, La Crosse, and Vernon Counties, WI; and Jackson, Clinton, Scott, Dubuque, Clayton, Cedar, Jones, Delaware, Allamakee, and Muscatine Counties, IA, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 165314, filed December 21, 1982. Applicant: AGATE ELEVATOR AGRICULTURAL & LIVESTOCK COOPERATIVE, INC., Main St., Agate, CO 80101. Representative: Lawrence Marquette, P.O. Box 629, Carmel Valley, CA 93924, (408) 625-2031. Transporting (1) for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), (3) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI), (4) *used household goods* for the account of the U.S. Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI), and (5) As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165324, filed December 21, 1982. Applicant: E. STERLING HOUGARD, Strandquist, MN 56758. Representative: Arthur A. Drenckhahn, P.O. Box 159, Warren, MN 56762, (218) 745-4321. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 165325, filed December 21, 1982. Applicant: JOHN BOSCH, INC., 243 Deer Park Ave., Babylon, NY 11702. Representative: Edward L. Nehez, P.O. Box Y, 7 Becker Farm Rd., Roseland, NJ 07068, (201) 992-2200. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165334, filed December 22, 1982. Applicant: GRAY GOOSE LINES, INC., 21 Prudence Avenue, Providence, RI 02909. Representative: Eraclio Rega (same address as applicant), (401) 944-2158. Transporting *passengers*, in charter and special operations, beginning and ending at points in Kent and Providence Counties, RI and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

For the following, please direct status calls to Team 4 at 202-275-7669.

Volume No. OP4-102

Decided: January 5, 1983.

By the Commission, Review Board No. 2. Members Carleton, Williams, and Ewing.

MC 165347, filed December 23, 1982. Applicant: BOBBIE W. THOMPSON d.b.a. THOMPSON'S VIP TOURS, I-35E. Outer Rd., P.O. Box 109, Bethany, MO 64424. Representative: Robert J. Brooks, 1828 L St., NW., Suite 1111, Washington, DC 20036, (202) 466-3892. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–308

Decided: December 29, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 13028 (Sub-21), filed December 16, 1982. Applicant: BONANZA BUS LINES, INC., 27 Sabin St., P.O. Box 1116, Annex Station, Providence, RI 02901. Representative: John R. Simms, Jr., 915 Pennsylvania Ave., NW., Washington, DC 20004, 202–737–1030. Over regular routes transporting *passengers* between Pittsfield, MA and New York NY, from Pittsfield over U.S. Hwy 7 to MA Hwy 23, then over MA Hwy 23 to the MA-NY State line, then over NY Hwy 23 to NY Hwy 22, then over NY Hwy 22 to U.S. Hwy 44, then over U.S. Hwy 44 to NY Hwy 82, then over NY Hwy 82 to NY Hwy 376, then over NY Hwy 376 to NY Hwy 52, then over NY Hwy 52 to I–84, then over I–84 to I–684, then over I–684 to I–287, then over I–287 to I–87, then over I–87 to New York, NY, and return over the same route, serving all intermediate points.

Note.—Applicant seeks to provide privately-funded regular route transportation.

MC 164278 (Sub-1), filed December 17, 1982. Applicant: NSD WAREHOUSING & DISTRIBUTION SYSTEMS INC. d.b.a. NSD WAREHOUSING & DISTRIBUTION SYSTEMS, 1010 Knox St., Torrance, CA 90502. Representative: Milton W. Flack, 8484 Wilshire Blvd., Suite 840, Beverly Hills, CA 90211, 213–655–3573. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165239, filed December 16, 1982. Applicant: NATIONAL TRAILS, INC., 20202 Westland, Southfield, MI 48075. Representative: Herbert L. Kay, 17117 W. Nine Mile Rd., Suite 1430, Southfield, MI 48075, 313–557–3450. Transporting *passengers* in *special and charter* operations, beginning and ending at points in MI and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165248, filed December 17, 1982. Applicant: ORANGE COUNTY ENTERPRISES, INC., Stewart Airport Box 6102, Newburgh, NY 12550. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, 212–239–4610. Transporting *passengers in special and charter operations*, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165249, filed December 17, 1982. Applicant: STRONG CORPORATION, 26 Pleasant St., P.O. Box 408, Easthampton, MA 01027. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103, 413–732–1136. Transporting *passengers* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume, No. OP5–311

Decided: December 30, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 110668 (Sub-6), filed December 21, 1982. Applicant: PEORIA CHARTER COACH COMPANY, 2600 N.E. Adams St., Peoria, IL 61603. Representative: Edward D. McNamara, Jr., 907 South Fourth St., P.O. Box 5039, Springfield, IL 62703, (217) 528–8476. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 116858 (Sub-23), filed December 22, 1982. Applicant: J & M CARRIERS CORP., North Shore Atrium Suite 118 West, 6800 Jericho Turnpike, Syosset, NY 11791. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 156949 (Sub-2), filed December 21, 1982. Applicant: SHAW BUS SERVICE, INC., 6523 Baltimore National Pike, Baltimore, MD 21228. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165718, filed December 13, 1982. Applicant: ROBERT W. BURWELL & WILLIAM H. BURWELL d.b.a.: ACE TANK & EQUIPMENT, Box 9039, Seattle, WA 98119. Representative: Jack R. Davis, 1200 IBM Bldg., Seattle, WA 98101, (206) 624–7373. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except HI).

MC 165199, filed December 14, 1982. Applicant: CALVIN N. ODUM, Rt. 3, Box 375, Abingdon, VA 24210. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004, (202) 347–8862. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165238, filed December 16, 1982. Applicant: HANS PEDERSEN, JR., P.O. Box 811, Sioux Falls, SD 57101. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101–1103, 605–335–1777. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle between points in the U.S. (except AK and HI).

MC 165268, filed December 20, 1982. Applicant: BROWN'S CHARTER SERVICE, INC., 2530 Sunnyvale, Grand Prairie, TX 75030. Representative: L. Eugene Brown (same address as applicant), (214) 641–0435. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165278, filed December 20, 1982. Applicant: D & M TRUCKING, P.O. Box 915, Morton, TX 79346. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112, (817) 457–0804. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-601 Filed 1-11-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions, Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19 Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19,1982, are governed by Subpart D or 49 CFR 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon 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 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.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions 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 exten 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." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team 2, (202) 275-7030.

Volume No. OP2-011

Decided: January 6, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 682 (Sub-43), filed December 20, 1982. Applicant: BURNHAM VAN SERVICE, INC., 5000 Burnham Blvd., Columbus, GA 31907. Representative: David Earl Tinker, 1000 Connecticut Ave., NW., Suite 1112, Washington, DC 20036-5391, 202-887-5868. Transporting *general commodities* (except classes A and B Explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Celanese Fibers Company, of Charlotte, NC.

MC 4242 (Sub-11), filed December 23, 1982. Applicant: PITTSBURGH-FAYETTE EXPRESS, INC., 4th and Main St., Belle Vernon, PA 15012. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219, 412-471-1800. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (1) between points in DE, IL, KY, MO, NJ, WI and DC, and (2) between points in DE, IL, KY, MO, NJ, WI and DC, on the one hand, and, on the other, points in IN, MD, MI, NY, OH, PA, VA and WV.

MC 32122 (Sub-11), filed December 21, 1982. Applicant: PAZEN TRANSFER LINE, INC., P.O. Box 243, Waukau, WI 54980. Representative: Edward J. Gerrity, P.O. Box 914, Appleton, WI 54912, 414-734-5608. Transporting *machinery, metal products, rubber and plastic products, and transportation equipment*, between points in Winnebago County, WI, on the one hand, and, on the other, points in the U.S. (except AK, HI, CA, CO, ID, MT, NV, NM, OR, AZ, UT, WA and WY).

MC 76262 (Sub-8), filed December 20, 1982. Applicant: WEIR-COVE MOVING & STORAGE COMPANY, 4224 Freedom Way, Weirton, WV 26062. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219, 412-471-1800. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in WV, OH, PA, MD, MI, NY, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR and LA.

MC 140302 (Sub-9), filed December 16, 1982. Applicant: AMERICAN TANK TRANSPORT, INC., 6350 Ordnance Point Rd. Curtis Bay, MD 21225. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, 201-572-5551. Transporting *commodities in bulk*, between Baltimore, MD, Cincinnati, OH, Chattanooga, TN, and points in Aiken County, SC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141842, filed December 16, 1982. Applicant: COMMUTERS SERVICE, INC., d.b.a. VIKING TRAVELER TOURS, 508 N. Prairer St., Stoughton, WI 53589. Representative: Douglas W. Bickley (same address as applicant), 608 873-7174. Transporting *passengers*, in charter and special operations, beginning and ending at points in WI, and extending to points in the U.S. (including AK, but excluding HI).

Note.—Applicant receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient.

MC 142693 (Sub-7), filed December 13, 1982. Applicant: CUSTOMS DELIVERIES, INC., 30800 Telegraph Rd., Suite 4900, Birmingham, MI 48010. Representative: J.A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, 216-566-5639. Transporting *automobile parts, equipment, supplies and related articles*, used in assembly, manufacture, repair, servicing or distribution of motor vehicles, between points in the U.S. (except AK and HI), under continuing contract(s) with General Motors Corporation, of Troy, MI.

MC 148283 (Sub-14), filed December 15, 1982. Applicant: ABC TRANSPORTATION COMPANY, State Docks Rd., Eufaula, AL 36027. Representative: W.W. Riley (same address as applicant), 205-687-2032. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 149573 (Sub-12), filed December 13, 1982. Applicant: NTL INC., P.O. Box 5803, 4721 North 56th St., Lincoln, NE 68505. Representative: J. Max Harding (same as applicant), (402) 467-5365. Transporting (1) *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with persons engaged in business as manufacturers, distributors and dealers of food and related products, and (2) *such commodities* as are dealt in by wholesale, retail, and discount stores, between points in the U.S. (except AK and HI), under continuing contract(s) with persons engaged in business as are dealt in by wholesale, retail, and discount stores.

MC 160852 (Sub-1), filed December 14, 1982. Applicant: FISHER FREIGHT SERVICES, INC., P.O. Box 47062, Dallas, TX 75247. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, 214-255-6279. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in TX.

MC 163012, filed December 20, 1982. Applicant: CHARLES DOUGLAS AND COMPANY, INC., 1624 Atlanta Road, Marietta, GA 30060. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180, (703) 442-8330. Transporting *automobiles*, in truckaway service, in initial movements, in specialized equipment, between points in the U.S. (except AK and HI), under continuing contract(s) with Zimmer Motor Corporation, of Pompano Beach, FL.

MC 165222, filed December 16, 1982. Applicant: JOHN H. LEICHNAM d.b.a. JOHN LEICHNAM TRUCKING, P.O. Box 51, Presho, SD 57568. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101-1103, 605-335-1777. Transporting (1) *lumber and wood products*, between points in AR, CA, CO, ID, LA, MT, OK, OR, TX, WA and WY, on the one hand, and, on the other, points in IA, IL, IN, KS, KY, MI, MN, MO, MT, ND, NE, SD, TN, WI and WY, (2) *chemicals and related products*, between points in UT, on the one hand, and, on the other, points in ID and WA, and (3) *machinery*, between points in Richland and Cass Counties, ND, on the one hand, and, on the other, points in Latah County, ID.

For the following, please direct status calls to Team 3 at 202-275-5223.

Volume No. OP3-70

Decided: December 30, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

FF 564 (Sub-1,) filed December 13, 1982. Applicant: YTS, INC., 1840 Cardington Road, Dayton, OH 45409. Representative: William H. Cantillon (same address as applicant), (800) 543-4320. As a *freight forwarder*, in connection with the transportation of *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S.

MC 2934 (Sub-125), filed December 16, 1982. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 N. Michigan Rd., Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant), (317) 875-1142. Transporting *computerized electronic communications switching systems and parts and components*, between points in the U.S. (except AK and HI), under continuing contract(s) with D. P. Enterprises, Inc., of Seattle, WA.

MC 67234 (Sub-71) filed December 15, 1982. Applicant: UNITED VAN LINES, INC., One United Dr., Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727-0777. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Raychem Corporation, of Menlo Park, CA.

MC 67234 (Sub-72), filed December 15, 1982. Applicant: UNITED VAN LINES, INC., One United Dr., Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727-0777. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Monsanto Company, of St. Louis, MO.

MC 109595 (Sub-28), filed December 14, 1982. Applicant: REX TRANSPORTATION CO., Suite 207 Clausen Bldg., 1520 No. Woodward Ave., Bloomfield Hills, MI 48013. Representative: William B. Elmer, P.O. Box 801., Traverse City, MI 49685, (616) 941-5313. Transporting *clay, concrete, glass or stone products*, between points in CT, IL, MD, MI, MN, NJ, NY, OH, PA, and WI, on the one hand, and, on the other, points in CT, DE, IL, IN, IA, KY, MD, MI, MN, MO, NJ, NY, NC, ND, OH, SD, TN, VA, WV, WI and DC.

MC 119634 (Sub-58), filed December 15, 1982. Applicant: DICK IRVIN, INC., Hwy 2 W., P.O. Box F, Shelby, MT 59474. Representative: Mark A. Cole, (same address as applicant), (406) 434-5583. Transporting *general commodities* (except classes A and B explosives and household goods), between points in WA, ID, MT, CA, AZ, CO, NE, TX, MO, IL, IN, OH and AL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 129134 (Sub-5(a)), filed December 13, 1982. Applicant: CARLYLE VAN LINES, INC. d.b.a SAFEWAY VAN LINES, 600 North Main St., P.O. Box 25, Warrensburg, MO 64093. Representative: Gerald Moore (same address as applicant), (816) 747-8128. Transporting *household goods*, between points in the U.S. (except AK, HI, and VT).

MC 133314 (Sub-15), filed December 13, 1982. Applicant: SILVAN TRUCKING COMPANY, INC., R. R. #2, Box 137, Pendleton, IN 46064. Representative: Walter F. Jones, Jr., 1111 East 54th Street, Suite 155, Indianapolis, IN 46220, (317) 257-4066. Transporting *machine, hand and automotive tools, tool chests, battery chargers and testing equipment*, between Tallmadge and Medina, OH, Baltimore, MD, Dallas, TX, Clearfield, UT, Ceratos, CA, and Lakewood, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 134884 (Sub-13), filed November 15, 1982, previously noticed in the

Federal Register on December 10, 1982. Applicant FARWEST FURNITURE TRANSPORT, INC., 4108 Jones Ave., NE., Renton, WA 98055. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., NE., Suite 520, Atlanta, GA 30326. (404) 262-7855. Transporting *furniture and fixtures, furnishings, plastic and plastic articles,* and *insulation,* between points in the U.S. (except AK and HI).

Note.—This republication corrects the commodity description to include furnishings.

MC 148705 (Sub-9), filed December 13, 1982. Applicant: TWIN CONTINENTAL TRANSPORT CORPORATION, 5738 Olson Hwy, Minneapolis, MN 55422. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333-1341. Transporting *food and related products,* between points in the U.S. (except AK and HI).

MC 158295 (Sub-3), filed December 16, 1982. Applicant: CHEYENNE TRANSPORTATION, INC., 4094 Summerhill Road, Texarkana, TX 75503. Representative: William J. Gambucci, 525 Lumber Exchange Building, Ten South Fifth Street, Minneapolis, MN 55402, (612) 340-0808. Transporting *such commodities* as are dealt in by farm supply cooperatives, between points in the U.S. (except AK and HI).

MC 160615, filed December 13, 1982. Applicant: J & L H ENTERPRISES, INC. d.b.a. BILL HILL TRUCKING, 2816 Ostrom Rd., Marysville, CA 95901. Representative: Jerry W. Hill, 3920 Silver Spur Way, Sacramento, CA 95841, (916) 674-2031. Transporting *lumber and wood products,* between points in Yuba and Sutter Counties, CA, on the one hand, and, on the other, points in OR, WA, ID, MT, WY, UT, CO, AZ, NV, and NM.

MC 162874(a), filed December 16, 1982. Applicant: BILL LUNA d.b.a. BILL LUNA TRUCKING, 1418 E. Elgin, Caldwell, ID 83605. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343-3071. Transporting (a)(1) *such commodities* as are dealt in by grocery and food business houses, between points in the U.S. (except AK and HI), and (2) *petroleum and petroleum products,* between points in ID and OR, on the one hand, and, on the other, points in the U.S.

MC 163604, filed December 15, 1982. Applicant: MIDSTATES EXPRESS, INC., P.O. Box 510, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant), (316) 223-5432. Transporting *food and related products,* between points in the U.S. (except AK and HI).

MC 164605, filed December 14, 1982. Applicant: JOSEPH & JEARLDENE FARIA d.b.a. J&J TRUCKING CO., 41623 W. Valeria, Dos Palos, CA 93620. Representative: Jack L. Schiller, 111-56 76th Dr. Forest Hills, NY 11375, (212) 263-2078. Transporting *building materials,* between points in CA, OR and WA.

MC 165224, filed December 16, 1982. Applicant: STOUTNER CORPORATION, 638 North Elk Run Road, P.O. Box 2456, Waterloo, IA 50704. Representative: William L. Fairbank, 2400 Financial Center Des Moines, IA 50309, (515) 282-3525). Transporting (1) *commodities in bulk* and (2) *metal products,* between points in IL, IN, IA, KS, MN, MO, NE, ND, SD and WI.

MC 165225, filed December 16, 1982. Applicant: LEWCO, INC., 1900 Dahlia Road, Jacksonville, FL 32205. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202, (904) 632-2300. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Jacksonville, FL on the one hand, and, on the other, points in FL, GA, AL and SC.

MC 165235, filed December 16, 1982. Applicant: SERVICE EXPRESS TRANSPORT, LTD., 2929 Fourth Ave., S., Minneapolis, MN 55408. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333-1341. 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). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a), or submit an affidavit stating why Commission approval is unnecessary, or submit a petition of exemption to the Secretary's Office. In order to expedite issuance of any authority please submit a copy of the affidavit or petition or proof of filing the application(s) for common control to Team 3, Room 2158.

Volume No. OP3-73

Decided: January 4, 1983.

By the Commission, Review Board No. 2, members Carleton, Williams, and Ewing.

MC 15735 (Sub-66), filed December 20, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680, (312) 681-8378. Transporting *household goods* between points in the U.S., under continuing contract(s) with Continental Airlines, Inc., and its subsidiaries, Continental Computers, Inc., and Continental Hotels, all of Los Angles, CA.

MC 15735 (Sub-67), filed December 21, 1982. Applicant: ALLIED VAN LINES, INC., P.O. Box 4403, Chicago, IL 60680. Representative: Richard V. Merrill (same address as applicant), (312) 681-8378. Transporting *household goods,* between points in the U.S., under continuing contract(s) with Shell Oil Company, Western E & P Operations, of Houston, TX.

MC 15735 (Sub-68), filed December 20, 1982. Applicant: ALLIED VAN LINES, INC., P.O. Box 4403, Chicago, IL 60680. Representative: Richard V. Merrill (same address as applicant), (312) 681-8378. Transporting *general commodities,* between points in the U.S. (except AK and HI), under continuing contract (s) with Rockwell International, of Pittsburgh, PA and its subsidiary, Graphics Systems Division, of Oak Brook, IL.

MC 48004 (Sub-1), filed December 21, 1982. Applicant: CUSHING TRUCKING, INC., 1211 W. 31st St., Chicago, IL 60608. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602, (312) 726-6525. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Chicago, IL, on the one hand, and, on the other, points in IL, IN, MI, WI, IA, and MO.

MC 83835 (Sub-175), filed December 21, 1982. Applicant: WALES TRANSPORTATION, INC., P.O. Box 226186, Dallas, TX 75266. Representative: J. Michael Alexander., 5801 Marvin D. Love Freeway, Suite 301, Dallas, TX 75237, (214) 339-4108. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except HI).

MC 117415 (Sub-13), filed December 21, 1982. Applicant: JENSEN TRUCKING CO., INC., P.O.Box 402, American Fort, UT 84003. Representative: Irene Warr, 311 S. State St. Ste 280, Salt Lake City, UT 84111, (801) 531-1300. Transporting *medical supplies, glass, plastic and rubber products,* between points in the U.S. (except AK and HI).

MC 127204 (Sub-20), filed December 20, 1982. Applicant: KINDSVATER, INC., P.O. Box 1027, Dodge City, KS 67801. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110-L, Topeka, KS 66612, (913) 233-9629. Transporting *food and related products,* between points in Sedgwick and Ford Counties, KS, Atchison County, MO, Hale and Parmer Counties, TX, on the

one hand, and, on the other, points in the U.S. (except AK and HI.).

MC 129124 (Sub-38), filed December 20, 1982. Applicant: SAMUEL J. LANSBERRY, INC., P.O. Box 58, Woodland, PA 16881. Representative: John C. Fudesco, 1333 New Hampshire Ave., NW., Suite 960, Washington, DC 20036, (202) 659–5157. Transporting *commodities in bulk*, between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 136275 (Sub-35), filed December 21, 1982. Applicant: WHITFIELD ASSOCIATED TRANSPORT, INC., 777 Executive Drive, El Paso, TX 79922. Representative: Dann L. Drewry (same address as applicant), (915) 532–2691. Transporting *sand and sand products, ores and minerals*, between points in El Paso County, TX, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, MI, MS, NC, OH, OK, RI, SC, TN, VA and WI.

MC 136585 (Sub-2), filed December 20, 1982. Applicant: BUD COFER, INC., 4210 Weckerly Dr., Monclova, OH 43542. Representative: Keith D. Warner, 5732 W. Rowland Rd., Toledo, OH 43613, (419) 474–6883. 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 Anchor Metals, Inc., of Anniston, AL.

MC 138714 (Sub-14), filed December 22, 1982. Applicant: VIRGINIA TRANSPORTATION, INC., Box 985, 1000 Leadbetter Rd., Ashland, VA 23005. Representative: Eric Meierhoefer, 915 Pennsylvania Bldg., 425 13th St., NW., Washington, D.C. 20004, (202) 737–1031. 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 T. H. Mandy, Division of United States Shoe Corporation of Merrifield, VA.

MC 144724 (Sub-4), filed December 20, 1982. Applicant: WALTER J. SHEETS & SON, INC., 100 Bittles Cove, Lewisburg, WV 24901. Representative: Walter J. Sheets (same address as applicant), (304) 645–2101. Transporting *lumber*, between points in WV, KY, and VA, on the one hand, and, on the other, points in IL, TN, WV, VA, KY, NC, SC, PA, GA, OH, MD, DE, NJ, NY, and IN.

MC 147554 (Sub-5), filed December 22, 1982. Applicant: ARAB CARTAGE & EXPRESS CO., INC., P.O. Box 217, Arab, AL 35016. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Pkwy., Birmingham, AL 35209, (205) 942–9116. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AL, FL, NC, IN, TX, MS, and GA, on the one hand, and, on the other, those points in the U.S. in and east of NM, CO, WY and MT.

MC 152155 (Sub-1), filed December 21, 1982. Applicant: BOBBY R. COLE TRUCKING d.b.a. COLE TRUCKING, 2910 55th WY, Long Beach, CA 90805. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 226–3755. 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 Superior Transportation Systems, Inc. of Wilsonville, OR.

MC 152775 (Sub-10), filed December 17,1982. Applicant: RAM ROD TRUCKING, INC., P.O. Box 1127, Marrero, LA 70073. Representative: Donald B. Morrison P.O. Box 22628, Jackson, MS 39205. (601) 948–8820. 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 Ward Wholesale Co., Division of WH Ward Lumber Co. of Gretna, LA.

MC 152995 (Sub-2), filed December 20, 1982. Applicant: JAMES THOMAS TRUCKING, INC., 17708 Stonebridge Dr., Hazel Crest, IL 60429. Representative: James Thomas (same address as applicant), (312) 957–9853. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AR, CA, IL, IN, KY, MI, MN, MO, NJ, NY, OH, OK, PA, TN, TX, AND WI, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NM, NV, NJ, NY, NC, OH, OK, PA, SC, TN, TX, UT, VA, WV, WI, and WY.

MC 154464 (Sub–7), filed December 17, 1982. Applicant: B-HI TRANSPORT, INC., P.O. Box 1227, Searcy, AR 72143. Representative: Larry Bowen (same address as applicant) (501) 268–3897. 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 158495 (Sub–1), filed December 20, 1982. Applicant: OMH TRUCKING CO., d.b.a. HUBBARD CARTAGE CO., 11861 South Cottage Grove Ave., Chicago, Il 60628. Representative: Philip A. Lee, 120 West Madison St., Chicago, IL 60602, (312) 785–9000. 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 160454 (Sub-1), filed December 21, 1982. Applicant: OWEN PRODUCE, INC., Locust Grove Road, Elizabethtown, KY 42701. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064, (615) 790–2510. Transporting *machinery*, between points in KY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162374 (Sub-1), filed December 20, 1982. Applicant: LUNDELL TRUCKING CO., 7910 224th St. E., Graham, WA 98338. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421, (206) 383–3998. Transporting (1) *heavy machinery*, (2) *contractor's equipment*, and (3) *those commodities which because of their size or weight require the use of special handling or equipment*, (a) between points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, and (b) between WA, on the one hand, and, on the other, points in AR, IL, IA, IN, LA, NE, NH, NC, MI, PA, SD, TX, and WI.

MC 162374 (Sub-1), filed December 20, 1982. Applicant: LUNDELL TRUCKING CO., 7910 224th St. E., Graham, WA 98338. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421, (206) 383–3998. Transporting (1) *heavy machinery*, (2) *contractor's equipment*, and (3) *those commodities which because of their size or weight require the use of special handling or equipment*, (a) between points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, and (b) between WA, on the one hand, and, on the other, points in AR, IL, IA, IN, LA, NE, NH, NC, MI, PA, SD, TX, and WI.

MC 163885 (Sub-2), filed December 17, 1982. Applicant: JACK WEBER TRUCKING, 6960 S 641 W., Unit 3, Salt Lake City, UT 84047. Representative: Jack Weber (same address as applicant), (801) 566–5128. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY, on the one hand, and, on the other, points in the U.S. (except AK, CT, HI, ME, MA, NH, RI, and VT).

MC 165315, filed December 21, 1982. Applicant: BUILDER'S RENTALS CORPORATION, 1921 South 16th, Las Vegas, NV 89104. Representative: Robert B. Taylor, 882 Van Buren St., Eugene, OR 97402, (503) 345–8138. Transporting *building materials*, between points in AZ, CA, NV, OR, and WA.

MC 165335, filed December 22, 1982. Applicant: BOLSTER SERVICE INC., 2 Shirley St., Winthrop, MA 02152. Representative: George Bolster (same address as applicant), (617) 846-9859. Transporting *general commodities* (except household goods), between points in CT, MA, ME, NH, NJ, NY, RI, and VT.

For the following, please direct status calls to Team 4 at 202-275-7669.

Volume No. OP4-101

Decided: January 5, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 58166 (Sub-19), filed December 27, 1982. Applicant: GIBSON TRUCK LINES, INC., S. Hwy 285, La Jara, CO 81140. Representative: Nancy P. Bigbee, 745 E. 18th Ave., #101, Denver, CO 80203, (303) 839-0057. Transporting *perlite ore, diatomaceous earth, and firebrick*, between points in the U.S. (except AK and HI), under continuing contract(s) with Grefco, Inc., and its subsidiary General Refractories Co., of Bala Cynwyd, PA.

MC 61396 (Sub-410), filed December 21, 1982. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475-6761. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Dundee Cement Company, of Dundee, MI 48131.

MC 111496 (Sub 43), filed December 22, 1982. Applicant: TWIN CITY FREIGHT, INC., 2550 Long Lake Rd., Roseville, MN 55113. Representative: Thomas J. Van Osdel, 15 Broadway—Suite 502, Fargo, ND 58102, (701) 235-4487. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except HI).

MC 118806 (Sub-81), filed December 21, 1982. Applicant: ARNOLD BROS. TRANSPORT LTD., Suite 200, 851 Lagimodiere Blvd., Winnipeg, Manitoba, Canada R2J 3K4. Representative: Bernard J. Kompare, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 263-1600. Transporting *such commodities* as are dealt in or used by manufacturers of glass and glass products, between points in the U.S. (except AK and HI), on the one hand, and, on the other, the ports of entry on the International Boundary line between the U.S. and Canada.

MC 120616 (Sub-10), filed December 22, 1982. Applicant: A. V. DEDMON TRUCKING, INC., Highway 150 East, Shelby, NC 28150. Representative: Elliott Bunce, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, (703) 522-0900. 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), under continuing contract(s) with (1) ABEKA Book Publications, Division of Pensacola Christian Schools, of Pensacola, FL, (2) D & O Warehouse, Inc., of Shelby, NC, (3) Drexel Heritage Furnishings, Inc., of Drexel, NC, (4) Harrill Chemical and Paper Supply, Inc., of Shelby, NC, (5) Mauney-Williams Coal and Oil Company, of Shelby, NC, (6) Pine Glo Products, Inc., of Raleigh, NC, (7) Plastics Oddities, Inc., of Shelby, NC, (8) Sewell Plastics, Inc., of Charlotte, NC, and (9) Til-Mar Textiles, Inc., of Shelby, NC.

MC 123476 (Sub-80), filed December 27, 1982. Applicant: CURTIS TRANSPORT, INC., 23 Grandview Industrial Court, P.O. Box 427, Arnold, MO 63010. Representative: David G. Dimit (same address as applicant), (314) 464-1300. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AR, DE, IA, IL, IN, KY, GA, MD, MI, MO, MN, OH, NJ, NY, NC, PA, SC, TN, VA, WI, WV, and DC, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, CO and NM.

MC 126216 (Sub-6), filed December 20, 1982. Applicant: PYLES TRUCKING CO., Box 97, Deer Creek, IL 61733. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544-5468. Transporting (1) *metal products, farm machinery, and farm implements*, between points in IA, IL, IN, and MO, and (2) *plastic articles*, between points in Cook County, IL, on the one hand, and, on the other, points in IA, IN, and MO.

MC 156146 (Sub-5), filed December 27, 1982. Applicant: CONTRACT TRUCKING CORPORATION, Butternut Dr., P.O. Box 459, E. Syracuse, NY 13057. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566-5639. Transporting *such commodities* as are dealt in or used by telephone companies, between points in the U.S., under continuing contract(s) with New York Telephone Co., of E. Syracuse, NY.

MC 161806, filed May 3, 1982, and previously noticed in the Federal Register issue of May 18, 1982, and republished herein. Applicant: STANLEY M. SHIPP, d.b.a. SHIPP TRANSPORT, 404 W Cochita, Hobbs, NM 88240. Representative: Stanley M. Shipp (same address as applicant), (505) 392-4782. Transporting *petroleum, natural gas and their products*, between points in NM, on the one hand, and, on the other, points in NM, TX, OK, CO, UT and AZ.

Note.—The purpose of this republication is to designate this as a non-fitness related application.

MC 164406, filed December 27, 1982. Applicant: MERIT MOTOR FREIGHT, INC., 3467 Holeman Place, Memphis, TN 38118. Representative: Thomas R. Buckner, 12th Floor 67 Madison Ave., Memphis, TN 38103, (901) 521-1111. Transporting *automotive and commercial batteries*, between points in the U.S. (except AK and HI), under continuing contract(s) with Southern Battery, Inc., of New Orleans, LA.

MC 165366, filed December 27, 1982. Applicant: ALLEN D. STRICKLIN, Box 142, Omaha, IL 62871. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544-5468. Transporting (1) *fertilizer*, (2) *anhydrous ammonia*, and (3) *petroleum/petroleum products*, between points in IL, IN, KY, and MO.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-802 Filed 1-11-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30075]

Rail Carriers; Burlington Northern Railroad Company—Trackage Rights Exemption—Chicago and North Western Transportation Company

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: Under 49 U.S.C. 10505, the Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 11343 Burlington Northern Railroad Company's (BN) acquisition of trackage rights over the Chicago and North Western Transportation Company (C&NW). BN plans to conduct overhead operations over a 12.9-mile segment of rail line owned by the C&NW between milepost 363.5 at Huron, SD, and milepost 376.4 at Wolsey, SD. Standard labor protective conditions are imposed.

DATES: Exemption become effective on February 11, 1983. Petitions to stay must be filed by January 24, 1983. Petitions for reconsideration must be filed by February 1, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423;
(2) Petitioner's representative: Douglas J. Babb, Burlington Northern Railroad Company, 176 East Fifth Street, St. Paul, MN 55101.

Pleadings should refer to Finance Docket No. 30075.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289-4357—DC metropolitan area, (800) 424-5403—Toll free for outside the DC area.

Decided: January 5, 1983.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Vice Chairman Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-797 Filed 1-11-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30078]

Rail Carriers; Union Pacific Railroad Company—Abandonment Exemption in Boulder County, CO

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Commission exempts from the requirements of prior review and approval under 49 U.S.C. 10903 *et seq.* abandonment by the Union Pacific Railroad Company of a 0.22-Mile segment of line in Boulder County, CO, subject to standard labor protective conditions.

DATES: This exemption shall be effective February 11, 1983. Petitions to stay the effectiveness of this decision must be filed by January 21, 1983. Petitions for reconsideration must be filed by February 1, 1983.

ADDRESSES: Send pleadings to:

(a) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423;
(2) Petitioner's representative: Joseph D. Anthofer, Union Pacific Railroad Company, 1416 Dodge Street, Omaha, NE 68179.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289-4357—DC metropolitan area, (800) 424-5403—Toll free for outside the DC area.

Decided: January 3, 1983.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Vice Chairman Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-790 Filed 1-11-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15010]

Lien Industries—Continuance in Control Exemption—Dakota Block Co. and Universal Transport, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), added by section 21 of the Bus Regulatory Reform Act of 1982, Pub. L. 97-261 (September 20, 1982), Lien Industries (Lien) and, in turn, Charles H. Lien and Bruce H. Lien, who jointly control Lien, seek an exemption from the requirement under section 11343 of prior regulatory approval for their continuance in control of Universal Transport, Inc. (Nos. MC-192597 and MC-126555 and Dakota Block Co. No. MC-162830), both of which are motor carriers.

DATE: Comments must be received within 30 days after the date of publication in the Federal Register.

ADDRESSES: Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423

and

(2) Petitioner's representative, Charles H. Lien, Lien Industries, P.O. Box 2920, Rapid City, SD 57709.

Comments should refer to No. MC-F-15010

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 7, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-803 Filed 1-11-83; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, NW., Washington, D.C. 20506:

1. Date: February 2-3, 1983
Time: 8:30 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted for the Humanities Projects in Museums and Historical Organizations Programs, Division of General Programs, for projects beginning after January 1, 1984.
2. Date: February 4, 1983
Time: 8:30 a.m. to 5:00 p.m.
Room: 807
Program: This meeting will review applications submitted for the Libraries Humanities Projects Program, Division of General Programs, for projects beginning after July 1, 1983.
3. Date: February 4, 1983
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134
Program: This meeting will review applications in Lexicography and Linquistics submitted for Research Materials Program, Division of Research Programs, for project beginning after July 1, 1983.
4. Date: February 7-8, 1983
Time: 8:30 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted for the Humanities Projects in Museums and Historical Organizations Program, Division of General Programs, for projects beginning after January 1, 1984.
5. Date: February 10-11, 1983
Time: 8:30 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted for the Humanities Projects in Museums and Historical Organizations Program, Division of General Programs, for projects beginning after January 1, 1984.
6. Date: February 10-11, 1983
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134
Program: This meeting will review applications in Classical, Medieval &

Renaissance Studies submitted for Research Materials Program, Division of Research Programs, for projects beginning after July 1, 1983.

7. Date: February 15–16, 1983
Time: 8:30 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted for the Humanities Projects in Museums and Historical Organizations Program, Division of General Programs, for projects beginning after January 1, 1984.

The proposed meetings are 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 meetings will consider information that is likely to disclose: (1) Trade secrets and commerical 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 these meetings 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 these meetings 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. 83-836 Filed 1-11-83; 8:45 am]
BILLING CODE 7536-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Invitation for Public Comment Proposed Revision to OMB Circular No. A–76 "Performance of Commercial Activities"

AGENCY: Office of Management and Budget (OMB), Office of Federal Procurement Policy (OFPP).

ACTION: Request for comments on proposed revision to OMB Circular No. A–76.

SUMMARY: The Office of Federal Procurement Policy is requesting public and agency review and comment on the proposed revision to OMB Circular No. A–76, "Performance of Commercial Activities." The proposed revision, when issued in final, will replace OMB Circular No. A–76 (revised), dated March 29, 1979, Transmittal Memoranda Nos. 1 through 7, and Supplement No. 1, Cost Comparison Handbook, dated March 1979.

OMB Circular No. A–76 requires Federal agencies to conduct cost comparisons of commercial activities they operate where appropriate, to determine the most economical way to perform the work—whether by private commercial source or using in-house Government resources. This proposed revision greatly simplifies and shortens the cost comparison procedures and clarifies and strengthens other procedures in the Circular that unnecessarily impede its implementation.

The proposed revision is the result of a year long effort by an Interagency Task Group of major agencies, chaired by OFPP. It is comprised of the Circular and a four-part Supplement. The Supplement contains guidance on implementation of the Circular, including the greatly simplified cost comparison procedures which were tested at the Department of Defense. Costs prohibit printing the Supplement here. Copies are available from OFPP (see below).

We will continue to work to even further condense and simplify the cost comparison procedures. We urge all commenters to submit constructive recommendations towards that end.

Some issues still need to be addressed. During the 60-day comment period, we will examine the effect OMB Circular No. A–76 implementation may have on Government contracting opportunities for small and small disadvantaged businesses. We will also be reviewing the Circular's effect on Government-owned contractor-operated facilities.

Public Hearings: Public hearings on the proposed revision will be held toward the end of the comment period. The date, time and location of the hearings will be announced in the **Federal Register.**

DATE: Comments must be received on or before March 14, 1983.

ADDRESS: Submit comments to the Office of Federal Procurement Policy, Office of Management and Budget, 726 Jackson Place, NW, Room 9013, Washington, DC 20503

For copies of the supplement contact: Ms. Margie Jackson or Ms. Teresa Hrabe, OFPP, 202–395–6810

FOR FURTHER INFORMATION CONTACT: Ms. Lee Miller or Mr. Curt Holland, Office of Federal Procurement Policy, 202–395–6810

Donald E. Sowle,
Administrator.

Executive Office of the President

Office of Management and Budget

Washington, D.C.

January 6, 1983.

To the Heads of Executive Departments and Establishments

Subject: Performance of Commercial Activities

1. *Purpose.* This Circular establishes Federal policy regarding the operation of commercial activities. The Supplement to the Circular sets forth procedures for determining whether they should be operated under contract with private sources or in-house using Government facilities and personnel.

2. *Rescission.* OMB Circular No. A–76 (revised), dated March 29, 1979; Transmittal Memorandums 1 through 7; Supplement No. 1 to the Circular dated March, 1979.

3. *Authority.* The Budget and Accounting Act of 1921 (31 U.S.C. 1, *et. seq.*), and The Office of Federal Procurement Policy Act Amendments of 1979 (41 U.S.C. 401, *et. seq.*).

4. *Background.* This national policy has been promulgated through Bureau of the Budget Bulletins issued in 1955, 1957 and 1960. In 1966, Circular No. A–76 was issued. For the first time, this policy and its implementing guidelines were prescribed in a permanent directive. The Circular was revised in 1967 and again in 1979.

5. *Policy.* It is the policy of the United States Government to:

a. *Rely on the Private Sector.* The Federal Government shall rely on private enterprise to provide commercial goods and services and, in accordance with the provisions of this Circular, shall not start or carry on any activity to provide a commercial product or service if the product or service can be procured more economically from the private sector.

b. *Aim for Economy and Productivity.* Competition enhances both economy and productivity. Whenever private sector performance of a Government operated commercial activity is feasible, comparison of the cost of contracting

and the cost of in-house performance shall determine which will do the work.

c. *Retain Governmental Functions In-House.* Certain Functions are inherently Governmental in nature, being so intimately related to the public interest as to mandate performance only by Federal employees. These functions shall be retained in-house.

6. *Definitions.* For purposes of this Circular:

a. A *commercial activity* is one which provides a product or service needed by the Government. A commercial activity may be operated and managed either by a Federal executive agency or by a private commercial source for the Government. A representative list of such activities is provided in Attachment A. A commercial activity may be part of an organization or a type of work that is separable from other functions or activities and is suitable for performance either in-house or by contract.

b. A *conversion to contract* is the changeover of an activity from Government performance to performance under contract by a private commercial source.

c. A *conversion to in-house* is the changeover of an activity from a private commercial source to Government performance.

d. A *private commercial source* is a private business, university or other non-Federal activity located in the United States, its territories and possessions, the District of Columbia or the Commonwealth of Puerto Rico, which provides a product or service required by a Government agency.

e. A *Governmental function* is a function which is so intimately related to the public interest as to mandate performance by Government employees. Such functions must be performed by Government employees. Services or products in support of Governmental functions, such as those listed in Attachment A, are commercial activities and are subject to this Circular. Governmental functions fall into two categories:

(1) *The act of governing;* i.e., the discretionary exercise of Government authority. Examples include investigations, prosecutions and other judicial functions; management of Government programs requiring value judgments, as in directing the national defense; management and direction of the Armed Services; conduct of foreign relations; selection of program priorities; direction of Federal employees; regulation of the use of space, oceans, navigable rivers and other natural resources; direction of intelligence and counter-intelligence operations; and regulation of industry and commerce, including food and drugs.

(2) *Monetary transactions and entitlements,* such as benefit programs; tax collection and revenue disbursements control of the treasury, accounts and money supply; and the administration of public trusts.

f. A *cost comparison* is the completion of the in-house cost estimate and comparison of that estimate to the total cost of contracting.

7. *Scope.*

a. No executive agency shall engage in or contract for commercial activities except as provided in this Circular, unless otherwise provided by law.

b. This Circular is not applicable when contrary to law or any treaty or international agreement.

c. The provisions of this Circular do not apply to Governmental functions as defined in paragraph 6.e.

d. This Circular does not apply to the Department of Defense in times of a declared war or military mobilization.

e. This Circular does not provide authority to enter into contracts.

f. This Circular does not authorize the establishment of an employer-employee relationship between the Government and individual contract personnel. An employer-employee relationship involves close continual supervision of individual contractor employees, as distinguished from general oversight of contractor operations. However, interaction with contractor employees during the transition period of conversion to contract does not establish an employer-employee relationship.

g. This Circular shall not be used to justify conversion to contract solely to avoid personnel ceilings or salary limitations.

h. Major system acquisitions are governed by the provisions of OMB Circular No. A-109, "Major System Acquisitions." Reliance on the private sector is one of the general policies contained in Circular No. A-109 to ensure competitive consideration of alternatives before making a decision as to the best method of satisfying an agency mission need.

i. This Circular applies to printing and binding only in those agencies or departments which are exempted by law from the provisions of Title 44 of the U.S. Code.

j. This Circular does not apply to:

(1) Consulting services, which are governed by OMB Circular No. A-120, "Guidelines for the Use of Consulting Services"; and

(2) The conduct of research and development. However, severable activities in support of research and development, such as those listed in Attachment A, are commercial activities subject to this Circular.

k. This Circular provides administrative direction to heads of agencies and does not establish and shall not be construed to create any substantive or procedural basis to challenge any agency action on the basis that such action was not in accordance with this Circular, except as specifically set forth in Part I, Chapter 2-I of the Supplement, "Appeals of Cost Comparison Decisions."

8. *Government Operation of a Commercial Activity.* Government operation of a commercial activity is authorized under any of the following conditions.

a. *No Satisfactory Commercial Source Available.* Either no commercial source is capable of providing the needed product or service, or use of such a source would cause unacceptable delay or disruption of an essential program. Findings must be supported as follows:

(1) If the finding is that no private commercial source is capable of providing the needed product or service, the efforts made to find sources must be documented. These efforts shall include, in addition to consideration of preferential procurement programs (see Part I, Chapter 3, paragraph 3 of the Supplement), at least three notices of the requirement in the *Commerce Business Daily* over a 90-day period or, in cases of *bona fide* urgency, two notices over a 30-day period. Specifications and requirements in the solicitation shall not be unduly restrictive and shall not exceed those expected of in-house Government personnel.

(2) If the finding is that a commercial source would cause unacceptable delay or disruption of an agency program, a written explanation, approved by an assistant secretary or equivalent, must show the specific impact on an agency mission in terms of cost and performance. Urgency alone is not adequate reason to continue in-house operation of a commercial activity. Transitory disruption resulting from conversion to contract is not sufficient support for such a finding, nor is the possibility of a strike by contract employees. If the activity has ever been performed by contract, it must be explained how the instant circumstances differ.

(3) Activities may not be justified for in-house performance on the basis that (1) there is a possibility of a strike by contract employees, (2) the activity involves or supports a classified program of (3) the activity is required to perform an agency's basic mission.

b. *National Defense.*

(1) A Government commercial activity may be operated by military personnel whenever:

(a) The activity or military personnel assigned are utilized in or subject to deployment in a direct combat support or combat service support role;

(b) The activity is essential for training in those skills which are exclusively military in nature; or

(c) The activity is needed to provide appropriate work assignments for military career progression or a military rotation base for overseas assignments.

(2) A Government commercial activity providing intermediate or depot level maintenance support of mission essential equipment may be operated to meet military contingencies. The extent of such operations shall be limited to the minimum necessary, in accordance with criteria established by the Secretary of Defense. Each such operation must be justified in writing, including an explanation of why the needed capability cannot be met by a commercial source or by contractor operation of Government-owned facilities. Justifications must be completed and approved by heads of the military departments of their designees not later than September 30, 1985.

c. *Patient Care.* Commercial activities performed at hospitals operated by the Government shall be retained in-house if the agency head, in consultation with the agency's chief medical director, determines that in-house performance would be in the best interests of patient care.

d. *Lower cost.* Government operation of a commercial activity is authorized if a cost comparison prepared in accordance with Part IV of the Supplement (Cost Comparison Handbook) demonstrates that the Government can operate or is operating the activity at an estimated lower total cost than a qualified private commercial source.

9. *Action Requirements.* To ensure that the provisions of this Circular and its Supplement are followed, each agency head shall:

a. Designate an official at the assistant secretary or equivalent level and officials at a comparable level in major component organizations to have responsibility for implementation of this Circular and its Supplement within the agency.

b. Establish one or more offices as central points of contact to carry out implementation. These offices will have access to all documents and data pertinent to actions taken under the Circular and will respond in a timely manner to all requests concerning inventories, schedules, reviews, results of cost comparisons and cost comparison data.

c. Be guided by OFPP Policy Letter No. 78–3, "Requests for Disclosure of Contractor-Supplied Information Obtained in the Course of a Procurement," in considering requests for information, including that supplied by contractors.

d. Implement this Circular and its Supplement within 90 days of its issuance with a minimum of internal instructions. Cost comparisons shall not be delayed pending issuance of such instructions. Copies of the implementing instructions and any subsequent changes, the appeals procedure required in Part I of the Supplement, and the names of the officials in paragraph 9.a. and the offices in paragraph 9.b. will be forwarded to the Office of Federal Procurement Policy, OMB.

e. Ensure that all existing in-house commercial activities are converted to contract performance or justified for continued in-house performance in accordance with paragraph 8 of the Circular by September 30, 1984, unless a written extension is granted by the Office of Federal Procurement Policy, OMB. All such justifications must be reviewed at least once every five years.

10. *Annual Reporting Requirement.* No later than November 15 of each year, agencies shall submit to the Office of Federal Procurement Policy a report on the implementation of OMB Circular No. A–76, in accordance with instructions in Part I, Chapter 4 of the Supplement.

11. *OMB Responsibility and Contact Point.* All questions or inquiries should be submitted to the Office of Management and Budget, Office of Federal Procurement Policy, 726 Jackson Place, NW, Room 9013, Washington, DC 20503. Telephone number (202) 395–6810.

12. *Effective date.* This circular is effective immediately, but need not be applied where a cost comparison has begun prior to the effective date.

13 *Review.* The policy in this Circular will be reviewed no later than three years from the date of issuance.

David A. Stockman,

Director.

[OMB Circular No. A–76]

Attachment A—Examples of Commercial Activities

Audiovisual Products and Services

Photograph (still, movie, aerial, etc.)
Photographic processing (developing, printing, enlarging, etc.)
Film and videotape production (script writing, direction, animation, editing, acting, etc.)
Microfilming and other microforms
Art and graphics services
Distribution of audiovisual materials
Reproduction and duplication of audiovisual products
Audiovisual facility management and operation
Maintenance of audiovisual equipment

Automatic Data Processing

ADP services—batch processing, time-sharing, facility management, etc.
Programming and systems analysis, design, development, and simulation
Key punching, data entry, transmission, and teleprocessing services
Systems engineering and installation
Equipment installation, operation, and maintenance

Maintenance, Overhaul, Repair, and Testing

Aircraft and aircraft components
Ships, boats, and components
Motor vehicles
Combat vehicles
Railway systems
Electronic equipment and systems
Weapons and weapon systems
Medical and dental equipment
Office furniture and equipment
Industrial plant equipment
Photographic equipment
Space systems

Systems Engineering Installation, Operation, Maintenance, and Testing

Communications systems—voice, message, data, radio, wire, microwave, and satellite
Missile ranges
Satellite tracking and data acquisition
Radar detection and tracking
Television systems—studio and transmission equipment, distribution systems, receivers, antennas, etc.
Recreational areas
Bulk storage facilities

Manufacturing, Fabrication, Processing, Testing, and Packaging

Ordnance equipment
Clothing and fabric products
Liquid, gaseous, and chemical products
Lumber products
Communications and electronics equipment
Rubber and plastic products
Optical and related products
Sheet metal and foundry products
Machined products
Construction materials
Test and instrumentation equipment

Real Property

Design, engineering, construction, modification, repair, and maintenance of buildings and structures
Construction, alteration, repair, and maintenance of roads and other surfaced areas
Landscaping, drainage, mowing and care of grounds

Industrial Shops and Services

Machine, carpentry, electrical, plumbing, painting, and other shops
Industrial gas production and recharging

Equipment and instrument fabrication, repair and calibration
Plumbing, heating, electrical, and air conditioning services, including repair
Fire protection and prevention services
Custodial and janitorial services
Refuse collection and processing

Health Services

Surgical, medical, dental, and psychiatric care
Hospitalization, outpatient, and nursing care
Physical examinations
Eye and hearing examinations—manufacturing and fitting glasses and hearing aids
Medical and dental laboratories
Dispensaries
Preventive medicine
Dietary services
Veterinary services

Transportation

Operation of motor pools
Bus service
Vehicle operation and maintenance
Air, water, and land transportation of people and things
Trucking and hauling

Printing and Reproduction

Facility management and operation
Printing and binding—where the agency or department is exempted from the provisions of Title 44 of the U.S. Code
Reproduction, copying, and duplication
Blue-printing

Office and Administrative Services

Library services and facility operation
Stenographic recording and transcribing
Word processing/data entry/typing services
Mail/messenger
Translation
Management/information systems and distribution
Financial auditing and services
Management auditing
Court reporting
Material management

Security

Guard and protective services
Systems engineering, installation, and maintenance of security systems and individual privacy systems
Forensic laboratories

Food Services

Operation of cafeterias, mess halls, kitchens, bakeries, dairies, and commissaries
Vending machines
Ice and water

Special Studies and Analyses (Not subject to OMB Circular No. A-120)

Cost benefit analyses
Statistical analyses
Scientific data studies
Regulatory studies
Defense, education, energy studies
Legal/litigation studies

Management Support Services (Not subject to OMB Circular No. A-120)

Advertising
Financial and payroll services
Auditing services
Debt collection
Public relations
Contract, procurement, and acquisition support services
Legal services

Other Services

Laundry and dry cleaning
Mapping and charting
Architect and engineer services
Geological surveys
Cataloging
Training—academic, technical, vocational, and specialized
Operation of utility systems (power, gas, water, steam, and sewage)

[FR Doc. 83-810 Filed 1-11-83; 8:45 am]
BILLING CODE 3110-01-M

POSTAL RATE COMMISSION

Miami (FL) Sectional Center Facility; Visit

January 7, 1983.

Notice is hereby given that Commissioner Crutcher will visit the Miami (FL) Sectional Center Facility of the U.S. Postal Service on Thursday, January 20, 1983, for the purpose of gaining general knowledge and understanding of mail operations. A report of the visit will be filed in the Commission's Docket Room.

David F. Harris,

Secretary.

[FR Doc. 83-833 Filed 1-11-83; 8:45 am]
BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 19405; File No. SR-BSECC-82-3]

Filing and Immediate Effectiveness of Proposed Rule Change by Boston Stock Exchange Clearing Corporation

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 10, 1982, the Boston Stock Exchange Clearing Corporation ("BSECC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change adds a new Rule 2A authorizing BSECC to provide Depository Processing Services to members located outside New York City. Under the proposed rule change, in accordance with procedures stated in the Depository Facility Agreement between BSECC and Depository Trust Company ("DTC"), members submit to BSECC, for shipment to and processing at DTC, book-entry instructions, withdrawal instructions, and deposits for same-day credit. The proposed rule change also amends BSECC's fee structure to include a $.50 charge for each item processed through these services in addition to any depository feese charged to BSECC, as well as transmission and transportation costs.

In its filing, BSECC states that the purpose of the rule change is to expand the availablity of BSECC's Depository Processing Services. BSECC believes the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder because it facilitates the prompt and accurate clearance and settlement of securities transactions by providing a single location at which members may make their physical deliveries into the National Clearance and Settlement System.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4: At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-BSECC-82-3.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at

the principal office of the above-mentioned self-regulatory organization.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

Dated: January 5, 1983.

[FR Doc. 83-860 Filed 1-11-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12946; 812-5340]

Liquidity Fund for Thrifts, Inc.; Filing of Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicant From the Provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 Thereunder

Notice is hereby given that Liquidity Fund for Thrifts, Inc. ("Applicant"), Park Avenue Plaza—43rd Floor, New York, NY 10055, registered under the Investment Company Act of 1940 ("Act") as an opened, diversified, management investment company, filed an application on October 13, 1982, and amendments thereto on December 2, 1982, and December 21, 1982, requesting an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to compute the net asset value per share of its Short-Term Portfolio using the amortized cost method of valuing portfolio securities. 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 organized under the laws of the State of Maryland on July 30, 1982, and filed with the Commission a notification of registration under the Act on August 12, 1982. Applicant's investment Adviser is the First Boston Corporation, its sponsor is United States League of Savings Associations, and its administrative agent is the Provident Institutional Management Corporation.

According to the application, Applicant will offer for sale two separate classes of shares, one representing an Intermediate-Term Portfolio, and the other a Short-Term Portfolio ("Fund"). Applicant's investment objective is to achieve as high a level of current income as is consistent with the preservation of capital, the maintenance of liquidity, and the different average maturity of the instruments held by the two Portfolios. Applicant will offer its shares without a sales charge to savings and loan associations and other financial institutions eligible for membership in the Federal Home Loan Bank System. Purchase of Applicant's shares is restricted to depository institutions eligible for participation in the Federal funds market pursuant to Regulation D of the Federal Reserve Board purchasing shares for their own accounts or for the accounts of other depository institutions.

According to the application, the Fund will pursue its investment objective by investing in assets that qualify as "short-term liquid assets" pursuant to § 523.10(h) of the Regulations of the Federal Home Loan Bank System ("Eligible Investments"). Applicant states that it will not purchase any Eligible Investments maturing in more than seven days for which market quotations are not readily available if, as a result, more than 10% of the market value of its total assets would be invested in such illiquid Eligible Investments together with any repurchase agreements maturing in more than seven days.

According to the application, the Fund may enter into repurchase agreements with terms of relatively short periods (usually not more than 30 days) with respect to Eligible Investments. The Fund will enter into repurchase agreements only with domestic banks having total assets of at least $1.0 billion or with primary dealers in money market instruments. The Fund will not enter into any repurchase agreements maturing in more than 60 days, and it will not enter into repurchase agreements maturing in more than seven days if as a result more than 10% of the market value of its total assets would be invested in such repurchase agreements and other illiquid securities. The Fund may also enter into reverse repurchase agreements with respect to Eligible Investments, primarily to provide liquidity to meet redemption requests when the sale of portfolio securities is considered to be disavantageous. The Fund represents that such securities will be carried and treated on its books in accordance with the conditions set forth in Investment Company Act Release No. 10666 (April 18, 1979).

The application states that Applicant and its sponsor believe that in order to attract investors and retain stockholders, the Fund should possess the two attributes of (i) stability of principal, *i.e.*, a stable net asset value, and (ii) a steady flow of investment income. Applicant's management believes that the Fund's policy of investing only in instruments having a remaining maturity of one year or less and maintaining an average portfolio maturity of 120 days or less combined with a stable price of $1.00 per share will provide both stability of principal and a steady flow of investment income. Applicant states that its management's experience with respect to securities within the Fund's investment policy indicates that with respect to instruments maturing in 120 days or less there is normally a negligible discrepancy between market value and the amortized cost value. Applicant believes that valuation on the amortized cost basis will benefit its stockholders.

Applicant states that its Board of Directors has determined in good faith that, in light of the characteristics of the Fund as described above, absent unusual circumstances, the amortized cost method of valuation is appropriate and preferable for the Fund and reflects fair value of such securities. The Fund has agreed to the following conditions to any order granting the application:

1. The Board of Directors in supervising the operations of the Fund and delegating special responsibilities involving portfolio management to Applicant's investment adviser undertakes—as a particular responsibility within the overall duty of care owed to the stockholders of the Fund—to establish procedures reasonably designed, taking into account current market conditions and the Fund's investment objectives, to stabilize the Fund's net asset value per share as computed for the purpose of distribution and redemption at $1.00 per share.

2. Included within the procedures to be adopted by the Board of Directors shall be the following:

(a) Periodic review by the Board of Directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share based upon available market quotations from the Fund's amortized cost price per share, and the maintenance of records of such review. To fulfill this obligation, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board of Directors in the exercise of its discretion to be appropriate indicators of value, which may include, among other things, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation from the $1.00 amortized cost price per share

exceeds one-half of one percent, the Board of Directors will promptly consider what action, if any, should be initiated.

(c) Where the Board of Directors believes the extent of any deviation from the Fund's $1.00 amortized cost price per share may result in any material dilution or other unfair results to investors or existing stockholders, it shall take such corrective action as it deems appropriate to eliminate or reduce to the extent reasonably practicable such dilution or unfair results, which may include: selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the average maturity of the Fund; withholding dividends or payment of distributions from capital or capital gains, redeeming of shares in kind; or utilizing a net asset value per share as determinied by using available market quotations.

3. The Fund will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that the Fund will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, the Fund will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above; and, Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the considerations of the Board of Directors and its actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the meetings of the Board of Directors. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit the investments of the Fund, including repurchase agreements, to those United States dollar denominated instruments which the Board of Directors determines present minimal credit risks and are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Directors.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 31, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-861 Filed 1-11-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19404; (SR-MCC-82-19)]

Midwest Clearing Corp.; Order Granting Accelerated Approval of Proposed Rule Change

January 5, 1983.

The Midwest Clearing Corporation ("MCC"), 120 South LaSalle Street, Chicago, Illinois 60603, submitted on November 26, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend MCC's By-laws to increase the number of members of the Board of Directors by two, from twenty-five to twenty-seven.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 19327, December 13, 1982) and by publication in the **Federal Register** (47 FR 56760, December 20, 1982). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room. No comments have been received.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to MCC, and in particular, the requirements of Section 17A and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing. Approval of the proposed rule change will enable MCC to coordinate its election of Board members with that of Midwest Stock Exchange, whose proposed rule change requesting an identical increase in the number of its Board members was approved on January 4, 1983, after thirty days had elapsed from the date of publication of the notice of filing (File No. SR-MSE-82-7, Release No. 19402). No comments to the Midwest Stock Exchange rule filing were received.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-858 Filed 1-11-83; 8:45 am]

BILLING CODE 8010-01

[Release No. 12945; (812-5330)]

Nationwide Investing Foundation (Formerly Mutual Investing Foundation) and Heritage Securities, Inc.; Filing of Application

January 4, 1983.

Notice is hereby given that Nationwide Investing Foundation ("Nationwide"), registered under the Act as a diversified, open-end, management investment company, and Heritage Securities, Inc. ("Heritage"), One Nationwide Plaza, Columbus, OH 43216,

Nationwide's principal underwriter and investment adviser (collectively with Nationwide, "Applicants"), filed an application on September 28, 1982, and amendments thereto on November 3, 1982, and on December 16, 1982, requesting an order pursuant to Section 11(a) of the Act approving certain proposed exchanges, and pursuant to Section 6(c) of the Act exempting those exchanges from the provisions of Section 22(d) of the Act, and granting a conditional exemption from the provisions of Rules 2a–4 and 22c–1 under the Act to the extent necessary to permit the price per share of one of Nationwide's classes of shares, Nationwide U.S. Government Money Market Fund, to be calculated to the nearest one cent on a share value of one dollar. 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.

Applicants state that Nationwide is a common law trust organized under the laws of Michigan that issues several classes of shares: Nationwide Fund, Nationwide Growth Fund ("Growth Fund"), Nationwide Bond Fund ("Bond Fund"), Nationwide Money Market Fund ("Money Fund"), and Nationwide U.S. Government Money Market Fund ("Government Fund") (collectively, and including all Funds that may in the future become one of the classes of shares offered by Nationwide, the "Funds"). Each of the Funds has its own investment requirements, and each is individually managed and distributed by Heritage.

According to the application, the current public offering price of Nationwide Fund, Growth Fund, and Bond Fund (the "Non-Money Market Funds") is the net asset value per share plus a sales charge that varies from 7½% of the offering price on purchases of less than $2500 to 1% on purchases over $500,000. Investments in Money Fund and Government Fund (the "Money Market Funds") are subject to an initial minimum investment of $2500, and a one-time sales charge of $100 at the time of the initial investment, resulting in a maximum sales charge of 4% of the public offering price. Additional investments in the Money Market Funds can be made without any further charge as long as the investor has not redeemed the entire account.

Applicants state that Heritage is a wholly-owned subsidiary of Nationwide Corporation, a holding company owned primarily by Nationwide Mutual Insurance Company and Nationwide Mutual Fire Insurance Company. Heritage's entire sales force is composed of licensed insurance agents of the "Nationwide Group of Companies," as described in the application. Commissions are paid to those agents from insurance premiums containing a sales charge, and are designed to compensate the agents for the effort put forth in making customer contact, presenting their product, and securing the initial application.

Applicant proposes to permit amounts payable as benefits, proceeds, or cash surrender values under certain contracts or policies of insurance issued by any of the Nationwide Group of Companies to be applied to the purchase of shares of Government Fund and future Funds at net asset value per share plus a reduced sales charge equal to one-half the sales charge stated in the prospectus. This privilege must be exercised within 60 days of receipt of the benefit check, and applies to both group and individual policies of the types set forth in the application. Applicants note that previous orders of the Commission have granted exemptions permitting the reduced sales charge privilege described above to be offered to recipients of amounts payable who wished to invest their proceeds in shares of Nationwide Fund and Growth (Investment Company Act Release No. 10320, July 11, 1978) and in shares of Bond and Money (Investment Company Act Release No. 11111, April 1, 1980).

Applicants also propose to offer a transfer privilege to shareholders of Government Fund and to shareholders of the other Funds presently offered or which may be offered by Nationwide in the future as follows: (1) Shares of Government Fund purchased directly or acquired through reinvestment of dividends and distributions could be exchanged for shares of Non-Money Market Funds only upon payment of the applicable sales charge. At the time of the first such exchange, a shareholder in Government Fund would receive a one-time sales charge credit of up to $100, but only if the one-time charge has actually been paid. (2) Shares of the Non-Money Market Funds with a minimum net asset value of $2500 could be exchanged at relative net asset value for shares of Government Fund without the payment of a sales charge. (3) Shares of any Money Market Fund offered in the future by Nationwide could be exchanged for shares of the present and future Non-Money Market Funds at the applicable sales charge less a one time sales charge credit of up to $100 to the extent that that sales charge had previously been paid on purchase of the Money Market Fund shares. Shareholders of any Non-Money Market Fund offered in the future could exchange their shares having a minimum net asset value of $2500 at relative net asset value without payment of a sales charge.

Applicants also propose to impose a $5.00 service fee on all transfers between Funds as to which no sales charge is otherwise applicable. Applicants state that Nationwide now offers its shareholders a transfer privilege permitting investors of Nationwide Fund, Growth Fund, and Bond Fund to transfer shares between these Funds without a sales charge. In addition, transfers of shares having a minimum net asset value of $2500 may be made from these Funds into Money Fund without a sales charge, and certain transfers from Money Fund to these Funds may be made in which the sales charge is credited in full. These privileged transfers are all subject to a $5.00 service fee. Applicants now propose to place shareholders of Government Fund and of those Money Market Funds which may be offered by Nationwide in the future in the same position as persons who hold shares of Money Fund in the above described transfers, and to permit transfers between present and future Money Market Funds offered by Nationwide at no sales charge subject to the $5.00 service fee. Moreover, Applicants desire to offer transfers between present and future Non-Money Market Funds, and from these Funds to any other Funds offered by Nationwide at no sales charge, subject to the $5.00 service fee.

The application states that the price reduction authority sought by Applicants is directly related to the reduced sales effort expended and lower cost incurred in connection with the sale of shares of the Funds under the circumstances described in the application. The application also states that the reduced effort and costs arise by reason of the previously established relationship between policyholder and insurance agent, and that the agent, upon delivery of the proceeds of the contract or policy of insurance, is merely offering an extension of services to an existing customer in his capacity as a registered representative of Heritage. Applicants contend that the sales effort required under the above-described circumstances would be significantly less than that which is involved in soliciting persons not having this relationship to the Applicants. Applicants state that the sales effort involved in subsequent solicitations is considerably less than that associated with first-time contacts because, once

the customer-agent relationship has been satisfactorily established, the customer is more likely to turn to his or her agent for future needs. The application also states that this is true irrespective of the form of the insurance previously provided by the agent, because in each case the agent makes his customer aware of his ability to make available any of the other insurance lines, as well as shares of the Funds.

With respect to the $5.00 service fee on all transfers between Funds in which there is no sales charge, Applicants assert that these exchanges require no additional sales effort because the persons redeeming these shares are and will be investors prior to the transfer and will remain investors after the transfer. Applicants state that no commissions are paid on these transfers, which are handled by Heritage Financial Services, Inc. (the transfer and dividend disbursing agent for all of the Funds' shares), and that the purpose of the transfer privilege is thus to pass these cost savings on to the investing public. Applicants further assert that the imposition of a $5.00 service fee on no-load transfers will merely defray the administrative costs involved in the handling of each transfer. Applicants state that this service fee will not violate the spirit and purpose of the transfer privilege, and that Applicants believe that the imposition of the $5.00 service fee will enable Applicants to continue to make this privilege available to investors. Applicants also assert that the imposition of the $5.00 service fee is in the public interest and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

According to the application, Government Fund has as its investment objective the achievement of as high a level of current income as is consistent with maximum safety and maintenance of liquidity through investing in short-term United States debt securities protected by the "full faith and credit" pledge of the United States Government and maturing in one year or less and related repurchase agreements secured by such obligations; and that, to this end, Government Fund will seek to provide its investors with a convenient means of investing short-term funds where the direct purchase of money market instruments may be undesirable or impracticable.

Applicants propose to compute net asset value per share of Government Fund to the nearest one cent on a share value of one dollar for purposes of effecting sales, redemptions and repurchases. Applicants state that Government Fund will use its best efforts to maintain a constant net asset value, or price, per share of $1.00; and Government Fund will endeaver to reduce the amount of unrealized gains and losses which result, among other things, from interest rate changes by maintaining a dollar-weighted average port-folio maturity of 120 days or less.

In Investment Company Act Release No. 9786 (May 31, 1977), the Commission expressed its view that it would be inconsistent with the provisions of Rule 2a–4 for "money market" funds to "round off" calculations of their net asset value per share to the nearest one cent on share values of $1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and, therefore might not reflect properly the values of the underlying portfolio instruments as required by Rule 2a–4 under the Act.

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.

Applicants state that many investors desire an investment vehicle which offers a stable net asset value per share, and that the exemption sought in the application would enhance the ability of Applicants to achieve such stability and the shareholders, under ordinary circumstances, could be assured that Government Fund shares could be purchased and redeemed at a constant net asset value per share. Applicants further submit that the relief requested would provide the shareholders of Government Fund the convenience of being able to determine the value of their shares simply by knowing the number of shares they own, thus facilitating record keeping. Applicants state that the Board of Directors of Heritage and the Board of Trustees of Nationwide have determined in good faith that the proposed method of calculating net asset value per share under the circumstances described above, absent unusual circumstances, is appropriate and in the best interest of Government Fund shareholders.

Applicants assert that the requested exemption from the provisions of Rules 2a–4 and 22c–1 under the Act 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. Applicants agree that the following conditions may be imposed in an order granting such exemptive relief:

1. The Board of Trustees of Nationwide has undertaken as a particular responsibility within the overall duty of care owed to the shareholders to assure to the extent reasonably practicable, taking into account current market conditions affecting the investment objectives of Government Fund, that the price per share of Government Fund as computed for the purpose of distribution, redemption and repurchase, rounded to the nearest one cent, will not deviate from $1.00;

2. Applicants will maintian a dollar-weighted average portfolio maturity appropriate to their objective of maintaining a stable price per share, and that Government Fund will not (i) purchase an instrument with a remaining maturity of greater than one year, or (ii) maintain a dollar-weighted average portifolio maturity in excess of 120 days; and

3. Government Funds's purchases of portfolio instruments, including repurchase agreements, will be limited to those United States dollar denominated instruments which the Board of Trustees of Nationwide determine present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Trustees of Nationwide.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 31, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C., 29549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and order issued in this matter. After said date an order disposing of the application will be issued unless the Commission order a

hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-857 Filed 1-11-83; 8:45am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

January 6, 1983.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Texas Gas Corporation
Common Stock, $5 Par Value (File No. 7-6420)

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 27, 1983 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-859 Filed 1-11-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/592]

Study Group 2 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 2 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on February 7, 1983 in Room 521J of the National Aeronautics and Space Administration, 600 Independence Avenue, SW., Washington, D.C. The meeting will begin at 9:30 a.m.

Study Group 2 deals with matters relating to the communications for scientific satellites, space probes, spacecraft, exploration satellites (e.g., meteorological and geodetic) and to interference problems concerning the radio astronomy and radar astronomy services. The purpoose of the meeting is to discuss the upcoming cycle of the CCIR and preparations for the international meeting of Study Group 2 in November-December, 1983.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632-2592.

Dated: January 5, 1983.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 83-827 Filed 1-11-83; 8:45 am]

BILLING CODE 4710-07-M

VETERANS ADMINSTRATION

Privacy Act of 1974; Amendment of Systems; Revised Routine Use Statements

Notice is hereby given that the VA (Veterans Administration) plans to add a new routine use statement for the system of VA records entitled "Compensation, Pension, Education and Rehabilitation Records—VA" "58VA21/22/28" as set forth on page 372 of the Federal Register of January 5, 1983. As part of the VA's participation in the President's Council of Integrity and Efficiency Project entitled "Federal Employees Receiving Government Assistance," the Veterans Administration, plans to participate as a matching source with DOL (Department of Labor). The match will compare the "Office of Workers" Compensation Programs Federal Employees Compensation file payment records with VA compensation and pension program records for the purpose of enabling the DOL to identify and locate individuals who are receiving concurrent payments of DOL and VA benefits to which they may not be entitled. To provide information required for the match, the VA is proposing to add a new routine use statement. This routine use will permit the disclosure of identifying, disability and award information to the DOL. The VA has determined that release of information for this purpose is necessary and a proper use of information in this system of records and that a specific routine use for transfer of this information is appropriate. Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed routine use to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All relevant material received before February 7, 1983 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until February 22, 1983.

If no public comment is received during the 30-day review period allowed for public comment or unless otherwise published in the Federal Register by the Veterans Administration, the new and revised routine use statement included herein is effective February 7, 1983.

Approved: January 4, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

Notice of System of Records

The VA (Veterans Administration) is making the following change in the system identified as 58VA21/22/28, "Compensation, Pension, Education and Rehabilitation Records—VA." appearing at 47 FR 372.

SYSTEM NAME:

Compensation, Pension, Education and Rehabilitaiton Records—VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

* * * * *

44. Identifying, disability, and award (type, amount and reasons for award) information may be released to the DOL (Department of Labor) in order for the DOL to conduct a computer matching program against the "Office of Workers' Compensation Programs Federal Employees Compensation File, DOL/ESA-13," published in 46 FR 12357 on February 13, 1981. This match will permit the DOL to verify a person's eligibility for DOL payments as well as to detect situations where receipients may be erroneously receiving concurrent multiple payments from the DOL and the VA, to identify areas where legislative and regulatory amendments directed

towards preventing overpayments are needed, and to collect debts owed to the United States Government. This matching program is being performed pursuant to the DOL Inspector General's authority under Public Law No. 95–452, § 4(a) to detect and prevent fraud and abuse. This disclosure is consistent with 38 U.S.C. 3301(b)(3).

[FR Doc. 83-804 Filed 1-11-83; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 8
Wednesday, January 12, 1983

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 COMMUNICATIONS COMMISSION

Open Commission Meeting, Thursday, January 13, 1983

The Federal Communications Commission will hold an Open Meeting on the subject listed below on Thursday, January 13, 1983, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* Amendment of the regulations to expand the notification and verification equipment authorization procedures. *Summary:* This item proposes to place certain categories of equipment under the new notification and the existing verification procedures.

General—2—*Title:* Amendment of Part 2 of the rules to simplify the equipment authorization procedures. *Summary:* This item proposes a simplified equipment authorization that could be applied to equipment with a low potential for causing interference. The procedure would reduce the time spent by applicants in obtaining approval of their equipment.

General—3—*Title:* First Notice of Proposed Rulemaking in General Docket 82-334 regarding the establishment of a spectrum utilization policy for the fixed and mobile services in certain bands between 947 MHz and 40 GHz. *Summary:* The Commission will consider the adoption of this First Notice which proposes to modify the utilization policy for spectrum between 947 MHz and 40 GHz used by the fixed and mobile services. Special consideration is given to the use of spectrum in this range by fixed microwave stations now operating in the 12.2-12.7 GHz bands recently reallocated to the Direct Broadcasting Satellite Service.

Private Radio—1—*Title:* Report and Order to redefine the classes of coast stations and delete certain rules which restrict the free use of communications. *Summary:* The Commission will consider whether to redefine the classes of coast stations by mode of operation (radiotelegraphy or radiotelephony) and by the frequency bands authorized. It will also consider deleting existing restrictions on radiotelephone communications on medium frequencies (1605-2850 kHz) when within range of VHF (156-162 MHz) coast stations.

Private Radio—2—*Title:* Notice of Proposed Rule Making to require all compulsory telegraph vessels to be capable of generating a specified field strength at a distance of one nautical mile. *Summary:* The Commission will consider whether to adopt a Notice of Proposed Rule Making to amend Sections 83.444(a) and 83.446(a)(2), under Subpart R of the FCC Rules, applicable to radiotelegraph stations aboard vessels of 1600 gross tons and over. The amendment would apply to the main and reserve installations operated on 500 kHz and would require compulsory equipped telegraph vessels to be capable of generating a specified minimum field strength.

Private Radio—3—*Title:* Amendment of the Amateur Radio Service Rules, Part 97, to make additional frequencies available to the Radio Amateur Civil Emergency Service (RACES) during declared national emergencies. *Summary:* The Commission will consider whether to adopt a Notice of Proposed Rule Making proposing to amend Part 97 of the Rules to make additional frequencies available to the Radio Amateur Civil Emergency Service during declared national emergencies.

Private Radio—4—*Title:* Amendment of Rules concerning Medical Service Operations in the 450-470 MHz band in the Special Emergency Radio Service. *Summary:* The FCC has before it for consideration a Notice of Proposed Rule Making which would: (1) Amend Section 90.53 to delete the requirement that a base or control station in an emergency medical service (EMS) system must be both wired and equipped to transmit/receive on any particular number of "MED channels" and (2) to specify standard nomenclature for two additional frequency MED channels.

Common Carrier—1—*Title:* Petition for Reconsideration of GTE Satellite Corporation 90 FCC 2d 1009 (1982). *Summary:* The Commission will consider the petition of United States Satellite Broadcasting Company, Inc. requesting rescission of the grant, or in the alternative, conditioning the grant by prohibiting the offering of television service to individual residences.

Common Carrier—2—*Title:* Letter to the American Telephone and Telegraph Company. *Summary:* The Commission will consider whether to issue a letter to the American Telephone and Telegraph Co. relating to the procedure, timing and substance of the Title II and Title III applications that will have to be filed prior to implementation of the Modified Final Judgment in United States v. Western Electric, Civil Action 82-0192 (D.D.C.)

Common Carrier—3—*Title:* Application for Review filed by RCA of a Bureau grant of special temporary authority to Comsat in application File No. I-P-C-83-008; Motion for Stay filed by RCA of a Bureau grant or special temporary authority in application File No. I-P-C-83-008; and Application for Review filed by RCA of a Bureau order denying its petition to reject or suspend and investigate revisions by Comsat to its Tariff FCC No. 101. *Summary:* The Commission will consider three emergency filings by RCA relating to the Bureau's implementation of the Commission's Authorized User decision.

Audio—1—*Title:* Mutually exclusive applications for construction permits for AM stations on 750 kHz in Portland, Oregon (KXL), Park City, Utah (NEW), Polson, Montana (KERR), and Price, Utah (KOAL); a petition to deny the Portland, Oregon application and two petitions to deny the Price, Utah application; and related matters. *Summary:* The Commission considers all the above matters and designates the applications for hearing.

Policy—1—*Title:* Amendment of Part 73 of the Commission's Rules and Regulations in Regard to Section 73.642(a)(3) and Other Aspects of the STV Service (Docket No. 21502). *Summary:* The Commission will consider petitions for partial reconsideration of the Third Report and Order filed by Subscription Television Association and Wometco Home Theatre, Inc. Petitioners request that the Commission reconsider the action allowing STV decoder sales and once again adopt a rule permitting only the leasing of decoder equipment by subscribers.

Policy—2—*Title:* Amendment of the AM Broadcast Station Rules with respect to signal coverage requirements over community business and factory areas (RM-4061). *Summary:* The Commission will consider a petition for rule making filed by Miller & Fields, P.C. seeking the deletion of that portion of Section 73.24(j) which requires AM stations to provide a 25 mV/m signal level over business areas.

Policy—3—*Title:* Amendment of § 73.68 of the Rules to expand the use of toroidal transformers as a method of deriving current samples in directional (AM) antenna systems; and, to provide for the use of radio frequency relays in sampling element transmission lines. *Summary:* It is proposed to permit the use of toroidal current sampling transformers at AM stations if the antenna towers do not exceed 130° in electrical height.

Policy—4—*Title*: Assignment of Channel 240A to Natchitoches, Louisiana. *Summary*: The Commission will consider an application for review of the Bureau's action assigning Channel 240A to Natchitoches, Louisiana.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: January 6, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-39-83 Filed 1-10-83; 12:29 pm]

BILLING CODE 6712-01-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, January 17, 1983, 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 the minutes of previous meetings.

Application for consent to establish a branch:

Bossier Bank and Trust Company, Bossier City, Louisiana, for consent to establish a branch at 2950 East Texas Street, Bossier City, Louisiana.

Application for consent to merge and establish three branches:

The Saver's Bank A Mutual Savings Bank, Littleton, New Hampshire, an insured mutual savings bank, for consent to merge, under its charter and title, with Dartmouth Savings Bank, Hanover, New Hampshire, and to establish the three offices of Dartmouth Savings Bank as branches of the resultant bank.

Application for consent to merge and establish four branches:

Hamburg Savings Bank, New York (Brooklyn), New York, for consent to merge, under its charter and title, with College Point Savings Bank, New York (College Point), New York, and for consent to establish the four offices of College Point Savings Bank as branches of the resultant bank.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Bronson, Bronson & McKinnon, San Francisco, California, in connection with the receivership of United States National Bank, San Diego, California.

Carlton, Fields, Ward, Emmanuel, Smith & Cutler, P.A., Tampa, Florida, in connection with the liquidation of Metropolitan Bank and Trust Company, Tampa, Florida.

Memorandum re: Delegations of Authority Relating to Administrative Expenses.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of the Director, Office of Corporate Audits and Internal Investigations:

Memorandum re: Internal Controls to Prevent Fraudulent Receipt of Unemployment Compensation.

Memorandum re: Quarterly Certification of Division of Liquidation Approvals Under Delegated Authority.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: January 10, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-37-83 Filed 1-10-83; 12:13 pm]

BILLING CODE 6714-01-M

3

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, January 17, 1983, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal 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.

Application pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of a person convicted of offense involving dishonesty or a breach of a trust as director, officer, or employee of an insured bank:

Name of person and of bank 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)).

Discussion Agenda:

Request for consent to partially retire a subordinated capital note prior to maturity:

Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8) and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation at (202) 389–4425.

Dated: January 10, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-38-83 Filed 1-10-83; 12:23 pm]

BILLING CODE 6714-01-M

4

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 1142, January 10, 1983.

PLACE: Board Room, sixth floor, 1700 G Street, N.W., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

CHANGES IN THE MEETING: The following item has been added to the Bank Board meeting scheduled Thursday, January 13, 1983, at 10 a.m.

Preemption of State Due-on-Sale Laws (P)
Gwen Hibbs

[No. 2, January 10, 1982]

[S-41-83 Filed 1-10-83; 3:29 pm]

BILLING CODE 6720-01-M

5

FEDERAL TRADE COMMISSION

TIME AND DATE: 2 p.m., Thursday, January 13, 1983.

PLACE: Room 532, (open); Room 540 (closed) Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the Public.

MATTERS TO BE CONSIDERED: Portions Open to Public:

(1) Oral Argument in Southwest Sunsites, Docket 9134.

Portions closed to the Public:

(2) Executive Session to follow Oral Argument in Southwest Sunsites, Docket 9134.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information (202) 523–1892; Recorded Message (202) 523–3806.

[S-36-83 Filed 1-10-83; 9:37 am]

BILLING CODE 6750-01-M

6

NATIONAL SCIENCE BOARD

DATE AND TIME:

January 20, 1983 9:00 a.m., open session.
January 21, 1983 8:30 a.m., closed session.
January 21, 1983 9:30 a.m., open session.

PLACE: National Science Foundation, 1800 G Street, NW. Washington, D.C.

STATUS: Most of this meeting will be open to the public. Parts of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPEN SESSION: Thursday, January 20, 9:00 A.M.:

1. Minutes—Open Session—November 1982 Meeting.
2. Chairman's Items.
3. Director's Report.

Friday, January 20, 9:30 a.m.:

4. Grants, Contracts, and Programs.
5. Principles Related to NSF Supported Research Instrumentation and Facilities.
6. Long-Range Planning.
7. Reports of Board Committees.
8. Board Representation at Advisory Committee and Other Meetings.
9. Other Business.
10. Next Meetings.

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION: Friday, January 20, 8:30 a.m.:

A. Minutes—Closed Session—November 1982 Meeting.
B. NSB and NSF Staff Nominees.
C. Grants, Contracts, and Programs.

CONTACT PERSON FOR MORE INFORMATION: Ms. Margaret L. Windus, Executive Officer, NSB, 202/357–9582.

[S-40-83 Filed 1-10-83; 1:59 pm]

BILLING CODE 7555-01-M

7

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

TIME AND DATE: 8 a.m., January 17, 1983.

PLACE: Uniformed Services University of the Health Sciences, Room D3–001, 4301 Jones Bridge Road, Bethesda, Maryland 20814.

STATUS: Open.

MATTERS TO BE CONSIDERED: 8 o'clock Meeting—Board of Regents:

(1) Oath of Office—New Regents; (2) Approval of Minutes, 22 May 1982; (3) Report of Executive Committee Actions; (4) Report—Admissions; (5) Report—Associate Dean for Operations—Budget; (6) Report—President, USUHS—(a) Retirement Age; (b) Faculty Compensation; (c) Long-range Plan; (d) Graduate and Continuing Education; (e) Establishment of Disaster Research Institute; and (f) Proposal for Foundation for the Advancement of Military Medicine.

New Business.

SCHEDULED MEETINGS: March 14, 1983.

CONTACT PERSON FOR MORE INFORMATION: Frank Reynolds, Executive Secretary of the Board; 202/295–3025.

January 7, 1983.

M.S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[S-35-83 Filed 1-10-83; 8:45 am]

BILLING CODE 3810-01-M

federal register

Wednesday
January 12, 1983

Part II

Environmental Protection Agency

Gaseous Emission Regulations for 1984 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL 2249-76]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Gaseous Emission Regulations for 1984 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces EPA's final action on portions of the Agency's rulemaking proposal of January 13, 1982, entitled "Revised Gaseous Emission Regulations for 1984 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines." EPA finds that insufficient leadtime exists for 1984 model year heavy-duty gasoline-fueled engines (HDGEs) to meet either the emission standards currently in place for that year or revised non-catalyst emission standards based on the transient test procedure. Considering the date of publication of this final rule, EPA finds that the leadtime also is inadequate for certification of 1984 heavy-duty diesel engines (HDDEs) to the standards currently in place. Therefore, EPA is revising the HDGE and HDDE 1984 standards and other regulatory provisions to 1983 levels for one year. For 1984 light-duty trucks (LDTs) and for HDGEs and HDDEs certified under the transient test procedure option, EPA finds that there are substantial implementation problems with the existing full-life useful-life requirement. The Agency therefore provides optional procedures for that year (1984). Elsewhere in this issue of the Federal Register, the Agency is proposing two options for 1985 and later LDTs and heavy-duty engines (HDEs). This action also includes a revision of the Acceptable Quality Level (AQL) applicable to LDT and HDE Selective Enforcement Auditing (SEA) from 10 to 40 percent and affirms the 2-year delay of HDE SEA. In addition, this action corrects two clerical errors that were made in the emission standards applicable to 1984 model year light-duty trucks.

EPA has decided to divide the final rulemaking action into two segments. This first segment deals only with issues affecting leadtime for 1984 model year LDTs, HDDEs and HDGEs, as well as LDT and HDE SEA requirements. The second segment will address the remainder of the provisions and issues raised by the proposal. Addressing the 1984 model year leadtime concerns now will provide the LDT and HDE manufacturers the information necessary for a continued orderly development of their 1984 model year product offerings.

EFFECTIVE DATE: The regulations being finalized in this action take effect on February 11, 1983.

Note.— Under Section 307(b)(1) of the Clean Air Act, EPA hereby finds that these regulations are of national applicability. Accordingly, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of publication. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

ADDRESSES: Material relevant to this final rule is contained in Public Dockets No. A-81-11 and A-81-20 at the U.S. EPA Central Docket Section. The dockets are located in the West Tower Lobby, Gallery 1, at 401 M Street, SW., Washington, D.C. 20460, (202) 382-7548. The dockets may be inspected between 8 a.m. and 4 p.m. on weekdays, and a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Mr. Glenn W. Passavant, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 668-4408.

SUPPLEMENTARY INFORMATION: OMB Control Number: 2000-0390.

I. Background of the Rule

In December of 1979, EPA promulgated gaseous emission regulations for 1984 and later model year HDEs (45 FR 4136). That rule implemented the statutory hydrocarbon (HC) and carbon monoxide (CO) emission standards for HDEs set out in section 202(a)(3)(A)(ii) of the Clean Air Act, together with a number of other provisions to be effective for the 1984 model year. In September of 1980, EPA promulgated a similar rule covering LDTs (45 FR 63734).

At the time the initial final rules were being prepared, the industry had just finished a year of record sales (1978) and sales continued strong into 1979. However, in late 1979 and early 1980 a general economic downturn occurred. As 1980 progressed the recession become more severe, and the effects of the recession have persisted through the present time. Engine and truck sales have dropped dramatically and most manufacturers have reported operating losses for 1980 and 1981.

In response to this economic crisis in the industry, on April 6, 1981, the Administration announced a number of regulatory relief initiatives aimed at reducing the cost of government regulations. These were published in the Federal Register on April 13, 1981 (46 FR 21628). On January 13, 1982, EPA published a Notice of Proposed Rulemaking (NPRM) covering several of the regulatory relief initiatives related to the LDT and HDE industries (47 FR 1642). Today's action covers issues raised as a result of that proposal.

In both the oral testimony at the public hearing on the proposal and the written submissions that followed, the commenters expressed their positions and concerns on a large number of issues related to the NPRM. Several HDGE manufacturers expressed serious concern over the leadtime available for the 1984 model year, stating that little or no time remained in which to conduct an orderly development and certification program. Certification programs would have to commence as early as October or November of 1982 to be completed in time for 1984 production schedules to be met. Manufacturers of HDDEs expressed the need for timely decisions on potential relaxation of the optimal steady-state standards and possible revisions of other key regulatory provisions in order to keep their 1984 model year development and certification programs on track. Due to their impact on product planning, both LDT and HDE manufacturers requested expeditious action on EPA's proposal to revise the AQL applicable during SEA testing and on the useful-life requirements. Also due to leadtime constraints, the Motor Vehicle Manufacturers Association (MVMA) requested a 1-year postponement of the full-life useful-life regulations. The majority of the manufacturers strongly urged that EPA announce its 1984 model year requirements as soon as possible after the close of the comment period.

To address these pressing concerns, EPA has decided to separate the final rule into two segments. Today's action, which constitutes the first segment of the final rule, addresses the manufacturers' imminent concerns for the 1984 model year. The second segment, which will follow at a later date, will address the remaining provisions of the NPRM plus any additional issues raised during the rulemaking process. This approach will allow some additional time for a thorough analysis of the pertinent issues, while at the same time providing

important initial information on the 1984 model year LDT and HDE requirements.

II. 1984 HDE Leadtime Issue

A. Heavy-Duty Gasoline-Fueled Engines (HDGEs)

One of the Administration's regulatory relief initiatives was to propose revising the 1984 model year HC and CO standards to a level that would not require the manufacturers to use catalysts on their gasoline-powered heavy trucks. Accordingly, EPA proposed to revise the 1984 CO emission standard from 15.5 to 35 g/BHP-hr. Although EPA did not propose a specific numerical revision of the statutory HC emission standard (1.3 g/BHP-hr) applicable for 1984, the Agency requested comments on the feasibility of this standard without catalytic converter technology, and asked those commenters who felt the standard should be revised to suggest an appropriate level. These revised standards were to be met using the new EPA HDGE transient test procedure applicable for the 1984 model year.

All major manufacturers commented on the proposal. Both General Motors Corporation (GM) and Ford Motor Company (Ford) stated that after EPA proposed the move to non-catalyst standards they diverted their compliance efforts from catalyst systems development to developing engine modifications and other measures necessary to meet the proposed standards. Therefore, they were unable to comply with the existing standards for 1984.

Further, GM stated that due to the lateness of the NPRM, it would not be able to certify all of its HDGE families to revised standards using the new transient test procedure in time for normal new vehicle introduction. GM also stated that due to facilities and instrumentation changeover for the new transient test procedure, it no longer had the capability to perform the current steady-state procedure for HDGEs. For these reasons, GM stated that EPA must at least allow carryover of the current certification procedures and emission standards for the 1984 model year. However, GM did recommend that EPA make a transient test procedure and emission standards available as an option beginning with the 1984 model year.

Ford took a position similar to that of GM, stating that, "* * * carryover of the 1983 model year emission standards and certification procedures is mandatory for the 1984 model year because there is insufficient leadtime remaining to conduct an orderly development and certification program." Ford went on to claim that: "* * * imposition of any new, more stringent requirements for 1984, will force Ford out of the heavy-duty gasoline business."

Due to financial constraints and the shrinking market for HDGEs, neither Chrysler Corporation (Chrysler) nor International Harvester (IH) has procured the equipment or other instrumentation necessary to run the HDGE transient test required for certification beginning in 1984. As a result, neither commented specifically on the 1984 leadtime issue. IH stated its intent to withdraw from the HDGE market in 1984, if not earlier. Chrysler expressed its desire to stay in the HDGE market, but claimed the capital for equipment and engineering is not available.

EPA has studied the 1984 leadtime issue for HDGEs and is in general agreement with the manufacturer's claims. For the 1984 model year, engine production would begin in about June 1983. In past analyses, EPA has calculated that the HDGE certification process would take at least seven months, and thus would have to begin in October or November 1982. This leaves no time for the completion of emission control system development. It is therefore clearly evident that there is inadequate leadtime to meet the existing statutory standards in 1984. There is, moreover, inadequate leadtime to do development and certification work for 1984 engines toward meeting any non-catalyst standards substantially more stringent than those applicable to current production engines. There is also the complicating factor of the manufacturers' facility changeover to transient test capability, which would necessitate EPA's establishment of revised non-catalyst standards on both the transient test and the 9-mode steady-state test. This is not possible because of the lack of meaningful correlation between the two test procedures. This lack of correlation means that there would be little environmental benefit to be gained from even a substantially more stringent steady-state standard.

For these reasons, EPA finds that compliance with the existing 1984 standards cannot be achieved by techology, processes, or operating methods expected to be available for the 1984 model year. No alternatives appear available to allow manufacturers to meet those standards in 1984. Therefore, EPA has decided to revise the 1984 HDGE emission standards and other related provisions to 1983 levels for one year. This will allow the manufacturers to certify their 1984 HDGEs using carryover emission data and will eliminate any potential disruption in the manufacturers' 1984 HDGE plans. It will also provide Chrysler and IH an additional year to make the business decision as to whether or not their positions in the HDGE market merit the investment in the equipment and engineering necessary to run a transient test and meet new emission standards.

In addition, EPA expects to provide optional transient test emission standards and related certification procedures for 1984 model year HDGEs, although expectations are that few if any manufacturers will avial themselves of this option. These provisions will therefore be addressed in the second segment of the final rule. Today's action also provides that any engine manufacturer who does elect to use the EPA transient test procedure and standards for 1984 model year certification will be afforded the useful-life options as outlined below in Section III.

This 1-year revision of the 1984 HDGE provisions will also defer the expected environmental benefits of those provisions for one year. Such a delay will have minimal air quality impact. It is the nature of engine sales and use that the air quality impact of a change in emissions is felt slowly as new engines are sold and gradually come to constitute a larger portion of the in-use engine fleet. A 1-year delay in the initial introduction of those new engines would therefore produce an almost imperceptible change in the air quality improvement expected for a given year, delaying that impact for one year. Thus, benefits otherwise projected to occur in 1990, 1995, and 2000 would occur one year later, respectively.

B. Heavy-Duty Diesel Engines (HDDEs)

In the original 1984 HDE rule which was promulgated in December 1979, EPA implemented the statutory 1984 HDDE HC and CO emission standards of 1.3 and 15.5 g/BHP-hr, to be measured using the new EPA HDDE transient test procedure. EPA also allowed optional steady-state standards for 1984 certification to allow the HDDE manufacturers time to investigate less costly means of implementing the HDDE transient test, and, in general, to provide a smoother transition from steady-state to transient test capability.

At the February 18, 1982 public hearing, the HDDE manufacturers who testified were in general agreement on the technological feasibility of meeting the transient test based statutory HC and CO standards in the 1984 timeframe. However, the manufacturers expressed

concern about two related issues which could affect the appropriateness of applying these standards in the 1984 model year.

First, all expressed the need for less stringent optional steady-state standards (especially for HC) to help ensure the timely certification of their 1984 engine families. They claimed these less stringent standards would aid test procedure changeover and would partially compensate for the diminishing leadtime remaining for the 1984 model year. The manufacturers also stated that final decisions on several key regulatory requirements (transient test procedure, useful life, etc.) would be required by fall 1982 in order to maintain orderly development and certification programs for the 1984 model year. Given the nature of these concerns, both had to be satisfactorily addressed to asure the feasibility of meeting the new standards in the 1984 model year. In addition, several HDDE manufacturers also suggested that carryover of 1984 certification under the optional steady-state standards be permitted until new testing is required.

On the first point, after a thorough study of the 1982 HDDE certification data, EPA found that less stringent optional steady-state standards could be provided which would greatly reduce the 1984 certification burden, and thus somewhat ease the 1984 leadtime problem. At the same time, emission data available to EPA shows that optional steady-state standards cannot be set which would assure commensurate emission reductions with those expected from the transient test based standards. (This is especially true for HC control.) Therefore, any revised optional standards would probably provide little emission benefit over current steady-state standards. Given this situation, EPA does not desire to have resources expended needlessly, and believes that less stringent optional steady-state standards are not an appropriate way to deal with the 1984 leadtime problem.

A second leadtime problem is created by the fact that EPA has not yet promulgated final decisions on several key regulatory provisions related to the 1984 model year HDE certification requirements. For diesel engines, this principally involves the transient test provisions and useful life (although for useful life, as noted below, EPA has developed interim approaches which can be used for 1984). Full 1984 HDDE certification using either optional steady-state or transient test based emission standards cannot be completed without final decisions on these requirements. However, final decisions are not planned until the second segment of the FRM because of the substantial amount of analysis still remaining to be done by EPA.

Given the inadequacy of less stringent optional standards in addressing the 1984 leadtime problems, and the substantial impact of the unresolved regulatory issues on the manufacturers' 1984 development and certification programs, the remaining leadtime is inadequate for HDDE manufacturers to comply with the 1984 HDDE emission standards and regulatory provisions. For these reasons, EPA finds that compliance with the existing 1984 standards cannot be achieved by technology, processes, or operating methods expected to be available for the 1984 model year. No alternatives appear available to allow manufacturers to meet those standards in 1984.

EPA has therefore decided to revise the 1984 HDDE emission standards and other related regulatory provisions to 1983 levels for a period of one year. As in the case of HDGEs, the current 1984 emission standards and regulatory provisions remain optional. The useful-life options outlined below will also be available to HDDE manufacturers who desire to certify under the 1984 transient test procedure and standards.

Final decisions on the unresolved regulatory issues will be promulgated in the second segment of the FRM. EPA will attempt to make any changes in these provisions or other options which are promulgated in the second segment of the final rule effective for 1984 model year certification as appropriate.

III. HED/LDT Useful Life

Following is a discussion of the optional useful life procedures for 1984, and the proposed options for 1985 and later.

A. 1984 Half-life Option

In addition to questions concerning the standards and test procedures, HDE manufacturers also need a resolution of the useful-life issue in order to complete plans for the 1984 model year production. In the case of LDTs, the unresolved useful-life issue appears to be the only major concern for 1984 model year certification. Since manufacturers are already entering, or preparing to enter, the 1984 certification cycle, they need to know what the applicable useful-life provisions will be.

Manufacturers responses' to the January 13, 1982 NPRM were unanimous in their call for modification of the full-life definition of useful life effective for the 1984 model year. EPA had agreed to study the useful-life issue as part of the package of regulatory relief initiatives announced in April of 1981, and a request for comments on the issue was published in the **Federal Register** on June 17, 1981. Responses to this latter request and to the subsequent January 13, 1982 HDE/LDT NPRM have pointed both to differences of legal interpretation between EPA and the industry and to problems foreseen by the manufacturers in implementing the full-life approach. The legal issue will be discussed below under "Statutory Authority." Here EPA will treat the implementation problems.

The manufacturers' major implementation concerns have been with: (1) The difficulties of determining an average useful life for individual engine families given the multiplicity of possible applications and the variability of the data upon which such determinations must be made, and (2) possible high warranty costs and customer dissatisfaction arising as a result of customers' interpreting the emissions warranty as an extension of the basic mechanical warranty on the vehicle/engine. Other potential customer relations problems were cited, arising largely from the useful-life labeling requirement. Manufacturers' comments generally called for a return to the previous half-life values of 5 years/50,000 miles for LDTs/HDGEs and 5 years/100,000 miles for HDDEs.

EPA agrees that the manufacturers are faced with difficulties in implementing full-life useful life, but also believes that the objective of ensuring that LDT and HDE manufactures will produce, or continue to produce, durable emission control components is a reasonable one. Furthermore, in addition to the basic question of need, an unqualified change to half-life would raise other issues. First of all, revision to half-life certification would require reconsideration of the emission standards to account for the relaxation in "target levels" that would occur with half-life.

EPA also made substantial changes to the certification durability procedures when full-life useful life was adopted. These changes were designed to reduce the "front-end" compliance burden in favor of the in-use focus embodied in the full-life approach. The need to carry out an EPA-prescribed program of durability testing was completely eliminated, and manufacturers were allowed to determine their certification deterioration factors by any means they chose. A permanent return to half-life would therefore require reconsideration of the entire durability concept.

Because of the issues involved and the legitimate need of manufacturers for a timely determination of 1984 requirements, there is now insufficient time to propose and implement a revised useful-life program for the 1984 model year. Therefore, EPA has decided to allow certification, for 1984 only, using 1983 model year provisions for useful life, durability testing and allowable maintenance. For HDEs, this option can be used by manufacturers choosing to certify under either the 1983 steady-state standards or 1984 transient test based standards. Since the 1983 regulations have no requirement for idle CO measurement, they also make no provision for calculating deterioration factors (DFs) for idle CO. Therefore, manufacturers will be allowed to develop their own means for determining idle CO DFs.

Discussed next will be a revised full-life program which EPA has developed to address the major implementation concerns, while at the same time preserving the basic benefits of the original full-life concept. This program is being made available in 1984 for manufacturers who are already committed to full-life certification as an alternative to the half-life option discussed above. At the same time, in the event that comments on or experience with the revised full-life program reveal unexpected problems with it or other full-life programs, EPA is also proposing an alternative half-life useful-life program for 1985 as well as the proposed revised full-life useful-life program. This proposal will be described following the revised full-life program.

B. 1984 and Later Full-Life Option

EPA has developed a modified full-life program in an attempt to address the implementation difficulties with full life that have been raised in the manufacturers' comments, while at the same time preserving the basic benefits of the full-life useful-life concept. The first aspect of this option concerns assigning useful-life periods. The difficulties encountered by manufacturers in determining specific useful-life values can be solved by substituting EPA-specified, industry-wide useful-life values. There are abundant data, many of which are contained in industry-sponsored survey results submitted for this rulemaking, to indicate that LDT lifetimes, for example, average about 12 years and 120,000–140,000 miles. Similar data are available for HDEs. (A detailed analysis of this information is available in the docket.) These data are sufficient to establish average useful-life values for broad classes of vehicles/engines, so long as some provision is included to cover individual families for which significantly lesser or greater values are needed.

The second major area of concern, that of costly and complex programs for dealing with warranty claims, can be addressed by limiting the manufacturers' warranty liability. Under this option, the current (1983) warranty periods would be retained for LDTs and HDGEs, and for HDDEs used in "light-heavy" (Class VI) and "heavy-heavy" (Class VII–VIII) vehicle applications. For HDDEs used in "medium-duty" applications (Classes IIb–V), the warranty period would be the same as that required of HDGEs. This is being done because these engines have been developed, designed, and priced to compete with gasoline engines and essentially have the same durability characteristics. Continuation of the full-life certification provision would ensure that the basic design of emission control components is capable of controlling emissions over the full life of the vehicle. Generally accepted quality control principles hold that failures resulting from production defects normally occur early in the life cycle of a product, and so should be adequately covered under the warranty provisions discussed above. The recall provision would remain applicable to the full useful life to guard against any widespread systematic defects, thereby preventing any situation which would be likely to have a negative impact on air quality.

Finally, problems caused by the labeling provision can be addressed by withdrawing it in its entirety. Due to the fact that EPA would now be specifying the useful-life period or approving an alternative period, the labeling requirement would no longer be needed. Manufacturers would still be required to provide information on the warranty, including its duration, in the owners' manuals.

If modified along the lines just indicated, the full-life provisions would continue to ensure the durability of emission control components and to emphasize in-use compliance, while eliminating major implementation issues raised by the regulated industry. This approach would also avoid the need to revise the emission standards and the durability test procedures. EPA is establishing this concept as an optional program for LDTs and HDEs for the 1984 model year as follows:

1. Useful-life values for LDTs and HDEs will be as shown in Table 1 below. Due to the diversity of HDDE service lives, it was not possible to specify a single useful-life period for all HDDEs. EPA has therefore split the HDDE class into three groups. EPA will also have the flexibility to set alternative useful-life values (greater or lesser) for specific engine families if EPA or the manufacturer can establish that an alternative period is appropriate.

2. Warranty liability under Section 207 will be limited to the current (1983) periods, with the exception of the "medium-duty" HDDEs, as discussed above. In no case, however, will the warranty period be less than the manufacturer's basic mechanical warranty on the engine/drivetrain.

3. While the manufacturer will be responsible for in-use compliance, in choosing engines for recall evaluation, EPA policy will be to evaluate only engines that are at or below 75 percent of stated useful life. This would help to avoid issues related to whether individual vehicles/engines in high stress applications in fact had reached the end of their useful lives prior to reaching the assigned full-life value. The Agency is also mindful that for certain applications, particularly heavy-duty engine applications, the odometer mileage may not accurately reflect the actual amount of use that an engine has seen (e.g., a trash collection truck in which the engine also drives the compactor mechanism) and will take that into consideration in selecting engines for recall evaluation.

4. The current engine labeling provisions related to useful life are eliminated as are the rebuild criteria specified in 40 CFR 86.084–21(b)(4)(C). These requirements are no longer necessary since EPA is specifying the useful-life values.

5. The remainder of the 1984 model year regulations remain applicable.

Although this optional approach is currently being promulgated for 1984 model year LDTs and HDEs only, EPA is proposing this approach for 1985 and later model years. In a parallel action also published today, EPA solicits public comment on the above modified full-life provisions as a proposed approach for 1985 and later model years.

C. Proposed Half-life Option for 1985 and Later Model Years

In the event that comments on or experience with the modified full-life approach reveal unexpected problems with it or other full-life programs, EPA is also proposing an alternative half-life program for comment. This program would be effective for 1985 and later model years and would contain the following provisions:

1. Useful-life values would be as shown in Table 2. These values would apply to certification, warranty and recall provisions.

2. Emission standards would be adjusted downward to account for the reduced stringency of half-life useful life. The proposed values are given in Table 3.

3. Durability testing would be extended proportionally for the revised useful-life periods (see Table 4), using the 1983 model year durability/deterioration factor procedure as outlined in 40 CFR 86.082–26 and 28. The only exception to this is for Class IIb–V HDDEs. EPA believes it is more appropriate to test these HDDEs on the HDGE durability procedure and for the same time period as HDGEs, since their usage is similar to HDGEs. For idle CO, the manufacturers will be allowed to develop their own means for determination of deterioration factors.

IV. LDT and HDE Selective Enforcement Audit (SEA) Requirements

In the NPRM, EPA proposed three separate actions related to the LDT and HDE SEA requirements. These included a 2-year deferral of any HDE SEA testing, a revision of the Acceptable Quality Level (AQL) applicable to LDT and HDE SEA, and minor amendments to the procedural regulations used to implement SEA testing (Subparts A and K). This first segment of the final rule addresses the HDE SEA deferral and the AQL revision. The minor amendments will be addressed in the second segment.

A. HDE SEA Deferral

EPA had originally planned to implement SEA testing for HDEs in 1984, but in the NPRM announced its intent to defer HDE SEA for two years. EPA now affirms its intent to defer any SEA testing until 1986. As noted in the proposal, this deferral is being implemented under EPA's broad discretion to enforce certification requirements through appropriate production line test programs.

Most of the public comment received generally supported the 2-year deferral. However, several public interest groups opposed the SEA deferral due to a perceived air quality impact, and two manufacturers advocated that SEA should be delayed indefinitely.

EPA recognizes that the 2-year deferral of HDE SEA might result in an increase in the average per-engine emission rate over that which might otherwise have occurred in 1984. Normally, target emission levels without SEA are higher than those used when an SEA program is in effect. However, since SEA will begin in 1986, EPA expects that many HDE families certified before 1986 will be designed and certified to emission levels which account for the effects of an SEA program. This will allow the manufacturers to avoid potential recertification in 1986 and should also help to minimize any negative impacts in the interim. Therefore, EPA expects any air quality impacts to be small, and to affect at most only two model years' production.

Section 206(b)(1) authorizes SEA testing, but leaves the timing and manner of the testing to the discretion of EPA. Clearly, economic factors are a relevant consideration in determining how to exercise that discretion. EPA expects this deferral to result in total cash flow savings exceeding $43 million and cash expenditure savings of at least $25 million. Cash flow savings will result from deferred investment in facilities and equipment, while cash expenditure savings will accrue primarily from the elimination of two years of self-audit and formal SEA testing.

Turning now to the recommendation that HDE SEA be delayed indefinitely, when the program was first promulgated EPA calculated the positive emission benefits in great detail. The assessment of the benefits, and therefore the need for HDE SEA, was not challenged by the commenters, and thus EPA believes that the initial justification stands. Even the manufacturers' own comments at the public hearing regarding high emissions variability from engine to engine point to the eventual need for HDE SEA. Therefore, although EPA believes a 2-year deferral is appropriate for an orderly phase-in of transient testing and to provide some short-term economic relief, any further deferral of the HDE SEA program cannot be justified. (This issue is discussed in greater detail in a document entitled "Delay in HDE SEA Program" available in the public docket.)

It should be noted that the provisions of Subpart K will remain in effect, and will apply to SEA testing of LDTs beginning in 1984. In addition, the Subpart K procedures are necessary to implement the nonconformance penalty (NCP) provisions of Section 206(g) of the Act. EPA intends to propose the procedures governing an NCP program at a later date.

B. Revision of the Acceptable Quality Level (AQL)

The AQL is expressed as a percentage which represents the maximum noncompliance rate allowed during formal SEA testing before a manufacturer incurs a substantial (greater than 5 percent) risk of failing the SEA. EPA had promulgated a 10 percent AQL for LDTs and HDEs beginning in 1984, but in the NPRM proposed that the AQL be revised to 40 percent, the level currently required of light-duty vehicles and trucks. Like the 2-year deferral of SEA testing, this action was proposed under EPA's broad discretion to design compliance programs. In finalizing the proposal, EPA finds that revision of the AQL is appropriate at this time since it will have a negligible environmental impact and will reduce the compliance burden and associated cost. The revision will also provide the industry equity by requiring the same AQL level for all vehicles and engines.

Most of the public comment received supported the revision of the AQL. Several public interest groups which objected due to their concern for air quality impacts. EPA does not expect large increases in emissions from LDTs and HDEs under a 40 percent AQL compared to a 10 percent AQL. This is due to the fact that most manufacturers will not accept the normal 5 percent statistical risk of failing an SEA, and thus will aim for lower average noncompliance rates. Historically, 18 to 20 percent noncompliance has been observed for light-duty vehicles and trucks operating under a 40 percent AQL requirement. For the same reason, EPA had expected a 5 to 8 percent noncompliance rate with a 10 percent AQL requirement. Therefore, EPA expects an actual compliance rate loss of no more than 12 or 13 percent to result from the adjustment of the AQL. (A detailed analysis of the derivation of these percentages is presented in the public docket.) Similarly, average emission rates will not rise as much as might otherwise be expected. The net environmental effect of these changes will therefore be negligible. For example, national hydrocarbon emissions are expected to increase by less than 0.5 percent in 1995. Also the fact that these regulations require an SEA program in 1986 for HDEs is much more important environmentally than is the difference between a 10 and 40 percent AQL.

V. Corrections to the 1984 LDT Emission Standards

When the 1984 LDT emissions standards were promulgated (45 FR 63734, September 25, 1980), § 86.084–9 included two clerical errors which have subsequently been brought to EPA's attention.

First, the 1984 HC standard should have been published as 0.80 g/mi instead of 0.8 g/mi. Past EPA convention on emission standards has been to include two significant digits to the right of the decimal point if the numerical level of the standard is less than 1. Second, the original rule inadvertently required that light-duty diesel trucks meet the idle CO standard. As evidenced by the preamble to the final rule, EPA intended that this requirement apply only to gasoline-powered light-duty trucks because diesel engines have negligible idle CO emissions. Today's action makes the necessary technical correction of both these errors.

Statutory Authority

As discussed below, statutory authority for these actions is provided in sections 202, 206, 207 and 301(a) of the Clean Air Act (42 U.S.C. 7521, 7525, 7545 and 7601(a)).

A. Revised HDE Standards

Sections 202(a)(3)(B) and (C) of the Act provide a statutory framework within which HDE emission standards may be temporarily revised from the statutory levels. Specifically, section 202(a)(3)(B) contains four provisions which describe the general requirements and procedures for temporarily revising the standard(s), once requisite fundings are made. These provisions include:

1. A set of periods (often referred to as "window periods") during which revised standards may be proposed and promulgated,
2. A 4-year leadtime requirement,
3. A 3-year period of applicability for any revised standard, and
4. A requirement that any revised standard represent a reduction of emissions from the corresponding standard for the previous model year and be as stringent as possible through means of control reasonably expected to be available when the revised standard applies.

Due to the leadtime circumstances surrounding this rule, it is not possible for EPA to satisfy the letter of each of these requirements. However, as is discussed below, EPA believes that the present action is entirely consistent with the requirements and carries out the basic purpose of the revision provisions, which would otherwise be frustrated in this case.

The first three requirements were included primarily to provide the manufacturers a degree of protection and stability in their compliance programs by outlining a "schedule" to be followed in terms of when standards should be revised and for what time period, as well as providing adequate leadtime. Since these provisions are for the manufacturers' benefit they should not be interpreted as bars to relief that manufacturers need and are otherwise entitled to and in any event the manufacturers may waive their strict application if they so choose. EPA believes that the comments received from the affected manufacturers indicate their willingness to make such a waiver. The consensus of the manufacturers' comments was that EPA should deal expeditiously with the issues affecting leadtime and, if necessary, promulgate as soon as possible a 1-year revision of any new 1984 emission control requirements for HDEs. The language and substance of these requests inherently waive any protection provided by the first three provisions.

Furthermore, EPA believes that a refusal to revise the standards where they are found to be unachievable simply because compliance with the letter of the statutory requirements is impossible, would frustrate the basic intent of Congress. Congress clearly envisioned that revisions would occur if technology were unavailable to meet the statutory standards. Here, whether as a result of EPA's proposal to revise the standards or because of problems related to the test procedures, manufacturers are not in a position to comply with the statutory standards in 1984. Not to revise the standards because the "window period" has passed or because four years' leadtime is not available would fail to carry out the basic spirit of the revision provisions.

One manufacturer, Chrysler, has requested that the deferral of new requirements for HDGEs extend for a full three years. As discussed earlier, today's action is based upon the lack of leadtime for further engine or emission control system modifications in time for the 1984 model year. However, this rationale does not provide a sufficient basis for revising the 1985 or 1986 model year standards to 1983 levels, since at this time there remains sufficient leadtime for those years. Moreover, revising to 1983 levels for three years would conflict with the substantive statutory requirement that the revised standards reflect the maximum degree of emission reduction achievable during the period of revision. Since EPA has proposed non-catalyst standards based on a tentative conclusion that those standards are achievable, it would be inappropriate at this time to apply the less stringent 1983 levels for three years. Therefore, EPA is restricting this present action to one year only, and reserves the full disposition of Chrysler's request to the second phase of the rulemaking. However, it is EPA's intent that if non-catalyst standards are subsequently promulgated, these standards will remain in effect for three years.

Finally, there is the question of the appropriate levels of the standards and the statutory requirement that revised standards require a reduction in emissions from standards applicable in the previous model year. It seems clear that the purpose of that requirement, in general, was to provide for further progress in emission reductions despite any temporary setbacks caused by the unavailability of more advanced control technology. In this case, as discussed earlier in this preamble, there is virtually no time remaining for engine or emission control system modifications. Therefore, EPA finds itself unable to establish 1984 standards which will require any emission reductions beyond those applicable in 1983. The only changes in standards which could be made would be meaningless: to lower the standards to levels which all manufacturers could meet using carryover of current certification data without having to reduce emission levels. On the other hand, EPA has reason to believe that there will be emission reductions in 1984 for some engine families already being prepared for new certification in that year. To avoid the expense of recertification in 1985, manufacturers are likely to use the optional transient test procedures and attempt to certify at levels low enough to be carried over into 1985. Because of this, the entire regulatory environment facing manufacturers in 1984 will bring about some reduction in emissions on a fleetwide basis, even though the 1984 provisions alone do not require it. As a practical matter, this carries out the purpose of the statutory requirement to the extent possible for 1984.

B. Revised LDT/HDE Useful Life

Insofar as LDTs (above 6,000 lbs. GVW) are included in the statutory definition of heavy-duty vehicles, the above discussion of HDEs applies to EPA's authority for establishing the modified full-life useful-life option. For those LDTs below 6,000 lbs. GVW, EPA has broad flexibility under the general authority of Sections 202(a) and 301(a) to establish regulations. Also, Section 202(d)(2) provides the Administrator with broad discretion in establishing useful-life values for other than light-duty vehicles (fixed by statute at 5 years/50,000 miles).

Manufacturers' comments on the useful-life issue are unanimous in maintaining that the full-life definition is contrary to Congressional intent and

that EPA has therefore exceeded its legal authority by promulgating the full-life regulations. The same arguments were made at the time of the initial HDE/LDT rulemaking and EPA's conclusion continues to be, as it was then, that neither the language of the Act nor the legislative history reveals a Congressional commitment to half-life. Several manufacturers also maintained that useful life should be the same for certification, warranty, and recall programs. Section 202(d) does not, however, preclude the Administrator from specifying different warranty periods for different purposes. Congress itself has recognized that warranty periods less than the useful-life period are appropriate in certain circumstances. See section 207(a)(2) of the Act.

C. SEA Provisions

Turning to the SEA revisions, Section 206(b) of the Clean Air Act provides EPA with broad discretion to implement and carry out production line testing programs. Further, Section 301(a) provides in part, "* * * the Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this Act." As described in the proposal, the changes to the LDT and HDE SEA programs are being promulgated under the authority granted in these provisions.

List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Administrative Designation

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it involves no negative cost impacts and has no significant adverse effect on competition, productivity, investment, employment, or innovation.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Effects on Small Entities

Section 605 of the Regulatory Flexibility Act requires the Administrator to certify regulations that do not have a significant impact on a substantial number of small entities. I certify that this regulation does not have such an effect because it affects only motor vehicle and engine manufacturers, a group which does not include a substantial number of small entities. Also, the primary effect of this action is to provide regulatory relief, so no private parties should see any substantial adverse impact.

Information Collection Requirements

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2000-0390.

Dated: December 22, 1982.

John W. Hernandez,

Acting Administrator.

TABLE 1.—USEFUL-LIFE VALUES [1]

Vehicle/engine class	Useful-life values		
	Years	Miles	Engine hours
LDT	12	130,000	N/A
HDGE	10	120,000	3,600
HDDE Class IIb–V (less than 19,501 lbs. GVW)	10	120,000	3,600
HDDE Class VI (19,501—26,000 lbs. GVW)	10	200,000	6,000
HDDE Classes VII–VIII (over 26,000 lbs. GVW)	10	275,000	8,250

[1] A detailed derivation of these useful-life values can be found in the public docket.

TABLE 2.—USEFUL-LIFE VALUES—HALF-LIFE PROPOSAL

Vehicle/Engine class	Useful-life values [1]		
	Years	Miles	Engine hours
LDT	6	65,000	N/A
HDGE	5	60,000	1,800
HDDE Class IIb—V (less than 19,501 lbs. GVW)	5	60,000	1,800
HDDE Class VI (19,501—26,000 lbs. GVW)	5	100,000	3,000
HDDE Class VII—VIII (over 26,000 lbs. GVW)	5	137,500	4,125

[1] A detailed derivation of these useful-life values can be found in the public docket.

TABLE 3.—ADJUSTED STANDARDS FOR HALF LIFE [1]

Vehicle/engine class	Standards	
	HC	CO
Light-duty trucks	.69 g/mi	8.8 g/mi.
Heavy-duty engines	1.0 g/BHP-hr	12.3 g/BHP-hr.

[1] These standards were calculated by applying an adjustment factor to the current full-life 1984 standards based on the ratio of the half-life to full-life deterioration factors. These ratios are 1.2/1.4 for LDT HC, 1.15/1.3 for LDT CO, and 1.35/1.7 for HDE HC and CO.

TABLE 4.—DURABILITY TESTING PERIODS—EXTENDED HALF-LIFE USEFUL LIFE

Vehicle/engine class	Durability testing period
LDT	65,000 miles.
HDGE	1,800 hours.
HDDE Class IIb-V (less than 19,501 lbs. GVW).	1,800 hours. [1]
HDDE Class VI (19,501–26,000 lbs. GVW).	1,000 hours. [2]
HDDE Class VII-VIII (over 26,000 lbs. GVW).	1,375 hours. [2]

[1] Using HDGE durability procedure in lieu of the HDDE procedure.
[2] Using the current HDDE procedure.

PART 86—[AMENDED]

For the reasons set forth in the preamble, Part 86 of Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

1. The definition of "useful life" in § 86.084–2 is amended by correcting paragraph (b)(3) and adding paragraphs (b)(4), (c), and (d), to read as follows:

§ 86.084–2 Definitions.

* * * * *

"Useful life" means:

* * * * *

(b) * * *

(3) If the useful life of a specific light-duty truck or heavy-duty engine is found to be less than 5 years or 50,000 miles (or the equivalent), the useful life shall be a period of use of 5 years or 50,000 miles (or the equivalent), whichever occurs first, as required by section 202(d)(2) of the Act.

(4) For purpose of identification this option shall be known as the average useful-life period.

(c)(1) As an option for a light-duty truck engine family, a period of use of 12 years or 130,000 miles, whichever occurs first.

(2) As an option for a gasoline heavy-duty engine family, a period of use of 10 years or 120,000 miles, whichever occurs first.

(3) As an option for a diesel heavy-duty engine family, a period of use of 10 years or 120,000 miles, whichever occurs first, for engines certified for use in vehicles of less than 19,500 pounds GVWR; a period of use of 10 years or 200,000 miles, whichever occurs first, for engines certified for use in vehicles of 19,501–26,000 pounds GVWR; or, a period of use of 10 years or 275,000 miles, whichever occurs first, for engines certified for use in vehicles whose GVWR exceeds 26,000 pounds.

(4) As an option for both light-duty truck and heavy-duty engine families, an alternate full-life value assigned by the Administrator under § 86.084–21(b)(4)(ii)(B)(*4*).

(5) For purpose of identification these options shall be known as the assigned useful-life period options.

(6) For those light-duty truck and heavy-duty engine families using the

assigned useful-life period options, the warranty period for emissions defect warranty and emissions performance warranty shall be 5 years/50,000 miles for light-duty trucks, 5 years/50,000 miles for gasoline heavy-duty engines and for diesel heavy-duty engines certified for use in vehicle of less than 19,501 lbs. GVWR, and 5 years/100,000 miles for all other diesel heavy-duty engines. However, in no case may this period be less than the basic mechanical warranty period.

(7) The assigned useful-life period options, as detailed in paragraphs (c)(1) through (c)(6) of this section, are applicable for the 1984 model year only.

(d)(1) As an option for the 1984 model year and for the 1984 model year only, the useful life of light-duty trucks and heavy-duty engine families may be defined as prescribed in § 86.077–2.

(2) For purpose of identification this option shall be known as the half-life useful-life option.

2. Section 86.084–9 is amended by correcting and revising paragraphs (a)(1)(i) and (a)(1)(ii)(B) and adding a new paragraph (f), to read as follows:

§ 86.084–9 Emission standards for 1984 light-duty trucks.

(a)(1) * * *

(i) *Hydrocarbons.* 0.80 gram per vehicle mile (0.497 gram per vehicle kilometer);

(ii) * * *

(B) (Gasoline-fueled vehicles only) 0.47 percent of exhaust gas flow at curb idle;

* * * * *

(f) Manufacturers choosing to certify using the half-life useful-life option as defined in § 86.084–2, which is available only for the 1984 model year, are restricted to using only the certification procedures applicable for the 1983 model year, with the exception of the determination of idle CO deterioration factors as noted in § 86.084–23(b)(3).

3. Section 86.084–10 is amended by adding new paragraphs (e) and (f), to read as follows:

§ 86.084–10 Emission standards for 1984 and later model year gasoline-fueled heavy-duty engines.

* * * * *

(e) As an option for the 1984 model year only, manufacturers may choose to certify 1984 model year gasoline-fueled heavy-duty engines using the half-life useful-life option as defined in § 86.084–2, the 1984 model year emission standards, and the 1984 model year test procedures as specified in Subparts N and P of this part. Under this option, the remaining 1983 model year certification procedures shall be used, with the exception of the determination of idle CO deterioration factors, as noted in § 86.084–23(b)(3).

(f) These provisions notwithstanding, as an option for the 1984 model year only, 1984 model year gasoline-fueled heavy-duty engines may be certified under the emission standards and other regulatory provisions applicable to 1983 model year gasoline-fueled heavy-duty engines. Manufacturers electing to certify under this option are limited to using *only* the emission standards and other regulatory provisions affecting 1983 model year gasoline-fueled heavy-duty engines.

4. Section 86.084–11 is amended by adding new paragraphs (e) and (f), to read as follows:

§ 86.084–11 Emission standards for 1984 diesel heavy-duty engines.

* * * * *

(e) As an option for the 1984 model year only, manufacturers may choose to certify 1984 model year diesel heavy-duty engines using the half-life useful-life option as defined in § 86.084–2, the 1984 model year emission standards, and the associated test procedures. Under this option, the remaining 1983 model year certification procedures must be used.

(f) These provisions notwithstanding, as an option for the 1984 model year only, 1984 model year diesel heavy-duty engines may be certified under the emission standards and other regulatory provisions applicable to 1983 model year diesel heavy-duty engines. Manufacturers electing to certify under this option are limited to using *only* the emission standards and other regulatory provisions affecting 1983 model year diesel heavy-duty engines.

5. Section 86.084–21 is amended by revising paragraphs (b)(4)(ii)(B) (*1*) and (*2*), adding new paragraphs (b)(4)(ii)(B) (*3*) and (*4*), revising paragraph (b)(4)(ii)(C) introductory text, and adding a new paragraph (b)(4)(ii)(D), to read as follows:

§ 86.084–21 Application for certification.

* * * * *

(b) * * *

(4) * * *

(ii) * * *

(B)(*1*) A statement of the useful-life period of each light-duty truck engine family and heavy-duty engine family. The statement shall identify which of the optional approaches described in § 86.084–2 was used to set the useful life. For diesel heavy-duty engine families, the statement shall also identify the gross vehicle weights (or GVWR classes) for which the family is being certified.

(*2*) For each light-duty truck engine family and each heavy-duty engine family using the average useful-life period option, the useful life will be the period to engine retirement or rebuild (whichever occurs first) as determined by the manfacturer on the basis of the following:

(*i*) For existing engine families, survey information on in-service vehicles (or engines) or;

(*ii*) For new engine families, durability testing of prototype vehicles (or engines) or a combination of bench-type component life evaluations and survey information on similar previous vehicles (or engines).

(*3*) For a manufacturer using the average useful-life period option, the manufacturer shall not determine an engine family's average useful-life period to be less than the basic period of the mechanical warranty on the engine assembly. This useful life shall be expressed as a period of engine or vehicle operation or as an equivalent vehicle mileage (or both) and shall be consistent with the rebuild criteria specified in paragraph (b)(4)(ii)(C) of this section. The manufacturer shall include in the application the data or information on which it based its determination of the useful life.

(*4*) Light-duty truck and heavy-duty engine manufacturers using the assigned useful-life options who believe that the assigned useful-life period is substantially inaccurate for one or more engine families (either too long or too short), shall petition the Administrator to provide an alternate assigned useful-life period. This petition must include the full rationale behind the request together with any supporting data and other evidence. Based on this or other information the Administrator may assign an alternative useful-life period.

(C) For each light-duty truck engine family and each heavy-duty engine family whose useful-life period is determined under the average useful-life period option, a statement of the criteria which are to be used in determining the need for engine rebuild and their critical values, including the following:

* * * * *

(D) Manufacturers choosing to certify using the half-life useful-life option as defined in § 86.084–2 are restricted to using only the certification procedures applicable for the 1983 model year, with the exception of the determination of idle CO deterioration factors as noted in § 86.084–23(b)(3).

* * * * *

6. Section 86.084–23 is amended by adding a new paragraph (b)(3), to read as follows:

§ 86.084–23 Required data.

* * * * *

(b) * * *

(3)(i) For manufacturers choosing to certify using the half-life useful-life option as defined in § 86.084–2, the provisions of paragraphs (b)(1)(ii) and (b)(2) of this section are not applicable.

(ii) For the 1984 model year only, determination of the idle CO deterioration factor required for gasoline-powered light-duty truck and gasoline-fueled heavy-duty engine certification shall be based on the best engineering judgment of the manufacturer, using such test procedures and methodology as the manufacturer deems appropriate. Manufacturers using this provision are not required to provide supporting data or descriptions of the test procedures used in the determination of the idle CO deterioration factor supplied.

* * * * *

7. Section 86.084–35 is amended by correcting and revising paragraphs (a)(2)(iii)(F) and (d)(2), and adding new paragraphs (a)(2)(iii)(H), (a)(3)(iii)(J), (c)(1)(ii)(C), (d)(3), and (e)(3), to read as follows:

§ 86.084–35 Labeling.

(a) * * *

(2) * * *

(iii) * * *

(F) The subordinate addition to the statement in paragraph (a)(2)(iii)(E) of this section: "This engine's actual life may vary depending on its service application. (For additional information see the owner's maintenance instructions.) This engine conforms to U.S. EPA regulations applicable to 19—— Model Year New Light-Duty Trucks for its useful life."

(G) * * *

(H) Light-duty truck engine families whose useful-life period is determined by the assigned useful-life period option as described in § 86.084–2 need not comply with the labeling requirements in paragraphs (a)(2)(iii) (E) and (F) of this section. However, the label shall contain an unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations which apply to light-duty trucks.

(3) * * *

(iii) * * *

(J) Heavy-duty engine families whose useful-life period is determined by the assigned useful-life period option as described in § 86.084–2, need not comply with the labeling requirements in paragraphs (a)(3)(iii) (H) and (I) of this section. However, the label shall contain an unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations applicable to heavy-duty engines.

* * * * *

(c) * * *

(1) * * *

(ii) * * *

(C) Light-duty truck engine families whose useful-life periods are determined by the assigned useful-life period option as described in § 86.084–2, need not comply with the labeling requirements in (c)(1)(ii)(B) of this section. However, the label shall contain the statement: "This Vehicle Conforms to U.S. EPA Regulations Applicable to 19 Model Year New Motor Vehicles."

* * * * *

(d) * * *

(2) The subordinate addition to the statement in paragraph (d)(1) of this section: "This vehicle's actual life may vary depending on its service application. (For additional information see the owner's maintenance instructions.) This engine conforms to U.S. EPA regulations applicable to 19 Model Year New Light-Duty Trucks when installed in a vehicle completed at a curb weight of not more than 6,000 pounds or with a frontal area not greater than 45 square feet for its useful life."

(3) Incomplete light-duty trucks or incomplete heavy-duty vehicles optionally certified as light-duty trucks whose useful-life period is determined by the assigned useful-life period option as described in § 86.084–2 need not comply with the labeling requirements in (d) (1) and (2) of this section. However, these vehicles shall have the following statement printed on the label required in paragraph (a)(2) of this section in lieu of the statement required by paragraph (a)(2)(iii)(H) of this section:

This Vehicle Conforms to U.S. EPA Regulations Applicable to 19 Model Year New Motor Vehicles When Completed at a Maximum Curb Weight of 6,000 Pounds and a Maximum Frontal Area of 45 Square Feet.

(e) * * *

(3) Incomplete heavy-duty vehicles having a gross vehicle weight rating of 8,500 pounds or less, whose useful-life period is determined by the assigned useful-life period option as described in § 86.084–2, need not comply with the labeling requirements in (e) (1) and (2) of this section. However, these vehicles shall have the following statement printed on the label required in paragraph (a)(3) of this section, in lieu of the statements required by paragraph (a)(3)(iii)(J) of this section: "This engine conforms to U.S. EPA regulations applicable to 19 Model Year New Heavy-Duty Engines when installed in a vehicle completed at a curb weight of more than 6,000 pounds or with a frontal area greater than 45 square feet.

* * * * *

8. Section 86.085–9 is amended by correcting and revising paragraphs (a)(1)(i) and (a)(1)(ii)(B) to read as follows:

§ 86.085–9 Emission standards for 1985 light-duty trucks.

(a)(1) * * *

(i) *Hydrocarbons.* 0.80 gram per vehicle mile (0.497 gram per vehicle kilometer);

(ii) * * *

(B) (Gasoline-fueled vehicles only) 0.47 percent of exhaust gas flow at curb idle;

* * * * *

9. Section 86.1010–84 is amended by revising paragraph (a) to read as follows:

§ 86.1010–84 Compliance with acceptable quality level and passing and failing criteria for Selective Enforcement Audits.

(a) The prescribed acceptable quality level is 40 percent.

* * * * *

10. Appendix X is amended by revising it to read as follows:

Appendix X—Sampling Plans for Selective Enforcement Auditing of Heavy-Duty Engines and Light-Duty Trucks

TABLE 1.—SAMPLING PLAN CODE LETTER

Annual sales	Code letter
50–99	A.
100–299	B.
300–499	C.
500 or greater	D.

TABLE 2.—SAMPLING PLAN CODE FOR LETTER "A"

[Sample Inspection Criteria]

Stage	Pass No.	Fail No.
1	[1]	[2]
2	[1]	[2]
3	[1]	[2]
4	0	[2]
5	0	[2]
6	1	6
7	1	7
8	2	7
9	2	8
10	3	8
11	3	9
12	4	9
13	5	10
14	5	10
15	6	11
16	6	11
17	7	12
18	7	12

TABLE 2.—SAMPLING PLAN CODE FOR LETTER "A"—CONTINUED

[Sample Inspection Criteria]

Stage	Pass No.	Fail No.
19	8	13
20	8	13
21	9	14
22	10	14
23	10	15
24	11	15
25	11	16
26	12	16
27	12	17
28	13	17
29	14	17
30	15	17

[1] Test sample passing not permitted at this stage.
[2] Test sample failure not permitted at this stage.

TABLE 3.—SAMPLING PLAN FOR CODE LETTER "B"

[Sample Inspection Criteria]

Stage	Pass No.	Fail No.
1	([1])	([2])
2	([1])	([2])
3	([1])	([2])
4	([1])	([2])
5	0	([2])
6	1	6
7	1	7
8	2	7
9	2	8
10	3	8
11	3	9
12	4	9
13	4	10
14	5	10
15	5	11
16	6	12
17	6	12
18	7	13
19	8	13
20	8	14
21	9	14
22	9	15
23	10	15
24	10	16
25	11	16
26	11	17
27	12	17
28	12	18
29	13	18
30	13	19
31	14	19
32	14	20
33	15	20
34	16	21
35	16	21
36	17	22
37	17	22
38	18	22
39	18	22
40	21	22

[1] Test sample passing not permitted at this stage.
[2] Test sample failure not permitted at this stage.

TABLE 4.—SAMPLING PLAN FOR CODE LETTER "C"

[Sample Inspection Criteria]

Stage	Pass No.	Fail No.
1	[1]	[2]
2	[1]	[2]
3	[1]	[2]
4	[1]	[2]
5	0	[2]
6	0	6
7	1	7
8	2	7
9	2	8
10	3	9
11	3	9
12	4	10
13	4	10
14	5	11
15	5	11
16	6	12
17	6	12
18	7	13
19	7	13
20	8	14
21	8	14
22	9	15
23	10	15
24	10	16
25	11	16
26	11	17
27	12	17
28	12	18
29	13	18
30	13	19
31	14	19
32	14	20
33	15	20
34	15	21
35	16	21
36	16	22
37	17	22
38	17	23
39	18	23
40	19	24
41	19	24
42	20	25
43	20	25
44	21	26
45	21	27
46	22	27
47	22	27
48	23	27
49	23	27
50	26	27

[1] Test sample passing not permitted at this stage.
[2] Test sample failure not permitted at this stage.

TABLE 5.—SAMPLING PLAN FOR CODE LETTER "D"

[Sample Inspection Criteria]

Stage	Pass No.	Fail No.
1	([1])	([2])
2	([1])	([2])
3	([1])	([2])
4	([1])	([2])
5	0	([2])
6	0	6
7	1	7

TABLE 5.—SAMPLING PLAN FOR CODE LETTER "D"—Continued

[Sample Inspection Criteria]

Stage	Pass No.	Fail No.
8	2	8
9	2	8
10	3	9
11	3	9
12	4	10
13	4	10
14	5	11
15	5	11
16	6	12
17	6	12
18	7	13
19	7	13
20	8	14
21	8	14
22	9	15
23	9	15
24	10	16
25	11	16
26	11	17
27	12	17
28	12	18
29	13	19
30	13	19
31	14	20
32	14	20
33	15	21
34	15	21
35	16	22
36	16	22
37	17	23
38	17	23
39	18	24
40	18	24
41	19	25
42	19	26
43	20	26
44	21	27
45	21	27
46	22	28
47	22	28
48	23	29
49	23	29
50	24	30
51	24	30
52	25	31
53	25	31
54	26	32
55	26	32
56	27	33
57	27	33
58	28	33
59	28	33
60	32	33

[1] Test sample passing not permitted at this stage.
[2] Test sample failure not permitted at this stage.

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Part III

Environmental Protection Agency

High-Altitude Emission Standards for 1984 and Later Model Year Light-Duty Trucks; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL 2226-5]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; High-Altitude Emission Standards for 1984 and Later Model Year Light-Duty Trucks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action establishes mandatory emission standards for 1984 and later model year light-duty trucks (LDTs) sold for principal use at altitudes above 4,000 feet. The standards apply to exhaust emissions of hydrocarbons (HC), carbon monoxide (CO), and nitrogen oxides (NO_x). In addition, a standard for evaporative HC emissions is also being promulgated. The standards contained in this regulation continue the proportional relationship between high-altitude standards and low-altitude standards that was established by the 1982–83 interim standards (45 FR 66984). A voluntary high-altitude program for 1984 model year LDTs, which was mistakenly included in a separate final rulemaking (45 FR 63734), is also being deleted in this final rule.

This action indefinitely extends both the current self-certification provision and the performance-based exemption from the high-altitude certification requirements for LDTs. The current optional sales-based exemption is also being extended, but only for 1984. Comments are specifically requested on the need for extending the sales-based exemption beyond 1984 and also on the appropriateness of the performance-based exemption criteria. Further, EPA is continuing its policy of foregoing high-altitude Selective Enforcement Audit (SEA) testing.

This regulation is expected to provide up to a 2 percent improvement in the ambient air quality of major high-altitude urban areas. These standards are also expected to add $9 to the purchase price of an average high-altitude LDT.

EFFECTIVE DATE: These regulations are effective as of February 11, 1983.

ADDRESSES: Copies of the material relevant to this rulemaking are contained in Public Docket No. A-79-14 at the U.S. Environmental Protection Agency, Central Docket Section. The docket is located in West Tower Lobby, Gallery 1, 401 M. Street, SW., Washington, D.C. 20460, telephone number (202) 755-0240. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays. A reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel P. Heiser, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, (313) 668-4274.

SUPPLEMENTARY INFORMATION: OMB Control Number 2000-0390.

I. Background

These rules establish high-altitude emission standards for 1984 and later LDTs that, with few exceptions, represent essentially a continuation of the approach followed for the current 1982–83 high-altitude emission control program. As such, the most effective way to gain a basic understanding of the high-altitude emission control program for 1984 and later is by briefly reviewing EPA's current emission control regulations for high-altitude LDTs. It will also be helpful to explore both the special air quality problems associated with high-altitude areas and the history which has led to the promulgation of these 1984 high-altitude regulations. Once this background information has been presented, the specific components of this rulemaking action will be described in greater detail.

A. Need for High-Altitude LDT Standards

EPA has found that light-duty motor vehicles which demonstrate compliance with only low-altitude emission standards generally produce about 50 percent more exhaust hydrocarbons (HC) and 100 percent more carbon monoxide (CO) when tested at 5,300 feet above sea level. Also, in most high-altitude urban areas, motor vehicles account for more than half of the total HC emissions and almost all of the CO emissions. The HC emissions in the presence of summer sunlight contribute to numerous violations of the National Ambient Air Quality Standards (NAAQS) for oxidant in high-altitude metropolitan areas. Similarly, CO emissions in stable winter atmospheric conditions cause numerous violations of the NAAQS for CO. Although progress is being made in reducing the severity of air pollution episodes in these metropolitan areas, specifically controlling emissions from high-altitude motor vehicles (including 1984 and later LDTs) is needed to help assure that the NAAQS for ozone and CO are attained and maintained in the future.

B. Current High-Altitude LDT Program

Mandatory high-altitude emission standards for 1982–83 light-duty motor vehicles were proposed on January 24, 1980 (45 FR 5988), under EPA's general rulemaking authority contained in section 202(a) of the Clean Air Act ("the Act"). These rules are consistent with the guidelines for such standards that were established by Congress in section 202(f) of the Act. The 1980 proposal included different sets of high-altitude standards for 1982 and 1983 light-duty trucks, because at that time EPA anticipated promulgating more stringent low-altitude LDT standards for the 1983 model year. Those more stringent standards were subsequently deferred for a year. Accordingly, the final regulations for high-altitude LDTs, promulgated on October 8, 1980 (45 FR 66984), contained a single set of standards for the 1982 and 1983 model years, based upon the less stringent low-altitude standards applicable in those years. Today's action promulgates for 1984 and later model years the more stringent LDT standards originally proposed for the 1983 model year.

The 1982–83 high-altitude HC and CO standards require the same percentage reduction from uncontrolled emissions at high altitude (about 5,300 feet) as that achieved by the associated low-altitude standards. These standards, therefore, are termed "proportional." For NO_x emissions, which decrease from uncontrolled vehicles as altitude increases, section 202(f) effectively limits the high-altitude standard to the same numerical level as the low-altitude standard. (Even though the NO_x standard does not require that this pollutant be "proportionally" controlled at an elevation of 5,300 feet as do the HC and CO standards, all these standards are collectively referred to as "proportional standards" for convenience.) A general result of this control strategy is that proportional high-altitude standards are no more difficult to meet than the standards at low altitude.

The regulations which implement the current high-altitude standards were carefully designed to maximize model availability in high-altitude areas (a problem with EPA's 1977 high-altitude regulations), while at the same time minimizing the cost of the regulations and avoiding any adverse impact on the low-altitude fleet. There are three primary components of the regulations which provide these desired results. First, in order to market a vehicle anywhere in the nation, the regulations require that the vehicle must either automatically meet both the low- and high-altitude standards, or be capable of being modified to do so. This protects model availability at high altitude since manufacturers must invest the required time and money to certify LDTs to the high-altitude standards in order to sell these vehicles at low altitude. Once these resources are expended, manufacturers are likely to sell such vehicles at high altitude to recover their investment. Also, by allowing vehicles to be modified in compliance with the standards, the cost of these regulations to the nation is minimized since high-altitude emission control hardware is required only on those vehicles sold in high-altitude areas. However, the regulations generally restrict any required changes to engine operating parameters such as the air/fuel ratio of the carburetor so that vehicle modifications are not excessively expensive.

Second, manufacturers have the option of certifying vehicles to high-altitude standards at 5,300 feet by either: (1) Utilizing full vehicle tests in conjunction with Federally established procedures, or (2) by submitting a statement to EPA that engineering evaluations, based on whatever test data the manufacturer deems appropriate, were used to determine compliance. This latter provision is generally referred to as self-certification and was introduced into the regulations on April 23, 1981 (46 FR 23053), to ease certification leadtime constraints for 1982 model year vehicles. The provision was continued for 1983 model year vehicles to minimize the potential for confusion which might result from having completely different certification requirements in 1982 than in 1983, and also to reduce the cost burden of high-altitude standards on the economically depressed automotive industry.

Third, exemptions from the high-altitude certification requirements discussed above are provided for certain LDTs to prevent some light truck configurations from being removed from both the low- and high-altitude markets for failure to comply with high-altitude standards. This result is possible because, in the absence of exemptions, failure to certify to both low- and high-altitude standards precludes selling the affected vehicle anywhere in the nation.

At the time the high-altitude standards were promulated on October 8, 1980, EPA found that different exemption schemes were needed for the 1982 and 1983 model years. For 1982, manufacturers were allowed to exempt up to 30 percent of their projected high-altitude sales from the certification requirements to counter the short leadtime that was provided by the regulations. These exempted vehicles were allowed to be sold for principal use in high-altitude areas in order to prevent model availability problems at elevations above 4,000 feet. This provision is referred to as a sales-based exemption.

For 1983, EPA implemented a performance-based exemption. This provision uses objective performance criteria to identify low power, high fuel economy vehicles which are very difficult to modify properly to comply with high-altitude standards, and which are normally sold in only small numbers at high altitude anyway because of their inferior performance under high-altitude conditions. Performance-exempted vehicles may not be sold for principal use above 4,000 feet to maximize the environmental benefits of the regulations. This exemption removes the potential of adversely affecting national fuel economy and does not significantly affect high-altitude model availability.

On May 20, 1982 (47 FR 21793), EPA granted a petition by Ford Motor Company to extend the sales-based exemption into the 1983 model year. This provided manufacturers with the option of either exempting 30 percent of their projected high-altitude LDT sales, or exempting only low power LDTs with the existing performance-based provision.

A voluntary high-altitude program for 1984 model year LDTs was mistakenly included in the final rule on low-altitude standards for 1984 and later light trucks (45 FR 63734). The standards in this voluntary program are the same as the mandatory 1982–83 high-altitude standards and, hence, are not proportional to the new, more stringent low-altitude standards which are effective beginning in 1984. This voluntary high-altitude program is being deleted in this final rulemaking by promulgating mandatory proportional standards for 1984 LDTs.

C. History of the High-Altitude Rule

All of the proportional high-altitude standards are being promulgated in this final rulemaking, even those that are not changing, because existing standards for LDTs expire after the 1983 model year. As noted above, these standards were proposed on January 24, 1980 for the 1983 model year, and were subsequently commented upon by interested parties. Nevertheless, these proportional standards were never finalized because the new low-altitude LDT standards upon which they were based were eventually postponed until 1984. Therefore, the high-altitude emission standards that are being promulgated in this final rulemaking will retain the "proportional" nature of the low- to high-altitude standards as previously proposed and commented upon.

Also, in the ensuing time since the high-altitude standards were proposed, EPA's intent to continue proportional high-altitude standards for 1984 and later years was clearly stated during EPA/Industry meetings held at the Motor Vehicle Emissions Laboratory in Ann Arbor, Michigan. In addition, a continuation of proportional standards was supported by a Special Task Force to the President which examined the economic problems of the U.S. automotive industry.[1] They recommended that Congress "* * * preserv[e] EPA's [already existing] authority to require proportional standards for light * * * trucks * * *" sold at high altitude into the 1984 model year and beyond. Therefore, the automotive industry has been expecting these new proportional standards for some time.

[1] "Actions to Help the U.S. Auto Industry," The White House, Office of the Press Secretary, April 6, 1981.

II. Specific Components of This Package and Major Issues

A. Standards

The standards contained in this rulemaking apply to the exhaust emissions of HC, CO, and NO_x, and to the evaporative emissions of HC. The exhaust emission standards are 1.0 gram per mile (g/mi) HC, 14 g/mi CO, 2.3 g/mi NO_x. The evaporative HC standard is 2.6 g/test. The HC and CO high-altitude standards are being implemented to retain the current proportional emission control program when the corresponding standards at low altitude become more stringent beginning in 1984. Both the NO_x and evaporative HC emission standards remain unchanged from the 1983 model year values, however, since the corresponding low-altitude standards are not changing in 1984.

A detailed derivation of the 1.0 g/mi HC and 14 g/mi CO proportional high-altitude standards was presented in the proposal of these standards (45 FR 5988). In summary, these standards were derived by multiplying the low-altitude LDT standard of 0.8 g/mi HC and 10 g/mi CO by "proportional factors" of 1.2 for HC and 1.4 for CO. These proportional factors represent the ratio of uncontrolled emissions at high altitude to those at low altitude, and were derived from emission tests conducted on a fleet of 1970 vehicles as specified in section 202(f) of the Act.

The low- and high-altitude standards are summarized in Table 1. This table also contains the low-altitude standards for comparison.

TABLE 1.—LOW- AND HIGH-ALTITUDE STANDARDS FOR 1984 AND LATER LDTS

Altitude	HC[1]	CO[1]	NO_x[1]	Evap HC[2]
Low	0.8	10	2.3	2.0
High	1.0	14	2.3	2.6

[1] Grams/mile.
[2] Grams/test.

No particulate standard is being established at this time for diesel-powered LDTs sold in high-altitude areas. There are three reasons for this. First, particulate standards were not included in the interim high-altitude program (1982–83). Second, a particulate standard for high-altitude LDTs has never been proposed nor has the public had a chance to comment on such a standard. Third, EPA is still in the process of analyzing the feasibility of, need for, and impact of proportional diesel particulate standards at high altitude and has not yet decided on what action, if any, would be appropriate. If EPA decides that a particulate standard is appropriate for LDTs at high altitude, that decision would be announced in a Notice of Proposed Rulemaking and the public would be given ample opportunity to comment on a proposed standard.

B. Exemptions

As previously stated, exemptions from the high-altitude certification requirements were made available during the 1982–83 model years primarily to ensure that the high-altitude standards did not adversely affect model availability at low altitude and also to reduce the burden of these standards on manufacturers without significantly affecting model availability at high altitude. Since this action continues the proportional nature of the earlier standards, and hence, is similar in its emission control requirements (this is discussed in greater detail later), the need for some form of exemptions remains unchanged for the 1984 and later model years. Therefore, exemptions from the high-altitude requirements are included in this rulemaking.

The current performance-based exemption is being extended for 1984 and later LDTs. This exemption scheme preserves the environmental benefit of the regulation since only LDTs which meet proportional standards may be sold for principal use in high-altitude areas. At the same time, the cost of the regulation is significantly reduced by exempting low power vehicles which are the most difficult and costly to control at high altitude. The performance exemption also has little adverse impact on model availability at high altitude because exemptions are available only for low-power vehicles. Even in the absence of high-altitude regulations, these vehicles would be sold in only small numbers in areas above 4,000 feet by virtue of their inherently inferior performance at higher elevations.

The Agency had previously stated that the 30 percent sales-based exemption would not be extended into 1984. This intent was stated in the rulemaking that promulgated the sales-based exemption for 1983 as an option to the performance-based exemption which was already available in that year (45 FR 21293). Nevertheless, the Agency now finds it necessary to extend into 1984 the availability of the optional sales-based exemption provision for two principal reasons. First, while the leadtime for manufacturers to respond to new proportional standards is adequate with sales exemptions (as discussed in greater detail below), their absence could jeopardize completing certification in time for the normal introduction of 1984 LDTs. Potentially, manufacturers would have to develop and certify more LDT configurations (model/drivetrain combinations) if only performance-based exemptions were available in 1984 since many vehicle configurations were previously exempt in 1982 and 1983 under the optional 30 percent sales-based exemption. Developing calibrations for these previously exempted vehicles would likely require more leadtime than will be provided by this rulemaking action. Also, developing these new calibrations on such short notice could significantly increase the development cost of the 1984 standards at a time when the economically depressed industry must already comply with both new 1984 low- and high-altitude emission standards.

The second reason for extending the optional sales exemption for one more year is that the appropriateness of the performance-exemption criteria has been questioned by Ford Motor Company and, as a result, EPA solicited comments on the proper form of this provision in conjunction with the above-referenced rulemaking. The comment period on the performance-exemption criteria closed August 18, 1982, and EPA is continuing to evaluate the issues in light of the comments received. Unfortunately, there is inadequte time in which to resolve those issues fully in this action without jeopardizing the promulgation of LDT standards for 1984. Therefore, this issue is more properly addressed at a later time for the 1985 model year. In the interim, EPA is inviting additional comments from interested parties on the adequacy of the performance-exemption criteria so that all possible evidence can be considered by the Agency before a final decision is made on the need to revise this provision. At the same time, the Agency will also consider comments from interested parties on the need for and desirability of extending sales-based exemptions into future model years since EPA has not reached a final decision on whether continuation of this option is necessary for those years. Further information on the comment period for both the sales and performance exemption is provided in the Public Participation section.

C. High-Altitude Certification

The certification requirements for 1984 and later LDTs are unchanged from the requirements that are currently applicable to 1982 and 1983 vehicles. These certification requirements were amply described in the Background section of that preamble, and hence, there is no need to repeat that

discussion here. However, one aspect of high-altitude certification does deserve additional attention, i.e., self-certification. For 1984 and later, manufacturers will continue to have the option of self-certifying non-exempt LDTs at high altitude by submitting statements to EPA attesting that engineering evaluations, based on appropriate emissions test data, were used to determine compliance with the hight-altitude standards. This self-certification option is being continued so that the burden of complying with proportional standards does not significantly increase in 1984 from past years. This program should save the LDT industry a significant amount of money when compared to the costs of full certification at high-altitude, which would require expensive testing labs and expensive prototype vehicles for a relatively small percentage of a manufacturer's LDT sales. A self-certification program is therefore consistent with the President's goal of minimizing the costs of environmental regulations. Also, manufacturers should have the capability to evaluate high-altitude LDT emissions accurately without direct testing, since they have a valid emissions data base of LDTs certified at low altitude and can extrapolate this data to high-altitude conditions. More discussion on the development and appropriateness of the self-certification program for high altitude can be found in a previous rulemaking notice (46 FR 23053).

Although self-certification should accurately reflect the emissions of new LDTs, there is some concern of an increase in risk, when compared to full certification, that some LDTs will not be complying with high-altitude standards. However, non-exempt LDTs will still be liable for meeting applicable standards while in-use at high-altitude and EPA will also continue its emission factors program of testing in-use LDTs at high altitude. This should provide assurance that self-certification will not result in air quality degradation in areas above 4,000 feet. Thus, self-certification should be a more cost-effective approach for reducing emissions at high altitude than full certification.

D. Technological Feasibility

The technological feasibility of high altitude HC, CO, and NO_x standards is primarily dependent on the degree to which emissions must be reduced from a low-altitude vehicle when it is operated at high altitude. By retaining the proportional nature of the 1982–83 high altitude standards in the new 1984 high altitude standards, as previously discussed, EPA has also essentially retained the degree to which emissions must be controlled from a low-altitude vehicle at high altitude. Consequently, the technical feasibility of the new 1984 proportional standards is basically the same as that of the readily achievable 1982–83 proportional standards. This is especially true since LDT manufacturers are projecting the continued use of non-electronic (nonfeedback) emission control systems at low altitude.

This similarity in technical difficulty, therefore, will manifest itself in requiring essentially the same emission control hardware on 1984 LDTs as is currently required on 1982–83 LDTs. The majority of high-altitude LDTs will require carburetor modifications to produce leaner fuel/air mixtures, recalibration of existing adjustable parameters such as spark timing, and the addition of an aneroid (pressure-sensing device) to the carburetor to maintain performance when the vehicle is driven at low altitude by enriching the fuel/air mixture. Thus, the new 1984 proportional standards will not require any new emission control hardware, even though the standards are numerically more stringent, i.e., the numerical values for HC and CO are lower. The evaporative HC control technology will, of course, remain unchanged for 1984 since the level of the standard is unchanged.

The control hardware discussed above is the control technology EPA projected in the January 1980 Notice of Proposed Rulemaking would be required to meet these standards (45 FR 5988).[2] The comments received subsequent to that proposal supported the technological feasibility of the new proportional standards and no comments received since that time have challenged that finding.

E. Leadtime

The leadtime which is necessary for manufacturers to comply with high-altitude standards depends primarily on the technical complexity of the requirements. Discussions in the previous sections of this preamble have clearly shown that the technical complexity and, indeed, the control hardware, are essentially the same for both the 1982–83 proportional standards and the 1984 proportional standards. For these reasons, the best basis for determining whether or not adequate leadtime exists for implementing proportional standards for 1984 is to compare these requirements against past experience with similar requirements for the 1982 model year.

In promulgating the 1982–83 proportional standards, EPA allowed about nine months for manufacturers to develop, certify, and produce vehicles (November 1980 to August 1981). This was, admittedly, a shorter period of time than normally would be provided to respond to new emission standards. However, this leadtime was judged to be adequate since sales exemptions and, eventually, self-certification were included in the 1982 regulations to remove any jeopardy of not being able to conclude certification on time. The adequacy of the 9-month leadtime is now apparent from the fact that manufacturers' scheduled introduction dates for 1982 model year vehicles were not adversely affected. Based on this past experience with standards of equivalent technological complexity (i.e., similar control technology, sales-based exemptions, and self-certification), EPA concludes that adequate leadtime exists for implementing new proportional standards since at least nine months will be available between the promulgation of these rules and the normally scheduled production date for 1984 model year LDTs.

This conclusion is further supported in that manufacturers now have substantial experience in complying with the 1982–83 proportional standards and this experience should be useful in reducing the time which might otherwise be necessary to develop the required high-altitude engine calibrations for 1984. Also, manufacturers already may have begun to develop the necessary emission controls for 1984 since EPA has clearly stated the Agency's intent to promulgate new proportional standards over the past several months, as discussed previously. Therefore, EPA believes that the leadtime provided by this rulemaking action is adequate.

F. Economic Impact

The incremental cost of these regulations is due primarily to new development and certification cost.[3] While these regulations will require control hardware to be added to low altitude LDTs, this is essentially the same hardware already required by the

[2] Emission control hardware projections were presented in detail in the Draft Regulatory Analysis of the proposed standards which is available for review in the public docket.

[3] The economic impacts described herein are incremental to those associated with the current 1982–83 proportional high-altitude standards. However, it should be noted that not all of the costs associated with the 1982–83 standards continue beyond the 1983 model year. In particular, the development and certification costs associated with those standards were amortized over only two years in that rulemaking and do not apply to the 1984 model year and beyond (45 FR 86984).

1982 and 1983 regulations. Thus, the incremental cost due to hardware requirements should be zero. There also will be no incremental cost for Selective Enforcement Auditing (SEA) of high-altitude LDTs since the Agency will continue its present policy of no high-altitude SEA testing. This policy is consistent with statements made by the President's Special Task Force on the U.S. automotive industry [4] and was implemented by EPA on April 13, 1982 (46 FR 21628).

As discussed previously, LDTs must undergo recalibration due to the new proportional standards. Based on an analysis of the development costs in the 1982–83 interim program,[5] and assuming all LDT models require development, the total development cost would be about $3.2 million in 1984. For each succeeding year, development costs would only occur on new models being introduced, amounting to about $320,000 per year.

The above development costs are likely to be overestimated for three principal reasons. First, the self-certification provision included in these regulations will significantly reduce the cost of development from that originally projected in the 1982–83 interim program, which served as the basis for the estimates. The economic impact analysis of the interim program assumed "full" certification would be in effect. This would have required vehicle calibrations to be developed using actual vehicle tests in order to demonstrate compliance with the high-altitude standards at the time of certification. Many of these expensive vehicle tests will be eliminated if manufacturers take advantage of the self-certification provision, which relies predominantly on engineering evaluations to determine compliance with the standards. Second, all LDT engine families will not require development due to this regulation since approximately 30 percent of the LDT engine families will be exempted from meeting the new proportional standards, at least for the 1984 model year. Third, many families would have required new calibrations even without the new proportional standards because of changes in the low-altitude emission standards.

In addition to development, manufacturers of LDTs must also certify vehicles for 1984. The total cost of certification for high-altitude LDTs will be approximately $120,000 for 1984. For each year after 1984, certification will occur only for new models and will cost about $120,000 per year. Referring back to the above discussion, these costs are likely to be overestimated since they are based on the estimates contained in EPA's analysis of the interim high-altitude program, which assumed full certification, and do not reflect the potential savings due to self-certification.

Thus, the cost of these regulations in 1984 is estimated to be at most about $3.2 million. After 1984, the cost will decrease to about $320,000 per year. The total cost of these regulations to the nation during the first 5 years is conservatively estimated at about $4.4 million (discounted at 10 percent to 1984). Expressed differently, if these costs are amortized over the number of high-altitude LDTs sold during the first 5 years of the regulations, the average cost increase per high-altitude LDT will be no more than about $9. The potential fuel economy savings of the 1982 and 1983 high-altitude standards should remain unchanged in 1984 and later years as a result of these standards.

The economic impact of complying with these new proportional high-altitude LDT standards was also analyzed in the proposed rulemaking for the 1982–83 high-altitude standards (45 FR 5988). Generally larger costs were estimated at that time compared to those described above, because EPA originally projected that more expensive control technology would be required by some LDTs. However, even with those somewhat higher costs, EPA also concluded at that time that there would be no significant adverse economic impacts for LDT manufacturers, high-altitude dealerships, or vehicle purchasers. Thus, the same conclusion should hold for this rulemaking with its lower cost. It is true that the economic condition of the LDT industry has changed since the time of the original analyses. However, a cost of $9 per LDT sold at high altitude is very small compared to the total cost of the vehicle and would be very unlikely to affect sales or profits on high-altitude LDTs significantly.

G. Air Quality

These standards would reduce HC emissions by 20 percent or 0.05 tons and CO emissions by 40 percent or 1.45 tons compared to no high altitude control over the lifetime of each 1984 and later LDT. Over a 5-year sales period, the LDT lifetime reductions would be 23,800 tons HC and 690,000 tons of CO in high-altitude areas. These incremental reductions compare favorably with the original reductions associated with the 1982–83 high-altitude LDT regulations.

These emission reductions will result in improved air quality. An analysis of the ambient CO concentrations from 1986 to 1995 in selected high-altitude cities shows a reduction of up to 2 percent in expected second highest 8-hour CO concentrations from the 1979 base year. An analysis of ambient ozone concentrations shows that from 1986 to 1995, up to a 1 percent reduction can be expected in the maximum 1-hour ozone concentrations from the 1979 base year. While small, these improvements are needed since some high-altitude areas have significant air quality problems.

H. Cost Effectiveness

Using the lifetime emission reductions of 0.045 metric tons HC and of 1.3 metric tons CO, and dividing the $9 cost evenly between HC and CO control, the cost effectiveness of these regulations is $100 per metric ton HC and $3 per metric ton CO. These cost-effectiveness values compare favorably to the cost-effectiveness values of the 1982–83 high-altitude LDT standards. They also compare very favorably with the cost effectiveness values of other emission control strategies, which range up to about $735 per metric ton HC and $70 per metric ton CO.

I. Alternatives

Two alternative control strategies to these 1984 high-altitude LDT standards were considered by the Agency: (1) eliminating high-altitude standards altogether for 1984 and later LDTs, and (2) continuing the 1982–83 standards into 1984 and later model years.

The first alternative would eliminate EPA's mandatory high-altitude program for 1984 and later LDTs (only voluntary performance adjustments would be left). However, the mandatory high-altitude program of emission standards was initiated because EPA found that motor vehicles which demonstrated compliance at low altitude generally produced 50 percent more HC and 100 percent more CO when tested at 500 feet above sea level. The Agency also found that in most high-altitude urban areas, motor vehicles accounted for more than half of the total HC emissions and almost all CO emissions. Given that a number of large high-altitude urban centers are still in violation of the National Ambient Air Quality Standards (NAAQS) for CO and ozone (of which HC is a precursor), cost effective control of HC and CO from motor vehicles still appears necessary. Therefore, the

[4] "Actions to Help the U.S. Auto Industry," The White House, Office of the Press Secretary, April 6, 1981.

[5] A detailed description of these development costs is provided in a memorandum to the record and in the Final Regulatory Analysis of the 1982–83 high-altitude program which is available for review in the public docket.

alternative of setting no standards and essentially eliminating the high-altitude LDT program would be inappropriate.

The second option considered was a continuation of the 1982–83 high-altitude standards into 1984 and beyond. Such a continuation would actually be a relaxation of the technical stringency of the current standards because the emission control capability of low-altitude LDTs will improve dramatically in 1984. In fact, due to the new 1984 low-altitude standards, some 1984 LDTs may be able to meet the 1982–83 high-altitude standards without any modifications and, overall, little emission reduction would occur from those requiring control. Nevertheless, many of the costs of high-altitude emission control would remain since high-altitude calibrations would still need to be developed, vehicles certified, and inventories maintained. Thus, under this approach, few emission reductions would be realized, while many costs of full proportional standards would still remain. The cost effectiveness of this approach should actually be worse than that of the full proportional standards, since much greater emission reductions can be obtained for a slight increase in cost. Given that further cost-effective emission reductions still appear to be needed, the option of continuing the current standards was rejected.

III. Description of Changes From Proposed Regulations

These final regulations for 1984 and later model year LDTs are in all substantive respects identical to the regulations proposed for the 1983 model year, with the exception of the exemption and self-certification provisions. Those provisions, which are described in detail above, are a continuation of provisions previously promulgated for 1983 model year light-duty trucks.

IV. Response to Comments

The comments received in response to the proposed regulations generally supported the Agency's approach, including the technological and economic feasibility of the proposed standards. No information available to EPA indicates that the proposed standards would not continue to be technologically feasible; in fact, the continuation of the sales exemption and self-certification provisions improve the projections of technological feasibility made at the time of proposal. In any event, a detailed response to the comments received appears in a separate document in the public docket for this action, entitled, "Summary and Analysis of Comments," and dated October, 1980. That document was prepared in support of the 1982–83 standards previously promulgated, but also contains an analysis of the comments relating to the provisions promulgated in today's final action.

V. Amendments to Current Regulations

These final regulations also amend the existing paragraph (a)(1)(iii)(H) of § 86.082–35 of Subpart A. This paragraph explains the labeling requirements for each LDT exempted from high-altitude certification because of poor performance at high-altitude. The paragraph incorrectly refers to specifications for sales-based exemptions of LDTs (§ 86.083–9(g)(2)) and should refer to criteria for performance exemptions (§ 86.083–9(g)(4)). This change was inadvertently omitted in the interim final rulemaking published on May 20, 1982 (45 FR 21793) which extended the LDT sales-based exemptions into the 1983 model year.

VI. Judicial Review

The final action taken today is nationally applicable. Under section 307(b)(1) of the Clean Air Act, judicial review may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Petitions for judicial review must be filed on or before March 14, 1983.

Legal Authority

Statutory authority for this action is provided by section 202(a) and 301(a) of the Clean Air Act [42 U.S.C. 7521 and 7601]. Section 202(a)(1) of the Act provides, in part, that "* * * the Administrator shall by regulation prescribe * * * standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles * * * which may reasonably be anticipated to endanger the public health or welfare * * *." Section 202(a)(2) of the Act provides, in part, that "* * * any regulation prescribed under paragraph (1) * * * shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period." Section 301(a) provides, in part, that "the Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this Act."

Although this is a final rule, EPA requests manufacturers and other interested persons to submit comments on the need to continue sales-based exemptions beyond the 1984 model year and on the appropriateness of the current performance-based exemption criteria. If, as a result of these comments, amendments to the regulations are needed, EPA will initiate the rulemaking process to implement the appropriate changes.

Please submit written comments to: United States Environmental Protection Agency, Central Docket Section (A–130), ATTN: Docket No. A–79–14, Waterside Mall, West Tower Lobby, Gallery I, 401 M Street SW, Washington, D.C. 20460.

The docket may be inspected between 8:00 am and 4:00 pm, Monday through Friday. A reasonable fee may be charged for copying service.

Administrative Designation

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it has an annual effect on the economy of less than $100 million and it involves no significant adverse effect on competition, productivity, investment, employment, or innovation.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Effect on Small Entities

The Regulatory Flexibility Act, 5 U.S.C. 601 et seq., requires that EPA certify regulations that do not have a significant impact on a substantial number of small entities. Small entities potentially affected by this regulation include the automobile dealerships selling LDTs in designated high-altitude areas. These dealerships could potentially be adversely affected in two days. One, the price of a LDT could increase to the point of reducing sales. Two, the availability of certain models could be eliminated, again reducing sales.

EPA has designed these regulations to ensure that neither situation will occur. The cost of these regulations has already been described and should be very close to that of the high-altitude regulations for 1982 and 1983 model year light-duty trucks, which are not currently causing any hardships. Also, the extension of the 30 percent sales exemption should easily ensure model availability. Therefore, I certify that this regulation does not have any significant impact on small entities.

Impacts on Reporting Requirements

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980

U.S.C. 3501 *et seq.* and have been assigned OMB control number 2000-0390.

List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: December 20, 1982.

Anne M. Gorsuch,

Administrator.

PART 86—[AMENDED]

For the reasons set forth in the preamble, Part 86 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. Section 86.082–35 is amended by revising paragraph (a)(1)(iii)(H) as follows:

§86.082–35 Labeling.

(a) * * *

(1) * * *

(iii) * * *

(H) A statement, if applicable, that the vehicle has been exempted from meeting the high-altitude gaseous emission standards as specified in § 86.082–8(g)(2) and § 86.083–9(g)(4) and that its unsatisfactory performance under high-altitude conditions make it unsuitable for principal use at high altitude.

* * * * *

2. Section 86.084–9 is amended by revising paragraph (a)(1) introductory text, (d), and (e), and adding paragraphs (f) and (g) as follows:

§ 86.084–9 Emission standards for 1984 and later model year light-duty trucks.

(a)(1) The standards set forth in paragraphs (a) through (c) of this section shall apply for trucks sold for principal use at other than a designated high-altitude location. Exhaust emissions from 1984 and later model year light-duty trucks shall not exceed:

* * * * *

(d)(1) Model year 1984 and later light-duty trucks sold for principal use at designated high-altitude locations shall be capable of meeting the following exhaust emission standards when tested under high-altitude conditions.

(i) *Hydrocarbons.* 1.0 grams per vehicle mile (0.62 grams per vehicle kilometer);

(ii) *Carbon Monoxide.* 14 grams per vehicle mile (8.7 grams per vehicle kilometer);

(iii) *Oxides of Nitrogen.* 2.3 grams per vehicle mile (1.43 grams per vehicle kilometer).

(2) The standards set forth in paragraph (d)(1)(i), (d)(1)(ii)(A), and (d)(1)(iii) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B of this part and measured and calculated in accordance with those procedures.

(e)(1) Fuel evaporative emissions from 1984 and later model year gasoline-fueled light-duty trucks sold for principal use at a designated high-altitude location shall not exceed 2.6 grams per test when tested under high-altitude conditions.

(2) The standard set forth in paragraph (e)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

(f) No crankcase emissions shall be discharged into the ambient atmosphere from any 1984 and later model year gasoline-fueled light-duty trucks sold for principal use at a designated high-altitude location.

(g)(1) Any light-duty truck that a manufacturer wishes to certify for sale at low altitude must be capable of meeting high-altitude emission standards (specified in paragraphs (d) through (f) of this section). The manufacturer may specify vehicle adjustments or modifications to allow the vehicle to meet high-altitude standards but these adjustments or modifications may not alter the vehicle's basic engine, inertia weight class, transmission configuration, and axle ratio.

(i) A manufacturer may certify unique configurations to meet the high-altitude standards but is not required to certify these vehicle configurations to meet the low-altitude standards.

(ii) Any adjustments or modifications that are recommended to be performed on vehicles to satisfy the requirements of paragraph (g)(1) of this section:

(A) Shall be capable of being effectively performed by commercial repair facilities.

(B) Must be included in the manufacturer's application for certification.

(2) The manufacturer may exempt 1984 model year light-duty trucks from high-altitude emission standards as set forth in paragraph (d) of this section. No specific justification for the exemption need be included in the application for certification. The exemptions may include up to 30 percent of the manufacturer's projected light-duty truck sales for principal use at designated high-altitude locations for the 1984 model year. For this purpose, the sales percentage will be based on sales projections for individual vehicle configurations to be exempted. Exemptions will cover individual vehicle configurations, or groups of vehicle configurations, as specified by the manufacturer.

(3) The sale of a vehicle for principal use at a designated high-altitude location that has been exempted as set forth in paragraph (g)(2) of this section will not be considered a violation of section 203(a)(1) of the Clean Air Act.

(4) Exemption for vehicles from the high-altitude emission standards as set forth in paragraph (d) of this section may be granted by the Administrator for vehicles that are expected to have unsatisfactory performance under high-altitude conditions. Such exemptions will be granted upon petition by the manufacturer that the vehicle falls within the definition of vehicles eligible for exemption. A vehicle shall be considered eligible for exemption if its design parameters (displacement-to-weight ratio (D/W) and engine speed-to-vehicle speed (N/V)) simultaneously fall within the exempted range for that manufacturer for that year. The exempted range is determined according to the following procedure:

(i) The manufacturer shall graphically display the D/W and N/V data of all vehicle configurations it will offer for the model year in question. The axis of the abscissa shall be D/W (where (D) is the engine displacement expressed in cubic centimeters and (W) is the equivalent vehicle test weight expressed in pounds), and the axis of the ordinate shall be N/V (where (N) is the crank shaft speed expressed in revolutions per minute and (V) is the vehicle speed expressed in miles per hour). At the manufacturer's option, either the 1:1 transmission gear ratio or the lowest numerical gear ratio available in the transmission will be used to determine N/V. The gear selection must be the same for all N/V data points on the manufacturer's graph. For each transmission/axle ratio combination, only the lowest N/V value shall be used in the graphical display.

(ii) The product line is then defined by the equation, $N/V = C(D/W)^{-0.9}$, where the constant, (C), is determined by the requirement that all the vehicle data points either fall on the line or lie to the upper right of the line as displayed on the graph.

(iii) The exemption line is then defined by the equation, $N/V = C(0.84\ D/W)^{-0.9}$, where the constant, (C), is the same as that found in paragraph (g)(4)(ii) of this section.

(iv) The exempted range includes all values of N/V and D/W which simultaneously fall to the lower left of the exemption line as drawn on the graph.

(5) No exemptions will be granted under paragraph (g)(4) of this section to any manufacturer that has exempted vehicle configurations as set forth in paragraph (g)(2) of this section.

(6) The sale of a vehicle for principal use at a designated high-altitude location that has been exempted as set forth in paragraph (g)(4) of this section will be considered a violation of section 203(a)(1) of the Clean Air Act.

3. Section 86.084–21 is amended by revising paragraphs (b)(2) and (b)(4)(ii)(C)(*5*) as follows:

§ 86.084–21 Application for certification.

* * * * *

(b) * * *

(2) Project U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the vehicles (or engines) for which certification is requested. The sales data shall also include the altitude of intended sale for light-duty trucks.

* * * * *

(4) * * *

(ii) * * *

(C) * * *

(*5*)(*i*) A statement of recommended maintenance and procedures necessary to assure that the vehicles (or engines) covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(*ii*) A description of vehicle adjustments or modifications necessary, if any, to assure that light-duty trucks covered by a certificate of conformity conform to the regulations while being operated at any altitude locations, and a statement of the altitude at which the adjustments or modifications apply.

* * * * *

4. Section 86.084–24 is amended by adding paragraph (b)(1)(v), redesignating and revising paragraphs (b)(1)(vii) (D) and (E) as (b)(1) (viii) and (ix), respectively, and adding paragraph (b)(1)(x) to read as follows:

§ 86.084–24 Test vehicles and engines.

* * * * *

(b) *Emission data*—(1) * * *

(v) For high-altitude exhaust emission compliance for each engine family, the manufacturer shall follow one of the following procedures:

(A) The manufacturer will select for testing under high-altitude conditions the vehicle expected to exhibit the highest emissions from the nonexempt vehicles selected in accordance with § 86.084–24(b)(1) (ii), (iii), and (iv) of this section or,

(B) In lieu of testing vehicles according to paragraph (b)(1)(v)(A) of this section, a manufacturer may provide a statement in its application for certification that, based on the manufacturer's engineering evaluation of such high-altitude emission testing as the manufacturer deems appropriate,

(*1*) [Reserved]

(*2*) That light-duty trucks sold for principal use at designated high-altitude locations comply with the high-altitude emission requirements and, that all other light-duty trucks sold at low altitude and not exempt under § 86.084–9(g)(2) are capable of being modified to meet high-altitude standards.

* * * * *

(viii) For high-altitude evaporative emission compliance for each evaporative emission family, the manufacturer shall follow one of the following procedures:

(A) The manufacturer will select for testing under high-altitude conditions the one nonexempt vehicle previously selected under paragraphs (b)(1)(vii) (B) or (C) of this section which is expected to have the highest level of evaporative emissions when operated at high altitude or

(B) In lieu of testing vehicles according to paragraph (b)(1)(viii)(A) of this section, a manufacturer may provide a statement in its application of certification that based on the manufacturer's engineering evaluation of such high-altitude emission testing as the manufacturer deems appropriate,

(*1*) [Reserved]

(*2*) That light-duty trucks sold for principal use at designated high-altitude locations comply with the high-altitude emission requirements and that all other light-duty trucks sold at low altitude and not exempt under § 86.084–9(g)(2) are capable of being modified to meet high-altitude standards.

(ix) Vehicles selected under paragraph (b)(1)(v)(A) of this section may be used to satisfy the requirements of (b)(1)(viii)(A) of this section.

(x) (Light-Duty Trucks Only) (A) The manufacturer may reconfigure any of the low-altitude emission-data vehicles to represent the vehicle configuration required to be tested at high altitude.

(B) The manufacturer is not required to test the reconfigured vehicle at low altitude.

* * * * *

5. Section 86.084–26 is amended by revising the heading and by adding paragraphs (b)(4)(i)(B), (b)(4)(i)(C), (b)(4)(i)(D), (b)(4)(ii)(B), and (b)(4)(ii)(C), (b)(4)(ii)(D) as follows:

§ 86.084–26 Mileage and service accumulation; emission requirements.

* * * * *

(b) * * *

(4) * * *

(i) * * *

(B) Emission tests for emission-data vehicle(s) selected for testing under § 86.084–24(b)(1)(v) or (b)(1)(viii) shall be conducted at the mileage at which the engine-system combination is stabilized for emission testing or at 6,436 kilometers (4,000 miles) under high-altitude conditions.

(C) Exhaust and evaporative emission tests for emission-data vehicle(s) selected for testing under § 86.084–24(b)(1) (ii), (iii), (iv)(A), or (vii)(B) shall be conducted at the mileage at which the engine-system combination is stabilized for emission testing or at the 6,436-kilometer (4,000-mile) test point under low-altitude conditions.

(D) For each engine family, the manufacturer will select one vehicle previously selected under § 86.084–24(b) (1) (ii) through (b) (1) (iv) to be tested under high-altitude conditions. If the manufacturer recommends adjustments or modifications in order to conform to emission standards at high altitude, such adjustments or modifications shall be made to the test vehicle (in accordance with the instructions to be provided to the ultimate purchaser) before being tested under high-altitude conditions.

(ii) * * *

(B) Emission tests for emission-data vehicle(s) selected for testing under § 86.084–24(b) (1) (v) shall be conducted at the mileage at which the engine-system combination is stabilized for emission testing or at the 6,436-kilometer (4,000-mile) test point under low-altitude conditions.

(C) Exhaust and evaporative emission tests for emission-data vehicle(s) selected for testing under § 86.084–24(b) (1) (ii), (iii), and (iv) shall be conducted at the mileage at which the engine-system combination is stabilized for emission testing or at the 6,436-kilometer (4,000-mile) test point under low-altitude conditions.

(D) For each engine family, the manufacturer will select one vehicle previously selected under § 86.084–24(b) (1) (ii) through (b) (1) (iv) to be tested under high-altitude conditions. If the manufacturer recommends adjustments or modifications in order to conform to emission standards at high altitude, such adjustments or modifications shall be made to the test vehicle (in accordance with the instructions to be provided to the ultimate purchaser) before being tested under high-altitude conditions.

* * * * *

6. Section 86.084–30 is amended by revising paragraphs (a)(3), (a)(4), (a)(5), (b)(1)(ii)(D), and (b)(1)(ii)(E) as follows:

§ 86.084–30 Certification.

(a) * * *

(3) One such certificate will be issued for each engine family. For gasoline-fueled light-duty vehicles and light-duty trucks, one such certificate will be issued for each engine family-evaporative emission family combination.

(i) *Light-Duty Vehicles.* Each certificate will certify compliance with no more than one set of standards.

(ii) *Light-Duty Trucks.* Each certification will certify compliance with no more than one set of standards except for low-altitude standards and high-altitude standards. The certificate shall state that it covers vehicles sold or delivered to an ultimate purchaser for principal use at a designated high-altitude location only if the vehicle conforms in all material respects to the design specifications that apply to those vehicles described in the application for certification at high altitude.

(4) The adjustment or modification of any light-duty truck in accordance with instructions provided by the manufacturer for the altitude where the vehicle is principally used will not be considered violation of Section 203(a)(3) of the Clean Air Act. A violation of Section 203(a)(1) of the Clean Air Act occurs when any manufacturer sells or delivers to an ultimate purchaser any light-duty truck, subject to the regulations under the Act, which is not configured to meet high-altitude requirements:

(i) At a designated high-altitude location, unless such manufacturer has substantial reason to believe that such motor vehicle will not be used principally at a designated high-altitude location; or

(ii) At an other than designated high-altitude location, when such manufacturer has reason to believe that such motor vehicle will be used principally at a designated high-altitude location.

(5) For the purpose of paragraph (a) of this section, "designated high-altitude location" is any county which has substantially all of its area located above 1,219 meters (4,000 feet) and which is identified below:

Counties Located Substantially Above 1,219 Meters (4,000 Feet) in Elevation

State of Arizona

Apache	Navajo
Cochise	Yavapai
Coconino	

State of Colorado

Adams	Kit Carson
Alamosa	Lake
Arapahoe	La Plata
Archuleta	Larimer
Boulder	Las Animas
Chaffee	Lincoln
Cheyenne	Mesa
Clear Creek	Mineral
Conejos	Moffat
Costilla	Montezuma
Crowley	Montrose
Custer	Morgan
Delta	Otero
Denver	Ouray
Dolores	Park
Douglas	Pitkin
Eagle	Pueblo
Elbert	Rio Blanco
El Paso	Rio Grande
Fremont	Routt
Garfield	Saquache
Gilpin	San Juan
Grand	San Miguel
Gunnison	Summit
Hinsdale	Teller
Huerfano	Washington
Jackson	Weld
Jefferson	

State of Idaho

Bannock	Franklin
Bear Lake	Fremont
Bingham	Jefferson
Blaine	Lemhi
Bonneville	Madison
Butte	Minidoka
Camas	Oneida
Carribou	Power
Cassia	Teton
Clark	Valley
Custer	

State of Montana

Beaverhead	Madison
Deer Lodge	Meagher
Gallatin	Park
Jefferson	Silver Bow
Judith Basin	Wheatland
Powell	

State of Nebraska

Banner	Kimball
Cheyenne	Sioux

State of Nevada

Carson City	Lyon
Douglas	Mineral
Elko	Nye
Esmeralda	Pershing
Eureka	Storey
Humboldt	Washoe
Lander	White Pine
Lincoln	

State of New Mexico

Bernalillo	Mora
Catron	Rio Arriba
Colfax	Roosevelt
Curry	Sandoval
De Baca	San Juan
Grant	San Miguel
Guadalupe	Santa Fe
Harding	Sierra
Hidalgo	Socorro
Lincoln	Taos
Los Alamos	Torrance
Luna	Union
McKinley	Valencia
Otero	

State of Oregon

Harney	Klamath
Lake	

State of Texas

Jeff Davis	Parmer
Hudspeth	

State of Utah

Beaver	Piute
Box Elder	Rich
Cache	Salt Lake
Carbon	San Juan
Daggett	Sanpete
Davis	Sevier
Duchesne	Summit
Emery Garfield	Tooele
Grand	Uintah
Iron	Utah
Juab	Wasatch
Kane	Wayne
Millard	Weber
Morgan	

State of Wyoming

Albany	Natrona
Campbell	Niobrara
Carbon	Park
Converse	Platte
Fremont	Sublette
Goshen	Sweetwater
Hot Springs	Teton
Johnson	Uinta
Laramie	Washakie
Lincoln	Weston

* * * * *

(b)(1) * * *

(ii) * * *

(D) The emission-data vehicle(s) selected under § 86.084–24(b)(1)(v) shall represent all vehicles of the same engine-system combination as applicable.

(E) The emission-data vehicle(s) selected under § 86.084–24(b)(1)(viii) shall represent all vehicles of the same evaporative control system within the evaporative emission family, as applicable.

* * * * *

7. Section 86.084–35 is amended by revising paragraphs (a)(2)(iii)(D), and (a)(2)(iii)(G), removing and reserving paragraph (a)(1)(iii)(F), and adding paragraphs (a)(2)(iii)(H), (a)(2)(iii)(I), and (a)(2)(iii)(J) as follows:

§ 86.084–35 Labeling.

(a) * * *

(1) * * *

(iii) * * *

(F) [Reserved]

* * * * *

(2) * * *

(iii) * * *

(D) Engine tune-up specifications and adjustment, as recommended by the manufacturer in accordance with the altitude at which the vehicle is to be sold for principal use to the ultimate purchaser, including but not limited to idle speed(s), ignition timing, the idle

air/fuel mixture setting procedure and value (e.g., idle CO, idle air/fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable), as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tune-up and what accessories (e.g., air conditioner), if any should be in operation. If adjustments or modifications are necessary to ensure compliance with emission standards at either high or low altitude, the manufacturer shall either include the instructions for such adjustments on the label, or indicate on the label where instructions for such adjustments may be found. The label shall indicate whether the engine tune-up or adjustment specifications are applicable to high altitude, low altitude or both.

* * * * *

(G) A statement, if applicable, that the adjustments or modifications indicated on the label are necessary to ensure emission control compliance at the altitude specified.

(H) A statement, if applicable, that the high-altitude vehicle was designed or modified for principal use at high altitude. This statement must be affixed by the manufacturer at the time of assembly or by any dealer who performs the high-altitude modification or adjustment prior to sale to an ultimate purchaser.

(I) A statement, if applicable, that the vehicle has been exempted from meeting the high-altitude gaseous emission standards as specified in § 86.084–9(g)(4) or § 86.085–9(g)(2), as applicable, and that its unsatisfactory performance under high-altitude conditions makes it unsuitable for principal use at high altitude.

(J) A statement, if applicable, that the vehicle has been exempted from meeting the high-altitude gaseous emissions standards as specified in § 86.084–9(g)(2) and, as a consequence, the emission performance warranty provisions of 40 CFR Part 85, Subpart V do not apply when the vehicle is tested at high altitude.

* * * * *

8. Section 86.084–38 is amended by adding paragraph (e)(3) as follows:

§ 86.084–38 Maintenance instructions.

* * * * *

(e) * * *

(3) Such instructions shall indicate what adjustments or modifications, if any, are necessary to allow the vehicle to meet applicable emission standards at elevations above 4,000 feet, or at elevations of 4,000 feet or less.

* * * * *

9. Section 86.085–9 is amended by revising the heading and by revising paragraph (a)(1) introductory text, (d) and (e), and adding paragraphs (f) and (g) as follows:

§ 86.085–9 Emission standards for 1985 and later model year light-duty trucks.

(a)(1) The standards set forth in paragraphs (a) through (c) of this section shall apply for trucks sold for principle use at other than a designated high-altitude location. Exhaust emissions from 1985 and later model year light-duty trucks shall not exceed:

* * * * *

(d)(1) Model year 1985 and later light-duty trucks sold for principal use at a designated high-altitude location shall be capable of meeting the following exhaust emission standards when tested under high-altitude conditions.

(i) *Hydrocarbons.* 1.0 grams per vehicle mile (0.62 grams per vehicle kilometer);

(ii) *Carbon Monoxide.* 14 grams per vehicle mile (8.7 grams per vehicle kilometer);

(iii) *Oxides of Nitrogen.* 2.3 grams per vehicle mile (1.43 grams per vehicle kilometer).

(2) The standards set forth in paragraph (d)(1) of this section refer to the exhaust emitted over a driving schedule and to idle emissions collected under the conditions as set forth in Subpart B of this part and measured and calculated in accordance with those procedures.

(e)(1) Fuel evaporative emissions from 1985 and later model year gasoline-fueled light-duty trucks sold for principal use at a designated high-altitude location shall not exceed 2.6 grams per test when tested under high-altitude conditions.

(2) The standard set forth in paragraph (e)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

(f) No crankcase emissions shall be discharged into the ambient atmosphere from any 1985 and later model year gasoline-fueled light-duty trucks sold for principal use at a designated high-altitude location.

(g)(1) All light-duty trucks shall be capable (by initial design, adjustment, or modification) of meeting the applicable emission standards set forth in this section for any altitude of operation. Such adjustments and modifications shall:

(i) Be capable of being effectively performed by commercial repair facilities.

(ii) All adjustment and modifications recommended by the manufacturer to be performed on vehicles to satisfy this requirement must be approved in advance by EPA in accordance with § 86.079–22.

(2) Exemption for vehicles from the high-altitude emission standards as set forth in paragraph (d) of this section may be granted by the Administrator for vehicles that are expected to have unsatisfactofy performance under high-altitude conditions. Such exemptions will be granted upon petition by the manufacturer that the vehicle falls within the definition of vehicles eligible for exemption. A vehicle shall be considered eligible for exemption if its design parameters (displacement-to-weight ratio (D/W) and engine speed-to-vehicle speed (N/V)) simultaneously fall within the exempted range for that manufacturer for that year. The exempted range is determined according to the following procedure:

(i) The manufacturer shall graphically display the D/W and N/V data of all vehicle configurations it will offer for the model year in question. The axis of the abscissa shall be D/W (where (D) is the engine displacement expressed in cubic centimeters and (W) is the equivalent vehicle test weight expressed in pounds), and the axis of the ordinate shall be N/V (where (N) is the crank shaft speed expressed in revolutions per minute and (V) is the vehicle speed expressed in miles per hour). At the manufacturer's option, either the 1:1 transmission gear ratio or the lowest numerical gear ratio available in the transmission will be used to determine N/V. The gear selection must be the same for all N/V data points on the manufacturer's graph. For each transmission/axle ratio combination, only the lowest N/V value shall be used in the graphical display.

(ii) The product line is then defined by the equation, $N/V = C(D/W)^{-0.9}$, where the constant, (C) is determined by the requirement that all the vehicle data points either fall on the line or lie to the upper right of the line as displayed on the graph.

(iii) The exemption line is then defined by the equation, $N/V = C(0.84\ D/W)^{-0.9}$, where the constant, (C), is the same as that found in paragraph (g)(2)(ii) of this section.

(iv) The exempted range includes all values of N/V and D/W which simultaneously fall to the lower left of

the exemption line as drawn on the graph.

(3) The sale of a vehicle for principal use at a designated high-altitude location that has been exempted as set forth in paragraph (g)(2) of this section will be considered a violation of section 203(a)(1) of the Clean Air Act.

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Part IV

Environmental Protection Agency

Evaporative Emission Regulation and Test Procedure for 1985 and Later Model Year Gasoline-Fueled Heavy-Duty Vehicles; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL 2241-7]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Evaporative Emission Regulation and Test Procedure for 1985 and Later Model Year Gasoline-Fueled Heavy-Duty Vehicles

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule sets forth regulations for the control of evaporative emissions from gasoline-fueled heavy-duty vehicles (HDGs) for the 1985 model year. HDGs with a Gross Vehicle Weight Rating (GVWR) between 8500 and 14,000 lbs. must meet a 3.0 grams HC per test (gpt) standard while HDGs with a GVWR greater than 14,000 lbs. must meet a standard of 4.0 gpt. The test procedure being promulgated today as Subpart M is a full-SHED (Sealed Housing for Evaporative Determination) procedure similar to the light-duty vehicle evaporative emission test procedure. This regulation has a very favorable cost effectiveness and will bring two additional urban areas into compliance with the ozone standard if Inspection and Maintenance does not occur.

DATES: This regulation takes effect March 14, 1983 and its implementation date is the start of the 1985 model year.

Note.—Under Section 307(b)(1) of the Clean Air Act, EPA has determined that this action is nationally applicable. Accordingly, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of publication. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

ADDRESSES: The information base on which this rulemaking is established is collected in Public Docket No. OMSAPC-79-1 at the Environmental Protection Agency, Central Docket Section, West Tower Lobby, Gallery I, 401 M Street, SW., Washington, D.C. 20460. The docket includes background materials, hearing transcripts, written comments, a Regulatory Support Document containing environmental, economic, and technical analyses performed during the rulemaking, the Summary and Analysis of Comments to the Notice of Proposed Rulemaking (April 30, 1980), and all other documents on which EPA has relied. The docket is open to the public and may be inspected between 8 a.m. and 4 p.m. on weekdays. A reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mr. Timothy D. Mott, U.S. Environmental Protection Agency, Emission Control Technology Division, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone (313) 668-4387.

SUPPLEMENTARY INFORMATION: OMB Control Number: 2000-0390.

I. Description of Action

The following paragraphs describe the components of the rulemaking being promulgated today. Some of these components have been modified from those in the NPRM (45 FR 28922). Where changes from the NPRM have occurred this section briefly discusses the comments that EPA received which led to the changes. A more detailed presentation of the comments and how they relate to the requirements of this Final Rule can be found in the section titled "Public Participation".

A. Standards

EPA is adopting the proposed standard of 3.0 grams HC per test (gpt) for those HDGs with GVWRs between 8500 and 14,000 lbs (Classes IIB and III). For HDGs with GVWRs greater than 14,000 lbs (Classes IV and above), EPA is adopting a standard of 4.0 gpt. The majority of comments to the NPRM and EPA's analysis indicated that the 3.0 gpt level of control for these heavier HDGs would require a significant research and development (R&D) effort by the industry. By adopting the commenters' suggested emission standard, the expense of necessary R&D is greatly reduced. The 4.0 gpt standard represents approximately the same percentage reduction (92%) from uncontrolled levels of these "heavier" HDGs as the 3.0 gpt standard does from uncontrolled levels of the "lighter" HDGs because the uncontrolled "heavier" HDGs emit more evaporative hydrocarbons than do the "lighter" HDGs on average. In addition, since the number of these heavier HDGs is relatively small, this less stringent standard does not change the air quality impact of this regulation significantly.

B. Test Procedure

The test procedure for determining compliance with the standards (Subpart M) remains basically as proposed. It is a full-SHED procedure similar to the light-duty vehicle evaporative emission test procedure. Two changes were made in response to comments on the NPRM. First, the test weight was changed to 50 percent of GVWR instead of the proposed 70 percent because the additional data submitted by commenters showed it to be more representative of real world conditions. Second, data submitted indicated that 20 bench-type load-purge cycles were enough to stabilize new carbon canisters and thus this Final Rule has reduced from 90 to 20 the number of cycles required. Several minor amendments which correct omissions and typographical errors have also been included in the Final Rule.

C. Leadtime

The implementation date of this Final Rule is the start of the 1985 model year. The NPRM called for implementation with the 1983 model year, which was subsequently recognized to be infeasible. The final air quality analysis assumes implementation with the 1984 model year, but promulgation has taken considerably longer than was initially projected and 1985 is now the earliest feasible model year. The effect of the one-year delay (from 1984 to 1985) on the air quality analysis is small and probably would not be discernible. The Agency's analysis (see the "Summary and Analysis of Comments") concludes that implementation with the start of the 1985 model year (i.e., September 1984) will allow adequate leadtime for all manufacturers.

D. Certification Procedure

Another area which is somewhat different from the NPRM is the certification procedure. The Agency received a substantial amount of comment concerning this issue. The procedure described here was developed from the suggestions and data given to EPA and EPA's analyses of those materials. First, the definition of evaporative emission family has been changed by deleting fuel tank volume as a determinant. This will, as one commenter pointed out, significantly reduce the number of families (by 50 to 75 percent) which need to be developed and certified. At the same time it will not adversely affect the level of control because control systems may be overdesigned but not underdesigned. This is discussed in more detail below under this section "Public Participation."

Also, the definition of evaporative emission control system has been changed. This Final Rule adds four determinants (method of carburetor sealing, method of air cleaner sealing, number of storage devices and liquid fuel hose material) while it deletes one (vapor storage material). This new

definition of control system will more clearly differentiate control systems.

Another modification in response to comments allows each manufacturer to determine the amount and kind of testing, if any, it deems necessary to assure compliance with the full-SHED standards. In their comments, several manufacturers claimed that alternatives to the full-SHED test procedure can give results which predict full-SHED test results. These alternatives include bench testing, engineering evaluation, min/SHED testing and component testing. The Agency agrees in part with these comments. In addition, the Agency is not requiring that the manufacturers actually do full-SHED testing because: (1) the standards can be easily met, (2) the technology is proven, and (3) there is considerable light-duty truck (LDT) evaporative emission control experience which is directly applicable to HDGs. For example, EPA expects that for many HDGs which are virtually identical to LDTs (LDTs must meet a 2.0 gpt standard), manufacturers can simply install the LDT control system on the HDGs and be confident of meeting the 3.0 gpt standard without having to do any full-SHED testing.

EPA's analysis (see the "Summary and Analysis of Comments" which can be found in Public Docket No. OMSAPC-79-1) shows that allowing the manufacturers to determine their own testing requirements is the most cost-effective means of certification. Therefore, this Final Rule allows each manufacturer to use whatever test methods, evaluations, etc., it deems necessary to assure itself that its vehicles actually meet the full-SHED standards. The manufacturer is required to certify to EPA by written statement that its HDGs meet the full-SHED standards. The Agency will not normally require the manufacturer to submit its test data or evaluations. Nor does the Agency expect to do any routine confirmatory testing. However, the manufacturer is required to retain such data, evaluations, etc., and must submit this information to the Administrator upon request. Upon receipt of the manufacturer's written statement (and, if requested by EPA, other submitted information), EPA will review the submittal to ensure that the requirements of the Act and Subpart A have been met and then issue a certificate. EPA retains the right to do conformity testing although it generally does not expect to do so.

Heavy-duty gasoline-fueled vehicles with GVWRs greater than 26,000 lbs (Classes VII & VIII) are a special case and the certification procedure being finalized today recognizes this. EPA's projection of future sales of HDGs (see the "Regulatory Support Document") indicates that gasoline-fueled engines are not expected to be sold in those weight classes beyond about 1988. In the first four years of implementation of this regulation (i.e., through 1988) new sales of these HDGs are expected to total only 10,800 vehicles compared to 1,652,000 HDGs in the lower weight categories. This is only 0.65 percent of all HDGs sold in this time period.

If certification procedures were the same for these HDGs as for Classes IIB–VI, manufacturers would need to purchase expensive heavy-duty dynamometers which would no longer be needed after 1988. Since so few of these Class VII and VIII HDGs will be produced, the Agency believes that this cost would be unreasonably high. EPA has determined that, in the alternative, an "engineering evaluation" certification procedure will provide good evaporative emission control without imposing unreasonably heavy cost burdens. Under this approach, manufacturers are required to evaluate their control systems for Class VII and VIII HDGs on the basis of their design features to determine that such vehicles would meet a 4.0 gram HC per SHED test standard. The specific evaluation procedure is left to the manufacturer's discretion. As an example, the manufacturer might determine what differences exist between its Class VI HDGs and its Class VII and VIII HDGs that might be expected to create additional evaporative emissions. The manufacturer might then upgrade its control system for the Class VII and VIII HDGs where those differences occur so as to handle the extra emissions. Each manufacturer must then certify to EPA by written statement that its control systems for these HDGs are *designed* to meet a 4.0 gram HC per SHED test standard. Although the Agency will not normally require the manufacturer to submit its design evaluations, such evaluations must be retained for submission upon request. Once EPA has decided to issue the certificate of compliance, its enforcement plan is to assure that the control systems are manufactured as approved and are properly installed.

E. Incomplete Vehicles

The last major issue on which the NPRM requested comments was the problem of incomplete vehicles. Many HDGs leave the factory in an incomplete configuration. For example, these vehicles may not have the primary cargo carrying device attached or they may not have an engine compartment. These vehicles are sold to companies or individuals ("secondary manufacturers") who complete them to the specifications of the final customer. A problem can arise because the primary manufacturers must certify the vehicles before they are sold but the secondary manufacturers could affect the evaporative emissions of the vehicle when they complete them. By far the most significant instance of this is when a secondary manufacturer wants to add fuel tank capacity beyond that supplied by the primary manufacturer. Increasing the fuel tank capacity will increase the amount of hydrocarbon vapors which must be controlled. If the primary manufacturer's control system is not adequate to handle the extra fuel tank vapors then some of those vapors will escape to the atmosphere unless the control system capacity is upgraded.

The comments EPA received on this issue were extensive and very helpful. They indicated that the number of incomplete HDGs leaving the factories was close to 50 percent of all HDGs, which is considerably more than EPA had projected. The comments also revealed that the secondary manufacturers are usually small companies. Thus, secondary manufacturers cannot be expected to do full-SHED testing since the equipment for such testing is too expensive for these small concerns. Also, primary manufacturers cannot realistically be expected to "seek and find" the worst case completed configuration for each of the incomplete vehicles it sells. Such a search would need to include all of the hundreds of secondary manufacturers and would, therefore, be costly and very time consuming.

This Final Rule addresses the problem of incomplete vehicles. The primary manufacturer will place each of its incomplete vehicles in an evaporative emission family-control system. Each vehicle will be certified for sale with the issuance of the certificate of conformity for that family-system. Each incomplete vehicle will include a label stating the maximum fuel tank capacity for which the control system is valid. If a secondary manufacturer wishes to exceed this maximum fuel tank capacity, it must then increase the working capacity of the evaporative hydrocarbon storage device and notify EPA in writing of the change. The increased evaporative emissions due to the larger fuel tank must be adequately absorbed and not released to the atmosphere as a result of overloading the storage device. The regulations being adopted today include a ratio technique that secondary manufacturers

will use to determine the amount of extra storage capacity needed. A secondary manufacturer that increases fuel tank capacity beyond certified limits without complying with these conditions (or that changes other parameters so as to remove the vehicle from the family-system combination in which the vehicle was originally certified) will be potentially liable for "tampering" under section 203(a)(3)(A) of the Act.

II. Legal Authority

Section 202(a)(1) of the Act, as amended, 42 U.S.C. 7521(a)(1), provides that the Administrator shall prescribe standards for motor vehicle emissions if such emissions cause or contribute to air pollution which endangers the public health or welfare. The Administrator can require testing of new motor vehicles to determine compliance with applicable standards under section 206, 42 U.S.C. 7525. Section 202(b)(1)(C), 42 U.S.C. 7521(b)(1)(C), requires the Administrator to promulgate a test procedure for measuring "evaporative emissions of hydrocarbons" from heavy-duty vehicles. The general power to promulgate regulations is granted in section 301(a), 42 U.S.C. 7601(a).

III. Air Quality Impact

In spite of significant gains made in the control of non-methane hydrocarbon (NMHC) emissions, there are many air Quality Control Regions (AQCRs) which currently do not meet the National Ambient Air Quality Standards (NAAQS) for ozone. (Ozone is created during photo-chemical reactions involving NMHCs and is, therefore, controlled in large part by controlling NMHCs.) Air quality analyses show that attainment of the NAAQS for ozone will be difficult in many of these AQCRs, even if current and planned regulations for NMHC control are implemented. For this reason, EPA believes that all reasonable and cost-effective NMHC emission control strategies should be implemented.

EPA's analysis (see the chapter "Environmental Impact" in the "Regulatory Support Document" for this rulemaking) estimates that a typical low-altitude HDG will emit 341 less kilograms of NMHC over its life than will an uncontrolled HDG. This represents a 92 percent reduction from the uncontrolled levels. [For high-altitude HDGs the differential is 445 kilograms, which is also a 92 percent reduction from uncontrolled levels.) The analysis also shows that in 1988, assuming that Inspection and Maintenance (I/M) is not implemented, this regulation will result in four less exceedances of the ozone standards and two additional AQCRs attaining compliance.

IV. Economic Impact

The primary manufacturers each submitted cost estimates of the proposed rule which are summarized in the "Summary and Analysis of Comments" These estimates, however, were of limited usefulness in the analysis of the economic impact of this regulation, since they were very general in nature and, in some cases, consisted of a single, large number with little or no explanation as to its components or origin. Because the manufacturers' comments did not contain much detail and because this Final Rule incorporates changes from the proposal that significantly decrease the cost, EPA has estimated the costs of compliance with this Final Rule independently.

EPA's economic impact analysis (see Chapter V of the "Regulatory Suppport Document") shows that primary manufacturers will incur costs in the areas of testing equipment, research and development (R&D), facility space and control system hardware. Testing equipment needed includes such items as light-duty chassis dynamometer retrofit kits, HD SHEDs, flame ionization detectors (FIDs), chart recorders, heating blankets, and temperature achievers. EPA estimates the total industry investment in testing equipment will be $1.81 M (1981 dollars discounted at 10 percent to 1984). Also, the analysis allows a fair rate of return for the facility space needed for the test equipment and housing of test vehicles. The industry total for this facility space usage is $1.32M. Another cost will be incurred for R&D. EPA has estimated R&D costs to be $2.66M for the industry. These three costs (i.e., testing equipment, facility space and R&D) represent the fixed costs for the manufacturers. When this total cost of $5.79M (1981 dollars discounted at 10 percent to 1984) is amortized over five production years (1985 MY–1989 MY), the per vehicle cost increase due to fixed costs is $3.38.

Other costs that the manufacturers will incur are termed variable costs because they vary with the number of HDGs actually produced. In this case, the variable costs are the control system hardware costs. The hardware needed to control evaporative emissions from HDGs is well known. The evaporative emission control technology developed from many years of experience in the light-duty segment of the industry is directly applicable to heavy-duty vehicles. Furthermore, California has required control of evaporative emissions from HDGs since 1978 and thus each manufacturer already has produced HDGs with control hardware. The main components of a control system include charcoal canisters, tubing to route the vapors, roll-over valves, upgraded tubing for liquid fuel (less permeable), and charcoal in the air cleaner. EPA estimates the cost of the necessary control hardware will be $38.25 per HDG. This figure includes a substantial profit margin for both the manufacturer and the dealer.

The summation of the fixed costs and the variable costs gives a total of about $42 per vehicle. This is the expected "sticker price" increase that the consumer will see as a result of this regulation. Other possible areas of consumer cost increase (or decrease) could be changes in maintenance costs and/or changes in fuel economy resulting from this regulation. Based on light-duty evaporative emission experience EPA does not expect any change in the cost of maintaining a HDG. In the proposal EPA predicted that a substantial fuel savings would occur due to this regulation for vehicles with closed-loop fuel induction systems. However, since publication of the proposal, the possibility of closed loop fuel induction for HDGs has become much less likely so these fuel savings are unlikely. Neither does EPA expect that there will be any increase in fuel cost as a result of this regulation. Therefore, the $42 "sticker price" increase in EPA's estimate of the total cost to the consumer. this is a small amount to pay for the NMHC control achieved by this rule, as is discussed under the section "Cost Effectiveness."

For the large majority of consumer items, as price increases the number of items sold decreases. The amount of decrease in the number of items demanded given a unit increase in price is termed the elasticity of demand for that item. Studies have shown that the elasticity of demand for heavy-duty trucks is between −0.5 and −0.9. EPA has assumed an elasticity of −0.7 and a price range of $11,000 to $54,000 for HDGs. With a retail price increase of $42, EPA estimates that this regulation may cause a decrease in the number of HDGs sold of between 0.08 percent and 0.27 percent. Thus, the impact of this regulation on sales of new HDGs will be extremely slight.

Another view of the cost of this regulation is from the national or aggregate perspective. This view would include any costs incurred by the industry that it could not recoup from the consumer, plus the total consumer cost. Since the manufacturers will

recoup all costs, the aggregate cost is simply the consumer cost on a per vehicle basis times the number of vehicles sold over some time period. As is customary, EPA has calculated the aggregate cost for this regulation on a five year basis. The Agency estimates that from 1985 MY to 1989 MY, 2,060,000 new HDGs will be sold. Multiplying annual production by $42 per vehicle and discounting to 1984 at 10 percent yields a five-year aggregate cost of $71.7M.

V. Cost-Effectiveness

While the air quality impact of this regulation, as measured by decreases in exceedances and in the number of AQCRs not in compliance, is relatively small, it must be remembered that the cost of this regulation is also relatively small. As discussed above, EPA expects that all reasonable and cost-effective NMHC control strategies will be implemented to bring the urban AQCRs into compliance with the NAAQS for ozone. The prospect that an AQCR may not be in compliance even after all reasonable control strategies are exhausted does not mean that such strategies should be abandoned, since they would result in progress towards cleaner, healthier air.

The cost effectiveness of a regulation is expressed in terms of the number of dollars it takes to control one ton of pollutant. By expressing all regulations in this manner they can be compared. From an economic efficiency viewpoint, those strategies which are the cheapest per ton of pollutant controlled should be successively implemented until the NAAQS is attained. Generally, this has been the approach with NMHC control strategies. However, the NAAQSs for ozone have not yet been attained in all regions of the country.

EPA has calculated the cost effectiveness of this regulation to be $112/ton of NMHC controlled. This is much cheaper than many other NMHC control strategies that have already been implemented. For example, the regulation lowering the LDV exhaust emission standard from 1.5 to .41 grams HC per mile was estimated to have a cost-effectiveness of $470/ton. Also, the cost-effectiveness of lowering the light-duty truck (LDT) exhaust emission standard from 2.0 to 1.7 grams HC per mile was calculated to be $200/ton. Controlling motorcycles from uncontrolled levels to 8 grams HC per mile was estimated to cost $365/ton. Other examples can be found in the chapter entitled "Cost-Effectiveness" in the "Regulatory Support Document." Clearly the control of evaporative emissions from HDGs is more cost-effective than any of these other regulations which have already been promulgated. This superior cost effectiveness in concert with the fact that many AQCRs are not meeting the NAAQS for ozone leads EPA to conclude that this regulation is a necessary and worthwhile NMHC control strategy.

VI. Public Participation

After the public hearing of June 25, 1980, manufacturers, trade associations and individuals submitted their final, written comments on the proposed regulation. These comments were grouped into major issues and this section will review these major issues and summarize EPA's response to each. A more detailed presentation of each issue, EPA's analysis and its recommendations can be found in the document entitled "Summary and Analysis of Comments to the Gasoline-Fueled Heavy-Duty Vehicle Evaporative Emission Proposal." This document is available in the public docket for this rulemaking.

A. Level of the Standard

The NPRM included a standard of 3.0 grams HC per test (gpt) that all HDGs would have to meet in order to be certified under § 203 of the Act. EPA arrived at this level by examining the differences between LDTs and HDGs that would affect evaporative emissions. (The current LDT evaporative emission standard is 2.0 gpt.) The main differences are: (1) HDGs tend to have larger fuel tank capacities, (2) HDGs tend to be physically bigger leading to increased background emissions, and (3) some HDGs have larger carburetor fuel bowl volumes. By analyzing all available data on these three sources of evaporative emissions, ERA estimated the increases in controlled emissions that might occur as one moved from LDTs to HDGs. This analysis showed that HDGs could reasonably be expected to meet a 3.0 gpt standard.

The comments received on this issue tended to split HDGs into the two general classes of "lighter" HDGs and "heavier" HDGs. The two largest manufacturers agreed that a 3.0 gpt standard is technically feasible for the "lighter" HDGs although they disagreed slightly as to where the split between "light" and "heavy" should occur. One wanted the split at 12,000 lbs. GVWR while the other suggested 14,000 lbs. GVWR. Since there is little difference between vehicles with GVWRs of 12,000 or 14,000 lbs. and since 14,000 lbs. GVWR is the traditional breakpoint between heavy-duty vehicle Classes III and IV, EPA has chosen to split HDGs at 14,000 lbs. GVWR. Thus, this Final Rule requires all HDGs less than or equal to 14,000 lbs. GVWR to meet a standard of 3.0 gpt.

The manufacturers felt that while a 3.0 gpt standard is appropriate for the "lighter" HDGs, such a standard would be difficult for the "heavier" HDGs. They claimed that the increased fuel tank volumes, the large carburetor fuel bowls and the increased amount of background emissions would not allow them to attain a 3.0 gpt level without considerable R&D. In fact, one manufacturer's extensive HDG test program on current California evaporative control systems showed a "light" HDG meeting 3 gpt while a "heavy" HDG tested between 3 and 4 gpt. Again, only the two largest manufacturers suggested a feasible level of control for these "heavier" HDGs. They both agreed that 4.0 gpt would be feasible.

Although it may be technologically feasible for these "heavier" HDGs to meet a 3.0 gpt standard, EPA concludes that a 4.0 gpt standard is more appropriate for the "heavy" HDGs (GVWs of 14,001 to 26,000 lbs.) because it improves the cost-effectiveness of the regulation and allows manufacturers to avoid the additional R&D that would be necessary to meet a 3.0 gpt standard. A 4.0 gpt standard can be met by the "heavier" HDGs with the same evaporative control technology as that used by the "lighter" HDGs to meet the 3.0 gpt standard. This less stringent standard will result in no significant loss of air quality benefits because of the small number of HDGs involved. (The difference in HC control is less than 0.1 percent of the mobile source fleet emissions in 1995.) Furthermore, it equalizes the percentage reduction from uncontrolled levels for these two groups of HDGs at 92 percent.

To further reduce the burden on the manufacturers, this Final Rule requires that all HDGs greater than 26,000 lbs. GVWR need only be certified to a 4.0 gpt level by engineering evaluation. These very heavy HDGs are currently a very small percentage of the total number of HDGs sold each year and EPA expects sales of these vehicles to approach zero by the end of 1988.

To summarize, this Final Rule requires that all HDGs less than or equal to 14,000 lbs. GVWR (Classes IIB and III) meet a standard of 3.0 gpt. Also, all HDGs with GVWRs greater than 14,000 but less than 26,001 lbs. (Classes IV through VI) must meet a standard of 4.0 gpt. Finally, all HDGs with GVWRs greater than 26,000 lbs. (Classes VII and above) will be certified by submitting a

written statement that the control systems are *designed* to meet a standard of 4.0 gpt.

B. Certification Procedure

The Agency received a substantial amount of comment on the proposed regulation. The comments included new data, suggestions and analyses which clarified and broadened EPA's understanding of the issues involved in controlling evaporative emissions from HDGs. The certification procedure being finalized today is less burdensome to manufacturers of HDGs than the proposed procedure. However, no significant loss of air quality benefits should result from these changes as discussed below. Rather, the changes stem from the comments to the NPRM and represent a more efficient method of implementing this Final Rule. The Agency's detailed analysis of the comments and their implications on this issue can be found in the "Summary and Analysis of Comments" for this rulemaking.

Under the certification procedure being finalized today, manufacturers will place each HDG they wish to sell in an evaporative emission family-control system combination. The determinants of the family and the control system have been changed from the NPRM. The evaporative emission family was defined in the NPRM by parameters which contribute to evaporative emissions from the vehicle. These parameters included the nominal fuel tank capacity (within 20 gallons, or within 25 percent, whichever is greater), the method of fuel/air metering (i.e., carburetor vs. fuel injection), and the carburetor fuel bowl volume (within a 10cc range). This Final Rule deletes the nominal fuel tank capacity as a family determinant. Thus, vehicles need only be the same with respect to the method of fuel/air metering and carburetor fuel bowl volume (within a 10cc range) to be placed in the same family.

The deletion of nominal fuel tank capacity as a family determinant (which was strongly endorsed by the comments) should result in a 50–75 percent reduction in the number of family-systems that must be developed and certified which, in turn, will save the manufacturers substantial amounts of time and money. Under the originally proposed vehicle classification system if two vehicles were identical except that one had a 30 gallon fuel tank and the other had a 60 gallon fuel tank they would be placed in different family-systems and a development and certification program would have had to be undertaken for both. This Final Rule allows the manufacturer to place both vehicles in the same family-systems and then develop for certification only the worst case vehicle (i.e., the vehicle with the 60 gallon fuel tank). This change from the NPRM is expected to reduce the number of evaporative family-systems which must be developed for certification from 25–30 to 6 or 8 for each of the two larger manufacturers. For the two smaller manufacturers, reductions should be on the order of 50 percent.

This reduction in the number of family-systems will not increase evaporative emissions. In fact, fewer family-systems may actually result in a decrease in evaporative emissions because the evaporative emission control system that is designed to control the worst case vehicle will be slightly over-designed for the less-than-worst case vehicles in that same family. Thus, the control of these less-than-worst case vehicles may be a little better, due to the extra "safety margin" of the control system. This extra safety margin will probably consist of somewhat more activated charcoal in the cannisters than might have been the case under the NPRM family-system scenario and, therefore, the extra cost associated with this extra safety margin should be negligible.

The definition of an evaporative emission control system has also been changed from the NPRM definition. The NPRM control system determinants were method of vapor storage, vapor storage material, vapor storage working capacity (within 20 grams), method of purging stored vapors, and method of carburetor fuel bowl venting during both engine operation and engine off. The control system determinants as contained in this Final Rule are method of vapor storage, method of carburetor sealing, method of air cleaner sealing, vapor storage working capacity (within 20 grams), number of storage devices, method of purging stored vapors, method of venting the carburetor during both engine off and engine operation, and liquid fuel hose material. These changes made to the NPRM represent an attempt to define more clearly a control system so that differences between control systems will be more easily recognized.

These provisions allow manufacturers to develop family-systems which are most cost effective for them. For example, one manufacturer may choose to include an extensive range of fuel tank volumes in the design of its control system. This will probably mean that the control system will be somewhat overdesigned for the smaller fuel tank volumes because the control system must be sufficient to handle emissions from the largest fuel tank volumes (worst-case). Thus, the air quality benefits have not been jeopardized and, in fact, have been enhanced by providing this flexibility.

Another change to the NPRM is the procedure for issuance of certificates of conformity. Under the NPRM each manufacturer would have had to test its family-systems and submit the test results to EPA. EPA would have reviewed the data and done confirmatory testing if the Agency deemed it necessary. With the change to the less stringent standard of 4.0 gpt for HDGs with GVWRs greater than 14,000 lbs, the Agency concludes that compliance will be relatively straightforward. EPA expects that in many cases the evaporative control systems used on LDTs can be directly applied to lighter HDGs. Since LDTs are currently meeting a 2.0 gpt standard, the Agency is confident that these lighter HDGs, which need only meet a 3.0 gpt standard, should easily meet the standard. Also, the comments indicated the manufacturers' belief that abbreviated testing procedures such as component testing in mini-SHEDs or bench-testing could provide sufficient data to allow manufacturers confidence in the actual full-SHED test control level without having to run the full-SHED test for all cases.

From the above, EPA concludes that in many cases actual full-SHED testing will not be necessary to establish that vehicles are meeting the appropriate standard. Therefore, this Final Rule allows manufacturers to use any testing or evaluation method they choose to establish that their vehicles actually meet the full-SHED standard. Once they establish compliance, they will submit a written statement to EPA indicating as much. After reviewing the statement (and, any other requested information), EPA will issue a certificate, if it concurs with the manufacturer's judgement. Thus, each manufacturer can be assured timely certification of its product line. As is currently the case in other mobile source emission control areas, complete records will be required of any testing and/or evaluation. Furthermore, these records will be available to the Administrator upon request.

Because EPA expects that the levels of control required by this regulation will be relatively easy to attain, it does not plan to do routine confirmatory testing. Neither does it plan, at this time, to do routine in-use testing. However, if in the future, the Agency has reason to suspect that HDGs are not meeting the appropriate standards then such testing

could be done and would utilize the full-SHED test procedure.

C. Selective Enforcement Auditing

EPA recognizes that newly assembled vehicles may have high background emissions unrepresentative of typical in-use background emissions. Specific examples of these non-fuel emissions are vehicle paint, sealers, and sound deadeners. These sources of HC emissions eventually become stabilized, but generally not for many weeks. Selective Enforcement Audits (SEAs), which are conducted on new vehicles, would be very cumbersome because of the difficulty associated with distinguishing fuel evaporative emission from emissions from non-fuel sources. Because of the required additional testing burden and associated costs, the difficulties associated with testing production HDGs, and because most evaporative control systems are generally reliable, these regulations do not, at this time, provide for SEAs of HDG evaporative emissions. The Agency does, however, reserve the right to establish a SEA program if future circumstances dictate.

D. Leadtime

In the NPRM, EPA stated that required leadtime for implementation of this regulation would be relatively short. The technology required to meet the proposed standard is simple and the manufacturers have had experience in its application on light-duty vehicles and light-duty trucks for many years. Furthermore, California has required the control of evaporative emissions from HDGs since 1978. Thus, for those HDG models which are sold in California, manufacturers have already designed, produced and installed control systems. Accordingly, the R&D required is expected to be quite limited. EPA originally proposed 6 months for R&D, 6 months to finalize production designs and produce the necessary drawings, and, finally, 10 months for tooling changes. Certification testing was expected to occur simultaneously with tooling changes as is common practice. The total leadtime was predicted to be 22 months. Since the Final Rule was projected to be published in December of 1980, implementation could have occurred by September of 1982. EPA assumed that the HDG model year began each September and, therefore, concluded that this regulation should become effective with the 1983 model year.

The four primary manufacturers were the only commenters addressing this issue. General Motors (GM) claimed that it would need 35 months after publication of the Final Rule to implement the regulation as proposed. Ford estimated it would need 34 months of leadtime while International Harvester (IH) stated it would need 32 months. Chrysler did not present a leadtime estimate. Instead, Chrysler stated that compliance by 1983 was not feasible because 12 months would be needed for test facility procurement before any R&D could begin and the remaining leadtime would be insufficient for the necessary R&D.

This Final Rule incorporates changes from the NPRM which will decrease the required leadtime. The manufacturers will not have to do any formal certification testing and EPA does not generally expect to do confirmatory testing. Thus, the turn-around time for EPA to issue certificates will be brief. According to comments from GM and Ford, certification testing and EPA turnaround was expected to take 5 to 6 months. This amount of time is no longer necessary.

Other changes from the NPRM influence the amount of R&D which, in turn, reduces leadtime. The new family-system determinants allow the manufacturers to develop control systems for the worst case vehicles and then cover the less than worst case vehicles with that control system if they wish. These new determinants will substantially reduce the number of evaporative emission family-control system combinations that will need to be developed and certified. For example, GM and Ford were predicted to have 25 to 30 family-systems each. The new classification system will reduce this to about 6 or 8. Substantial reductions for Chrysler and IH will also occur. These reductions mean that the time needed for R&D will be lessened.

Another change from the NPRM which reduces the time for required R&D is the split standard included in this Final Rule. The proposed 3.0 gpt standard is retained from HDGs with GVWs less than 14,001 lbs. The commenters agreed that this level of control could be accomplished with current LDT evaporative emission control technology. Therefore, little or no R&D should be needed. For HDGs with GVWs greater than 14,000 lbs but less than 26,001 lbs (Classes IV–VI), the standard has been increased to 4.0 gpt from the proposed 3.0 gpt. This will substantially reduce the R&D necessary for these vehicles. For certification of HDGs with GVWs greater than 26,000 lbs, manufacturers will only need to establish by engineering evaluation that their vehicles are designed to meet a 4.0 gpt standard and then submit to EPA the appropriate written statement. EPA expects that R&D for these vehicles will be nil.

The final modifications to the NPRM which will have an impact on leadtime are test facility requirements. The proposed test procedure would have required the purchase and installation of a heavy-duty dynamometer, which can take 12 months. This Final Rule has been structured to allow the use of light-duty dynamometers which have been upgraded to handle 13,500 lbs of inertia weight. This reduces the time required to establish a test cell from 12 months to only 6 months.

Nevertheless, because of delays in the final promulgation of this rulemaking, manufacturers clearly could not comply by the start of the 1983 MY. EPA's analysis (see the "Summary and Analysis of Comments") concludes that all manufacturers can comply with this Final Rule if given 19 months of leadtime. Therefore, this rule will be implemented beginning with the 1985 model year (i.e., September 1984). The extra available leadtime, beyond the required 19 months, will allow better planning for more efficient use of resources and will stretch out the financial commitment for a better cash flow.

On a related matter, since some manufacturers introduce their new heavy-duty *vehicles* 3 to 4 months before their new heavy-duty *engines* (January 1), the question arises as to what should be the start of the model year. This Final Rule requires each manufacturer to designate its heavy-duty *vehicle* introduction date as the beginning of its model year for the purposes of this regulation. Thus, the situation might arise where a manufacturer would have to certify its HDGs twice in one year.

Generally speaking, EPA expects that the family-system combinations certified will be used year after year and, thus, the manufacturers will be able to carry-over certification to avoid having to recertify their HDGs at the start of each new model year. However, a new certification might be required before the start of the new model year (i.e., about September 1) if a HDG model undergoes significant changes from one year to the next. An additional certification might be required if an engine for that HDG also undergoes significant changes which affect evaporative emissions to the point of requiring the creation of a new evaporative emission family-system for the HDG. If this new engine with its associated new family-system is to be introduced January 1, or 4 months after

the new vehicle introduction, the new family-system will have to be certified.

This "dual" certification might, at first glance, seem to be an excessive burden on the industry. However, when it is considered that: (1) Certification will usually consist of only a statement of compliance by the manufacturer, and (2) a manufacturer must always develop its evaporative and exhaust emission control systems simultaneously to ensure that both systems meet the appropriate standards, then it is clear that "dual" certification will generally be no more than the submittal of a second statement of compliance which is an inconsequential extra burden.

E. Incomplete Vehicles

Most LDVs and LDTs are sold by the primary manufacturer in a completed form. However, many HDGs are sold to secondary manufacturers in various stages of completeness. Some HDGs leave the factory with only the chassis and engine. Others include an engine compartment and/or an operator's enclosure. Still others include the above plus the cargo carrying device but no fuel tanks. These incomplete HDGs are completed by the secondary manufacturers to do a specific job.

These incomplete vehicles presented a problem in developing this HDG evaporative emission regulation because the additions and modifications made by the secondary manufacturers can affect evaporative emissions. For example, a cargo-carrying device can trap exhaust heat around fuel tanks and fuel lines which in turn can increase the evaporative emissions from these sources. Since the vehicles leave the primary manufacturer in incomplete and, therefore, untestable forms and since the secondary manufacturers are usually small to medium-sized companies that cannot easily afford to test the vehicles, the problem arises as to the best way to ensure that these incomplete vehicles meet the applicable evaporative emission standards when completed.

In the NPRM, EPA proposed that the primary manufacturer certify, in a completed configuration, all incomplete vehicles which it markets. The manufacturer would have determined the limits of a worst case completed vehicle by soliciting information from the secondary manufacturers. The parameters for which the primary manufacturer would have had to determine worst case limits included fuel tank volume, carburetor bowl fuel volume, method of vapor storage, vapor storage material, vapor storage working capacity, method of carburetor bowl venting, vapor purging technique, fuel system, maximum GVWR, maximum frontal area, body type and other features as specified by the Administrator. A secondary manufacturer who completed a vehicle for sale would have had to remain within the limits of the certified worst case configuration in order to be covered by the original certificate of conformity. If the secondary manufacturer exceeded the limits to which the vehicle had been certified, then, under the NPRM, the secondary manufacturer would have had to conduct its own certification program.

EPA received substantial comment on this issue both at the public hearings and in the final, written comments. The manufacturers claimed that the Agency had underestimated the burden which would result if the proposed solution were implemented. The comments from the primary manufacturers can be divided into three main subissues: (1) Vaguely defined parameters, (2) the search for worst case limits, and (3) vicarious liability.

The manufacturers stated that some of the evaporative emission parameters were vaguely defined and, therefore, the determination of what was worst case would be very difficult. For example, "body type" was a listed parameter but which body types might cause lesser or greater amounts of evaporative emissions were not defined. Body types come in many shapes and sizes and the general theory of how body types influence evaporative emissions is well known. However, the existing data base on how much influence particular body types have on evaporative emissions is very limited. The determination of a worst case body type could have required the manufacturers to undertake a substantial R&D program.

The commenters were also concerned that finding the worst case for each parameter would be very difficult. There are hundreds of secondary manufacturers who purchase incomplete vehicles and then complete those vehicles to their own or a third party's specifications. The primary manufacturers stated that the effort involved in contacting all of the secondary manufacturers and then determining the worst case for each parameter would be very burdensome. The primary manufacturers claimed they not only had no information as to how their incomplete vehicles were completed but that in some cases the final form of the completed vehicle might not be determined for months.

The third area of concern by the primary manufacturers was that of vicarious liability. They claimed that completed vehicles could be within the worst case limits and still fail to meet the standard because of other modifications made by the secondary manufacturers which affect evaporative emissions. They claimed that under the proposed rulemaking the primary manufacturer would be liable for such noncomplying vehicles even though such vehicles were certified when they left the factory.

The comments from the secondary manufacturers generally stated that they did not have the resources to do SHED testing and, therefore, the Final Rule should not require any testing on their part.

EPA found the comments very helpful in analyzing this complex issue. Although the problems associated with incomplete vehicles were recognized in the NPRM, the comments clarified the magnitude of the problems. For example, when the NPRM was published the Agency had estimated that incomplete HDGs were only about 10 percent of all HDGs. EPA has subsequently learned that the proportion is more likely 40–50 percent. This makes the proposed solution to the incomplete vehicle problem substantially more burdensome. As a result of the comments and in an effort to make this regulation less burdensome, EPA has eliminated all of the vaguely defined parameters and has removed the possibility that primary manufacturers will be held liable for the subsequent actions of others.

This Final Rule requires the primary manufacturers to place each of its incomplete vehicles in an evaporative emission family-control system grouping (see Certification Procedure). Each incomplete vehicle will have a label specifying the maximum fuel tank volume for which the control system is designed. Secondary manufacturers will be responsible for correct assembly of the evaporative emission control system (if applicable). If a secondary manufacturer modifies a control system or a vehicle so as to remove it from the evaporative emission family-control system in which it was originally certified (except as discussed below), then that secondary manufacturer is potentially liable for tampering under section 203(a)(3) of the Clean Air Act.

If a secondary manufacturer wishes to add fuel tank volume in excess of the maximum specified by the primary manufacturer, it must increase the adsorptive capacity of the evaporative hydrocarbon storage device(s) (e.g., charcoal canisters). The increased amount of evaporative hydrocarbons due to the larger fuel tanks must be trapped in the storage device and not

released to the atmosphere. This Final Rule provides a ratio technique for secondary manufacturers to use to determine the amount of extra adsorptive capacity they must provide given an increase in fuel tank capacity beyond the maximum specified by the primary manufacturer. This ratio technique can be found in § 86.085–35 of Subpart A of the regulations. The secondary manufacturer is required to submit a written statement to EPA that the evaporative hydrocarbon storage device(s) has been upgraded as required. The HDG will be considered in compliance when EPA is notified that the appropriate change in the storage device has been made.

The Agency does not expect the above situation to occur often because the storage devices used by the primary manufacturers usually have excess capacity. Also, secondary manufacturers who do anticipate adding fuel tanks to HDGs can notify the primary manufacturers as to how much extra fuel tank capacity they want to add. In turn, the primary manufacturers should have no problem providing the required adsorptive capacity with the evaporative emission control system that comes with the incomplete vehicle.

The above solution to the incomplete vehicle problem will substantially reduce the cost of compliance for the primary manufacturers as compared to the NPRM approach. EPA realizes that the potential still exists for incomplete vehicles to be completed in configurations where additional amounts of heat are trapped near fuel tanks or carburetors than expected by the primary manufacturer. This additional heat may cause the NMHC vapors from fuel tanks or carburetors to increase somewhat from levels that might otherwise be expected. This does not mean that such increased vapors will reach the atmosphere. EPA believes that sufficient excess capacity exists in the typical control system to adequately handle these extra vapors. Therefore, the Agency concludes that no significant loss of air quality benefits should result from this solution to the incomplete vehicle problem. This does not, however, mean that secondary manufacturers who alter certified vehicles in such a way as to cause actual emissions exceedances will be relieved of liability for "tampering."

F. Test Procedure

This Final Rule includes a test procedure which is similar to the light-duty vehicle evaporative emission test procedure. However, instead of requiring expensive mileage accumulation on the full vehicle, new carbon canisters are allowed to be stabilized by flowing HC vapors through them and then purging them with air. (The proposal called for this cycle to be repeated 90 times until equilibrium was obtained.) The vehicle is then placed in an airtight enclosure known as a Sealed Housing for Evaporative Determination (SHED) where heat blankets raise the temperature of the fuel from 60°F to 84°F over a one hour period. The total amount of HC (in grams) emitted during this hour is the "diurnal" result. Next the vehicle is placed on a chassis dynamometer where it is driven over the heavy-duty chassis cycle. This purges the canisters in a way that is representative of real world conditions and also heats up the engine compartment for the "hot-soak" phase of the test.

After the driving cycle, the vehicle is again placed in a SHED where the HC vapors emitted over one hour are measured. These vapors originate primarily from the carburetor fuel bowl which is heated by the hot engine compartment. The result of this 1-hour "hot-soak" is added to the 1-hour "diurnal" to give the total test result.

The manufacturer's comments on the proposed test procedure included a number of items dealing with clerical errors and obvious omissions. These comments will not be discussed here but are detailed in the "Summary and Analysis of Comments." Other, more important, comments fell into six main areas: (1) Test weight, (2) dynamometer load formula, (3) driving cycle, (4) fuel temperature rise, (5) canister preconditioning, and (6) hood open versus closed.

In the proposal the test weight was specified as 70 percent of GVWR. The manufacturers claimed that this was too high and that a typical HDG is probably loaded such that its actual weight is only 30–60 percent of GVWR. As test weight increases, the amount of canister purging decreases and the underhood temperature increases. Both of these factors tend to increase the amount of evaporative emissions. The original test weight factor of 70 percent GVW was based primarily on Federal Highway Administration data. The commenters correctly pointed out that such data is derived mainly from interstate traffic. The commenters also presented other data which accounted for local traffic and showed the factor to be about 50 percent. Therefore, EPA has changed the proposed 70 percent factor to 50 percent in this Final Rule.

The dynamometer load formula was criticized for producing a horsepower setting too high. The commenters stated that many HDGs had van or pickup body types. The aerodynamic drag coefficients for light-duty vans and pickups are .50 and .58 respectively. However, the NPRM proposed an aerodynamic drag coefficient for all HDGs of .67. This coefficient is too low for some large HDGs and it is too high for some small HDGs (such as vans and pickups). In general, EPA had concluded that .67 could adequately represent all HDGs. The lighter HDGs, which are the easiest to control to the 3.0 gpt level and have the greatest power reserves (i.e., effect of purging loss from increased horsepower settings will be minimal), will have horsepower settings somewhat higher than they would under real world conditions while the largest HDGs, which are more difficult to control, would tend to get a reduction in stringency because their horsepower settings will tend to be lower.

After analyzing the comments on this subissue, EPA has concluded that the .67 aerodynamic drag coefficient should be retained in this Final Rule. If the rule were to allow the use of .50 for vans and .58 for pickups, then EPA should also develop coefficients for other HDG body types. Since the number of different HDG body types is quite large, the effort to derive such coefficients would be substantial. Because: (1) The differences in horsepower setting with a .67 factor as compared to other factors will not be large, (2) those differences will affect evaporative emissions only in a minor way, and (3) the standard has been made more lenient, EPA believes that the cost of deriving aerodynamic drag coefficients for each HDG body type would far outweigh the small cost-savings that might be obtained.

One manufacturer questioned why EPA did not allow the optional use of "coastdowns" to establish dynamometer horsepower settings. The Agency had assumed that the manufacturers would prefer to use the simple and less costly dynamometer road load formula. However, this Final Rule includes a provision for the use of the "coastdown" procedure in setting the dynamometer horsepower. The "coastdown" procedure is well established and is used almost exclusively in light-duty vehicle certification. The manufacturer must retain its "coastdown" results for EPA review upon demand. Such records should exhibit good engineering practice.

The manufacturers claimed that the driving cycle proposed was not representative of real world trips by HDGs. They claimed that the amount of off-idle purge time was too little. These same manufacturers made the same

claim of unrepresentativeness during the heavy-duty engine exhaust emission rulemaking (45 FR 4136). That rulemaking included an engine dynamometer cycle which was generated from the same data base (i.e., CAPE–21) and used the same generation technique (i.e., Monte Carlo) as the chassis dynamometer cycle of this evaporative emission rulemaking. In the exhaust emission rulemaking EPA concluded that the data base and generation technique were valid and, therefore, the cycle was representative. The same arguments apply to this rulemaking and the reader is referred to that previous analysis (See the "Summary and Analysis of Comments" in Public Docket #OMSAPC–78–4) for additional discussion. Furthermore, the chassis cycle of this rulemaking only serves to condition the vehicle for the rest of the test, hence, precise characterization of in-use vehicle operation is substantially less critical than with the engine cycle where emissions are measured.

Another important area of comment on the proposed test procedure was the fuel temperature rise during the "diurnal" portion of the test. EPA proposed a 24°F temperature rise (60°F–84°F). The manufacturers claimed that this was too much and that a 15°F rise would be more appropriate. Their main contention was that since HDG fuel tanks are generally bigger than light-duty fuel tanks, the temperature rise would be less given that both fuel tanks receive the same amount of energy input, because the greater fuel volume would require more energy to reach the same final temperature.

EPA's analysis of this subissue indicates that the 24°F temperature increase is appropriate for HDGs. In many cases, HDG fuel tanks are exposed to more heat than are light-duty fuel tanks because the HDG fuel tanks are saddle-type tanks and are exposed to direct sunlight. Light-duty tanks, however, are usually located beneath the vehicle and, thus, are shaded. The comments also indicated that the fuel in a tank will rise about 75 percent of the ambient temperature rise. A 15°F fuel temperature rise would therefore, indicate a 20°F ambient temperature rise. While a 20°F ambient temperature may be more "average" than the 32°F ambient temperature rise that a 24°F fuel temperature rise simulates, the "average" is not the correct consideration in this case. "Worst-case" is more appropriate because if carbon canisters experience breakthrough, the amount of HC vapors entering the atmosphere will rise dramatically. The 32°F ambient temperature rise occurs rather frequently and, hence, EPA has retained the 24°F fuel temperature rise for this Final Rule.

EPA's analysis of the subissue concerning the number of canister load-purge cycles needed to stabilize the activated charcoal in new canisters concludes that the proposed 90 bench-type cycles for a new canister was excessive; therefore, this has been reduced to 20 in this Final Rule. After these 20 bench-type cycles, the vehicle must be driven over the chassis cycle and then soaked for a total of ten times, as in the proposal, to complete this virgin canister stabilization. EPA has concluded that this change will have no impact on the level of control.

Finally, EPA's analysis concludes that since the Final Rule provides for a doubling of the maximum cooling capacity of the fans (from 5,300 cfm to 10,600 cfm), the hoods of the HDGs should remain closed during operation over the driving cycle. If, however, the manufacturer can show that during field operation the vehicle receives additional cooling, and that such additional cooling is needed to provide a representative test, the fan capacity may be increased or additional fans used.

G. Durability and Deterioration

EPA received no comments on these issues so this Final Rule is essentially unchanged from the NPRM. EPA is unable to specify a single test procedure for the evaluation of vehicle evaporative emission control system deterioration during the useful life of the vehicle. EPA has, however, identified environmental and usage parameters which affect the durability of evaporative emission control systems during their useful lives. These parameters are: vibration, the vapor load-purge cycling of the vapor control system, and the aging effect of heat and ozone. Thus, for the purpose of satisfying the requirement of the Clean Air Act that EPA evaluate the durability of evaporative emission control systems for their useful lives, this Final Rule require each manufacturer to evaluate the durability of its evaporative emission control systems and to develop a deterioration factor for such systems. The manufacturers will then use these deterioration factors when determining whether or not their HDGs meet the appropriate standard.

Simulation of the parameters identified in the preceding paragraph is not adequately accomplished by use of the Durability Driving Schedules contained in Appendix IV to Subpart A of the regulations. The nearly continuous vehicle operation required by that schedule is not typical of the normal vehicle usage which would be expected to affect evaporative emission control system durability. Likewise, the proposed Heavy-Duty Vehicle Evaporative Emission Service Accumulation Schedule contained in Appendix XII, which is used only to stabilize an evaporative emission-data vehicle's evaporative emission control system prior to compliance testing, is also inappropriate for durability service accumulation.

It should be noted that the definition of "useful life" for gasoline-fueled HDVs has been changed since the NPRM. This change is part of the recently promulgated heavy-duty gaseous emissions package which is to be implemented in 1984 (45 FR 4136, January 21, 1980). Thus, in 1984 "useful life" will be "the average period of use up to engine retirement or rebuild, whichever occurs first, as determined by the manufacturer under §86.085–21(b)(4)(iii)(B)" of Title 40 of the Code of Federal Regulations (CFR). However, this "full-life" useful life provision is currently under review by the Agency. Any changes made to the useful life provisions will be applicable to the evaluation of evaporative emissions as well as exhaust emissions.

VII. Reporting and Recordkeeping Requirements

Because this regulation controls evaporative emissions from HDGs for the first time, there will be an increase in the industry's reporting and recordkeeping requirements. Manufacturers will have to submit descriptions of their HDGs and their evaporative emission family-control system combinations. This is currently done for other classes of mobile sources and will require a minimal effort for the first year of implementation. For successive years this description and classification of product will mostly be carried over. Also, as with other mobile source emissions regulations, the manufacturers are required to keep records of the data, analysis, etc. on which they base their statement of compliance. However, this information need not be reported unless specifically requested by EPA.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number 2000–0390.

VIII. Administrative Designation

Under Executive Order 12291 EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it involves only a minor negative cost impact and has no significant adverse effect on competition, productivity, investment, employment, or innovation. However, the Agency has voluntarily prepared a Regulatory Support Document (located in the public docket) to assess the environmental and economic impacts of this rulemaking.This action was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

IX. List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Note.—In addition to establishing new requirements for gasoline-fueled heavy-duty vehicles to meet evaporative emission standards, the following rule (40 CFR Part 86, Subpart A) also republishes all existing provisions of the subpart which apply, by their own terms, in model year 1985. It should be noted, however, that the existing HC and CO requirements for heavy-duty engines, which are being republished today, are the subject of a NPRM published January 13, 1982 (47 FR 1643). Today's action does not imply that EPA has made any final decision on the January 13, 1982 proposal.

(Secs. 202(a), 206(b)(1)(C), 208, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7521, 7525, 7527, and 7601))

Dated: December 29, 1982.

John W. Hernandez,
Acting Administrator.

PART 86—[AMENDED]

40 CFR Part 86, Subpart A, is amended to read as follows:

1. The title of Subpart A is revised to read as follows:

Subpart A—General Provisions for Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles, 1977 and Later Model Year New Light-Duty Trucks, 1977 and Later Model Year New Heavy-Duty Engines, and for 1985 and Later Model Year New Gasoline-Fueled Heavy-Duty Vehicles

2. A new § 86.085–2 is added to read as follows:

§ 86.085–2 Definitions.

(a) The definitions of § 86.084–2 remain effective. The definitions listed in this section apply beginning with the 1985 model year.

"Incomplete gasoline-fueled heavy-duty vehicle" means any gasoline-fueled heavy-duty vehicle which does not have the primary load-carrying device, or passenger compartment, or engine compartment or fuel system attached.

3. A new § 86.085–10 is added to read as follows:

§ 86.085–10 Emission standards for 1985 and later model year gasoline-fueled heavy-duty engines and vehicles.

(a)(1) Exhaust emissions from new 1984 and later model year gasoline-fueled heavy-duty engines shall not exceed:

(i) *Hydrocarbons.* 1.3 grams per brake horsepower hour, as measured under transient operating conditions.

(ii) *Carbon monoxide.* (A) 15.5 grams per brake horsepower hour, as measured under transient operating conditions.

(B) 0.47 percent of the exhaust gas flow at curb idle.

(iii) *Oxides of nitrogen.* 10.7 grams per brake horsepower hour, as measured under transient operating conditions.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over operating schedules set forth in Subparts N or P and measured and calculated in accordance with those procedures.

(b)(1) Evaporative emissions from 1985 and later model-year gasoline-fueled heavy-duty vehicles shall not exceed:

(i) *Hydrocarbons.* (A) For vehicles with a Gross Vehicle Weight Rating of up to 14,000 pounds, 3.0 grams per test.

(B) For vehicles with a Gross Vehicle Weight Rating of greater than 14,000 pounds, 4.0 grams per test.

(2)(i) For vehicles with a Gross Vehicle Weight Rating of up to 26,000 pounds, the standards set forth in paragraph (b)(1) of this section refer to a composite sample of fuel evaporative emissions collected under the conditions set forth in Subpart M and measured in accordance with those procedures.

(ii) For vehicles with a Gross Vehicle Weight Rating of greater than 26,000 pounds, the standard set forth in paragraph (b)(1)(i)(B) of this section refers to the manufacturer's engineering design evaluation using good engineering practice (a statement of which is required in § 86.085–23(b)(4)(ii)).

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1985 model year gasoline-fueled heavy-duty engine.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in Subparts N or P of this part to ascertain that such test engines meet the requirements of paragraphs (a) and (c) of this section.

4. A new § 86.085–20 is added to read as follows:

§ 86.085–20 Incomplete vehicles, classification.

(a) An incomplete truck less than 8,500 pounds gross vehicle weight rating shall be classified by the manufacturer as a light-duty truck or as a heavy-duty vehicle. Incomplete light-duty trucks shall be described in the manufacturer's application for certification. The frontal area and curb weight used for certification purposes shall be specified on the label required in § 86.085–35(d). Incomplete heavy-duty trucks must be labeled as required in § 86.085–35(e) and § 86.085–35(g).

5. A new § 86.085–21 is added to read as follows:

§ 86.085–21 Application for certification.

(a) A separate application for a certificate of conformity shall be made for each set of standards and each class of new motor vehicles or new motor vehicle engines. Such application shall be made to the Administrator by the manufacturer and shall be updated and corrected by amendment.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1)(i) Identification and description of the vehicles (or engines) covered by the application and a description of their engine (vehicles only), emission control system and fuel system components. This shall include a detailed description of each auxiliary emission control device (AECD) to be installed in or on any certification test vehicle (or certification test engine).

(ii)(A) The manufacturer shall provide to the Administrator in the preliminary application for certification:

(*1*) A list of those parameters which are physically capable of being adjusted (including those adjustable parameters for which access is difficult) and that, if adjusted to settings other than the manufacturer's recommended setting, may affect emissions;

(*2*) A specification of the manufacturer's intended physically adjustable range of each such parameter, and the production tolerances of the limits or stops used to

establish the physically adjustable range;

(3) A description of the limits or stops used to establish the manufacturer's intended physically adjustable range of each adjustable parameter, or any other means used to inhibit adjustment;

(4) The nominal or recommended setting, and the associated production tolerances, for each such parameter.

(B) The manufacturer may provide, in the preliminary application for certification, information relating to why certain parameters are not expected to be adjusted in actual use and to why the physical limits or stops used to establish the physically adjustable range of each parameter, or any other means used to inhibit adjustment, are expected to be effective in preventing adjustment of parameters on in-use vehicles to settings outside the manufacturer's intended physically adjustable ranges. This may include results of any tests to determine the difficulty of gaining access to an adjustment or exceeding a limit as intended or recommended by the manufacturer.

(C) The Administrator may require to be provided detailed drawings and descriptions of the various emission related components, and/or hardware samples of such components, for the purpose of making his determination of which vehicle or engine parameter will be subject to adjustment for new certification and Selective Enforcement Audit testing and of the physically adjustable range for each such vehicle or engine parameter.

(2) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the vehicles (or engines) for which certification is requested. The sales data shall also include the altitude of intended sale for light-duty trucks.

(3) A description of the test equipment and fuel proposed to be used.

(4)(i) For light-duty vehicles and light-duty trucks, a description of the test procedures to be used to establish the evaporative emission deterioration factors required to be determined and supplied in § 86.085–23(b)(2).

(ii) For gasoline-fueled heavy-duty vehicles, the Administrator does not assume that each evaporative emission family-evaporative emission control system combination will deteriorate in a unique manner during the useful life of the vehicle. The manufacturer shall therefore identify those evaporative emission deterioration factors which shall be applied to the various evaporative emission family-evaporative emission control system combinations which are expected to exhibit similar deterioration characteristics during the useful life of the vehicle.

(iii)(A) A description of the test procedures to be used to establish the durability data or the exhaust emission deterioration factors required to be determined and supplied in § 86.084–23(b)(1).

(B)(*1*) A statement of the useful life of use of each light-duty truck engine family and heavy-duty engine family up to engine retirement or rebuild (which ever occurs first) as determined by the manufacturer on the basis of the following:

(*i*) For existing engine families, survey information on in-service vehicles (or engines) or;

(*ii*) For new engine families, durability testing of prototype vehicles (or engines) or a combination of bench-type component life evaluations and survey information on similar previous vehicles (or engines).

(*2*) The manufacturer shall not determine an engine family's useful life to be less than thte basic period of the mechanical warranty on the engine assembly. This useful life shall be expressed as a period of engine or vehicle operation or as an equivalent vehicle mileage (or both) and shall be consistent with the rebuild criteria specified in paragraph (b)(4)(iii)(C) of this paragraph. The manufacturer shall include in the application the data or information on which it based its determination of the useful life.

(C) For each light-duty truck engine family and heavy-duty engine family, a statement of the criteria which are to be used in determining the need for engine rebuild and their critical values, including the following:

(*1*) The minimum cylinder compression for any one cylinder and for any two cylinders, in pounds per square inch (or kilopascals). Compression shall be measured without the addition of oil or another fluid into the cylinder.

(*2*) The maximum rate of engine lubricant oil usage by the engine, in quarts per 1,000 miles (or quarts per 30 hours).

(*3*) The maximum mass of foreign metal in the crankcase, in grams per quart of crankcase oil.

(*4*) Any other measurable indicator(s) of engine condition approved by the Administrator and the critical value(s) which signal(s) the need for a rebuild.

(*5*)(*i*) A statement of recommended maintenance and procedures necessary to assure that the vehicles (or engines) covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(*ii*) A description of vehicle adjustments or modifications necessary, if any, to assure that light-duty trucks covered by a certificate of conformity conform to the regulations while being operated at any altitude locations, and a statement of the altitude at which the adjustments or modifications apply.

(*6*) At the option of the manufacturer, the proposed composition of the emission-data test fleet or (where applicable) the durability-data test fleet.

(c) Complete copies of the application and of any amendments thereto, and all notifications under §§ 86.079–32, 86.079–33, and 86.079–34 shall be submitted in such multiple copies as the Administrator may require.

(d) Incomplete light-duty trucks shall have a maximum completed curb weight and maximum completed frontal area specified by the manufacturer.

(e) For gasoline-fueled heavy-duty vehicles the manufacturer shall specify a maximum nominal fuel tank capacity for each evaporative emission family-evaporative emission control system combination.

6. A new § 86.085–22 is added to read as follows:

§ 86.085–22 Approval of application for certification; test fleet selections; determinations of parameters subject to adjustment for certification and Selective Enforcement Audit, adequacy of limits, and physically adjustable ranges.

(a) After a review of the application for certification and any other information which the Administrator may require, the Administrator may approve the application and select a test fleet in accordance with § 86.084–24.

(b) The Administrator may disapprove in whole or in part an application for certification for reasons including incompleteness, inaccuracy, inappropriate proposed mileage (or service) accumulation procedures, test equipment, or fuel, and incorporation of defeat devices in vehicles (or on engines) described by the application.

(c) Where any part of an application is rejected, the Administrator shall notify the manufacturer in writing and set forth the reasons for such rejection. Within 30 days following receipt of such notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determinations, and

data in support of such objections. If, after the review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078–6 with respect to such issue.

(d)(1) The Administrator does not approve the test procedures for establishing the evaporative emission deterioration factors for light-duty vehicles and light-duty trucks. The manufacturer shall submit the procedures as required in § 86.084–21(b)(4)(i) prior to the Administrator's selection of the test fleet under § 86.084–24(b)(1) and if such procedures will involve testing of durability-data vehicles selected by the Administrator or elected by the manufacturer under § 86.084–24(c)(1), prior to initiation of such testing.

(2) *Light-duty trucks and heavy-duty engines only.* The Administrator does not approve the test procedures for establishing exhaust emission deterioration factors the manufacturer's determination of the average period of use, nor the manufacturer's determination of the values of the rebuilt criteria. The manufacturer shall submit these procedures and determinations as required in § 86.084–21(b)(4)(iii) prior to determining the deterioration factors.

(3) *Gasoline-fueled heavy-duty vehicles only.* The Administrator does not approve the test procedures for establishing the evaporative emission deterioration factors. The test procedure will conform to the requirements in § 86.085–23(b)(3).

(e) When the Administrator selects emission-data vehicles for the test fleet, he will at the same time determine those vehicle or engine parameters which will be subject to adjustment for certification, Selective Enforcement Audit and Production Compliance Audit testing, the adequacy of the limits, stops, seals, or other means used to inhibit adjustment, and the resulting physically adjustable ranges for each such parameter and notify the manufacturer of his determinations.

(1)(i) The Administrator may determine to be subject to adjustment the idle fuel-air mixture, idle speed, and initial spark timing parameters on gasoline-fueled vehicles (or engines) (carbureted or fuel injected); the choke valve action parameter(s) on carbureted, gasoline-fueled vehicles (or engines); or any parameter on any vehicle (or engine) (diesel or gasoline-fueled) which is physically capable of being adjusted, may significantly affect emissions, and was not present on the manufacturer's vehicles (or engines) in the previous model year in the same form and function.

(ii) The Administrator may, in addition, determine to be subject to adjustment any other parameters on any vehicle or engine which is physically capable of being adjusted and which may significantly affect emissions. However, the Administrator may do so only if he has previously notified the manufacturer that he might do so and has found, at the time he gave this notice, that the intervening period would be adequate to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period. In no event will this notification be given later than September 1 of the calendar year two years prior to the model year.

(iii) In determining the parameters subject to adjustment the Administrator will consider the likelihood that, for each of the parameters listed in paragraphs (e)(1)(i) and (e)(1)(ii) of this section, settings other than the manufacturer's recommended setting will occur on in-use vehicles (or engines). In determining likelihood, the Administrator may consider such factors as, but not limited to, information contained in the preliminary application, surveillance information from similar in-use vehicles (or engines), the difficulty and cost of gaining access to an adjustment, damage to the vehicle (or engine) if an attempt is made to gain such access and the need to replace parts following such attempt, and the effect of settings other than the manufacturer's recommended setting on vehicle (or engine) performance characteristics including emission characteristics.

(2)(i) The Administrator shall determine a parameter to be adequately inaccessible or sealed if:

(A) In the case of an idle mixture screw, the screw is recessed within the carburetor casting and sealed with lead, thermosetting plastic, or an inverted elliptical spacer or sheared off after adjustment at the factory, and the inaccessibility is such that the screw cannot be accessed and/or adjusted with simple tools in one-half hour or for $20 (1978 dollars) or less.

(B) In the case of a choke bimetal spring, the plate covering the bimetal spring is riveted or welded in place, or held in place with nonreversible screws.

(C) In the case of a parameter which may be adjusted by elongating or bending adjustable members (e.g., the choke vacuum break), the elongation of the adjustable member is limited by design or, in the case of a bendable member, the member is constructed of a material which when bent would return to its original shape after the force is removed (plastic or spring steel materials).

(D) In the case of any parameter, the manufacturer demonstrates that adjusting the parameter to settings other than the manufacturer's recommended setting takes more than one-half hour or costs more than $20 (1978 dollars).

(ii) The Administrator shall determine a physical limit or stop to be an adequate restraint on adjustability if:

(A) In the case of a threaded adjustment, the threads are terminated, pinned or crimped so as to prevent additional travel without breakage or need for repairs which take more than one-half hour or cost more than $20 (1978 dollars).

(B) The adjustment is ineffective at the end of the limits of travel regardless of additional forces or torques applied to the adjustment.

(C) The manufacturer demonstrates that travel or rotation limits cannot be exceeded with the use of simple and inexpensive tools (screwdriver, pliers, open-end or box wrenches, etc.) without incurring significant and costly damage to the vehicle (or engine) or control system or without taking more than one-half hour or costing more than $20 (1978 dollars).

(iii) If manufacturer service manuals or bulletins describe routine procedures for gaining access to a parameter or for removing or exceeding a physical limit, stop, seal or other means used to inhibit adjustment, or if surveillance data indicate that gaining access, removing, or exceeding is likely, paragraphs (e)(2)(i) and (e)(2)(ii) of this section shall not apply for that parameter.

(iv) In determining the adequacy of a physical limit, stop, seal, or other means used to inhibit adjustment of a parameter not covered by paragraph (e)(2)(i) or (e)(2)(ii) of this section, the Administrator will consider the likelihood that it will be circumvented, removed, or exceeded on in-use vehicles. In determining likelihood, the Administrator may consider such factors as, but not limited to, information contained in the preliminary application; surveillance information from similar in-use vehicles (or engines); the difficulty and cost of circumventing, removing, or exceeding the limit, stop, seal, or other means; damage to the vehicle (or engine) if an attempt is made to circumvent, remove, or exceed it and the need to replace parts following such attempt; and the effect of settings beyond the limit, stop, seal, or other means on vehicle (or engine)

performance characteristics other than emission characteristics.

(3) The Administrator shall determine two physically adjustable ranges for each parameter subject to adjustment:

(i)(A) In the case of a parameter determined to be adequately inaccessible or sealed, the Administrator may include within the physically adjustable range applicable to testing under this subpart (certification testing) all settings within the production tolerance associated with the nominal setting for that parameter, as specified by the manufacturer in the preliminary application for certification.

(B) In the case of other parameters, the Administrator shall include within this range all settings within physical limits or stops determined to be adequate restraints on adjustability. The Administrator may also include the production tolerances on the location of these limits or stops when determining the physically adjustable range.

(ii)(A) In the case of a parameter determined to be adequately inaccessible or sealed, the Administrator shall include within the physically adjustable range applicable to testing under Subpart G or K (Selective Enforcement Audit and Production Compliance Audit) only the actual settings to which the parameter is adjusted during production.

(B) In the case of other parameters, the Administrator shall include within this range all settings within physical limits or stops determined to be adequate restraints on adjustability, as they are actually located on the test vehicle (or engine).

(f)(1) If the manufacturer submits the information specified in § 86.084–21(b)(1)(ii) in advance of its full preliminary application for certification, the Administrator shall review the information and make the determinations required in paragraph (e) of this section within 90 days of the manufacturer's submittal.

(2) The 90-day decision period is exclusive of the elapsed time during which EPA may request additional information from manufacturers regarding an adjustable parameter and the receipt of the manufacturers' response(s).

(g) Within 30 days following receipt of notification of the Administrator's determinations made under paragraph (e) of this section, the manufacturer may request a hearing on the Administrator's determinations. The request shall be in writing, signed by an authorized representative of the manufacturer, and shall include a statement specifying the manufacturer's objections to the Administrator's determinations, and data in support of such objections. If, after review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078–6 with respect to such issue.

7. A new § 86.085–23 is added to read as follows:

§ 86.085–23 Required data.

(a) The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Administrator the following information: *Provided, however,* that if requested by the manufacturer, the Administrator may waive any requirement of this section for testing of vehicle (or engine) for which emission data are available or will be made available under the provisions of § 86.081–29.

(1) [Reserved]

(2) [Reserved]

(b)(1)(i) Exhaust emission durability data on such light-duty vehicles tested in accordance with applicable test procedures and in such numbers as specified, which will show the performance of the systems installed on or incorporated in the vehicle for extended mileage, as well as a record of all pertinent maintenance performed on the test vehicles.

(ii) Exhaust emission deterioration factors for light-duty trucks and heavy-duty engines and all test data that are derived from the testing described under § 86.084–21(b)(4)(iii)(A) as well as a record of all pertinent maintenance. Such testing shall be designed and conducted in accordance with good engineering practice to assure that the engines covered by a certificate issued under § 86.084–30 will meet the emission standards in §§ 86.084–09, 86.084–10, or 86.084–11 as appropriate, in actual use for the useful life of the engine.

(2) For light-duty vehicles and light-duty trucks, evaporative emission deterioration factors for each evaporative emission family-evaporative emission control system combination and all test data that are derived from testing described under § 86.084–21(b)(4)(i) designed and conducted in accordance with good engineering practice to assure that the vehicles covered by a certificate issued under § 86.084–30 will meet the evaporative emission standards in § 86.081–8 or § 86.084–9, as appropriate, for the useful life of the vehicle.

(3) For gasoline-fueled heavy-duty vehicles, evaporative emission deterioration factors for each evaporative emission family-evaporative emission control system combination identified in accordance with § 86.085–21(b)(4)(ii). Furthermore, a statement that the test procedure(s) used to derive the deterioration factors includes, but need not be limited to, a consideration of the ambient effects of ozone and temperature fluctuations, and the service accumulation effects of vibration, time, and vapor saturation and purge cycling. The deterioration factor test procedure shall be designed and conducted in accordance with good engineering practice to assure that the vehicles covered by a certificate issued under § 86.085–30 will meet the evaporative emission standards in § 86.085–10 in actual use for the useful life of the engine. Furthermore, a statement that a description of the test procedure, as well as all data, analyses and evaluations, is available to the Administrator upon request.

(4)(i) For gasoline-fueled, heavy-duty vehicles with a Gross Vehicle Weight Rating of up to 26,000 pounds, a written statement to the Administrator certifying that the manufacturer's vehicles meet the standards of § 86.085–10 as determined by the provisions of § 86.085–28. Furthermore, a written statement to the Administrator that all data, analyses, test procedures, evaluations, and other documents, on which the above statement is based, are available to the Administrator upon request.

(ii) For gasoline-fueled, heavy-duty vehicles with a Gross Vehicle Weight Rating of greater than 26,000 pounds, a written statement to the Administrator certifying that the manufacturer's evaporative emission control systems are designed, using good engineering practice, to meet the standards of § 86.085–10 as determined by the provisions of § 86.085–28. Furthermore, a written statement to the Administrator that all data, analyses, test procedures, evaluations, and other documents, on which the above statement is based, are available to the Administrator upon request.

(c) *Emission data.* (1)(i) Emission data on such vehicles tested in accordance with applicable test procedures and in such numbers as specified. These data shall include zero-mile data, if generated, and emission data generated for certification as required under § 86.084–26(a)(3)(i) or § 86.084–26(a)(3)(ii).

(ii) [Reserved]

(2) *Certification engines.* Emission data on such engines tested in accordance with applicable emission test procedures of this subpart and in such numbers as specified. These data shall include zero-hour data, if

generated, and emission data generated for certification as required under § 86.082–26(b)(5). In lieu of providing emission data on CO emissions from diesel certification engines the Administrator may, on request of the manufacturer, allow the manufacturer to demonstrate (on the basis of previous emission tests, development tests, or other information) that the engine will conform with the CO emission standard of § 86.084–11.

(d) A statement that the vehicles (or engines) for which certification is requested conform to the requirements in § 86.078–5(b), and that the descriptions of tests performed to ascertain compliance with the general standards in § 86.078–5(b), and the data derived from such tests, are available to the Administrator upon request.

(e)(1) A statement that the test vehicles (or test engines) with respect to which data are submitted to demonstrate compliance with the applicable standards of this subpart are in all material respects as described in the manufacturer's application for certification, have been tested in accordance with the applicable test procedures utilizing the fuels and equipment described in the application for certification and that on the basis of such tests the vehicles (or engines) conform to the requirements of this part. If such statements cannot be made with respect to any vehicle (or engine) tested, the vehicle (or engine) shall be identified, and all pertinent data relating thereto shall be supplied to the Administrator. If, on the basis of the data supplied and any additional data as required by the Administrator, the Administrator determines that the test vehicles (or test engine) was not as described in the application for certification or was not tested in accordance with the applicable test procedures utilizing the fuels and equipment as described in the application for certification, the Administrator may make the determination that the vehicle (or engine) does not meet the applicable standards. The provisions of § 86.084–30(b) shall then be followed.

(2) For evaporative emission durability, or light-duty truck or heavy-duty engine exhaust emission durability, a statement of compliance with paragraph (b)(2), (b)(3) or (b)(1)(ii) of this section, as applicable.

8. A new § 86.085–24 is added to read as follows:

§ 86.085–24 Test vehicles and engines.

(a)(1) The vehicles or engines covered by an application for certification will be divided into groupings of engines which are expected to have similar emission characteristics throughout their useful life. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(2) To be classed in the same engine family, engines must be identical in all the following respects:

(i) The cylinder bore center-to-center dimensions.

(ii) [Reserved]

(iii) [Reserved]

(iv) The cylinder block configuration (air cooled or water cooled; L–6, 90° V–8, etc.).

(v) The location of the intake and exhaust valves (or ports).

(vi) The method of air aspiration.

(vii) The combustion cycle.

(viii) Catalytic converter characteristics.

(ix) Thermal reactor characteristics.

(x) Type of air inlet cooler (e.g., intercoolers and after-coolers) for diesel heavy-duty engines.

(3)(i) Engines identical in all the respects listed in paragraph (a)(2) of this section may be further divided into different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine:

(A) The bore and stroke.

(B) The surface-to-volume ratio of the nominally dimensioned cylinder at the top dead center positions.

(C) The intake manifold induction port size and configuration.

(D) The exhaust manifold port size and configuration.

(E) The intake and exhaust valve sizes.

(F) The fuel system.

(G) The camshaft timing and ignition or injection timing characteristics.

(ii) Light-duty trucks and heavy-duty engines produced in different model years and distinguishable in the respects listed in paragraph (a)(2) of this section shall be treated as belonging to a single engine family if the Administrator requires it, after determining that the engines may be expected to have similar emission deterioration characteristics.

(4) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in paragraphs (a)(2) and (a)(3) of this section, the Administrator will establish families for those engines based upon those features most related to their emission characteristics. Engines that are eligible to be included in the same engine family based on the criteria in paragraphs (a)(2) and (a)(3)(i) of this section may be further divided into different engine families if the manufacturer determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine:

(i) The dimension from the center line of the crankshaft to the center line of the camshaft.

(ii) The dimension from the center line of the crankshaft to the top of the cylinder block head face.

(iii) The size of the intake and exhaust valves (or ports).

(5) The gasoline-fueled light-duty vehicles and light-duty trucks covered by an application for certification will be divided into groupings which are expected to have similar evaporative emission characteristics throughout their useful life. Each group of vehicles with similar evaporative emission characteristics shall be defined as a separate evaporative emission family.

(6) For gasoline-fueled light-duty vehicles and light-duty trucks to be classed in the same evaporative emission family, vehicles must be similar with respect to:

(i) Type of vapor storage device (e.g., canister, air cleaner, crankcase).

(ii) Basic canister design.

(iii) Fuel system.

(7) Where vehicles are of a type which cannot be divided into evaporative emission families based on the criteria listed above, the Administrator will establish families for those vehicles based upon the features most related to their evaporative emission characteristics.

(8)(i) If the manufacturer elects to participate in the Alternative Durability Program, the engine families covered by an application for certification shall be grouped based upon similar engine design and emission control system characteristics. Each of these groups shall constitute a separate engine family group.

(ii) To be classed in the same engine family group, engine families must contain engines identical in all of the following respects:

(A) The combustion cycle.

(B) The cylinder block configuration (air-cooled or water-cooled; L–6, V–8, rotary, etc.).

(C) Displacement (engines of different displacement within 50 cubic inches or 15 percent of the largest displacement and contained within a multidisplacement engine family will be included in the same engine family group).

(D) Catalytic converter usage and basic type (noncatalyst, oxidation catalyst only, three-way catalyst equipped).

(9) Engine families identical in all respects listed in paragraph (a)(8) of this section may be further divided into different engine family groups if the Administrator determines that they are expected to have significantly different exhaust emission control system deterioration characteristics.

(10) A manufacturer may request the Administrator to include in an engine family group, engine families in addition to those grouped under the provisions of paragraph (a)(8) of this section. This request must be accompanied by information the manufacturer believes supports the inclusion of these additional engine families.

(11) A manufacturer may combine into a single engine family group those light-duty vehicle and light-duty truck engine families which otherwise meet the requirements of paragraphs (a)(8) through (a)(10) of this section.

(12) The gasoline-fueled heavy-duty vehicles covered by an application for certification will be divided into groupings of vehicles on the basis of physical features which are expected to affect evaporative emissions. Each group of vehicles with similar features shall be defined as a separate evaporative emission family.

(13) For gasoline-fueled heavy-duty vehicle to be classed in the same evaporative emission family, vehicles must be identical with respect to:

(i) Method of fuel/air metering (i.e., carburetion versus fuel injection).

(ii) Carburetor bowl fuel volume, within a 10 cc range.

(14) For gasoline-fueled heavy-duty vehicles to be classed in the same evaporative emission control system, vehicles must be identical with respect to:

(i) Method of vapor storage.

(ii) Method of carburetor sealing.

(iii) Method of air cleaner sealing.

(iv) Vapor storage working capacity, within a 20g range.

(v) Number of storage devices.

(vi) Method of purging stored vapors.

(vii) Method of venting the carburetor during both engine off and engine operation.

(viii) Liquid fuel hose material.

(ix) Vapor storage material.

(15) Where gasoline-fueled heavy-duty vehicles are types which cannot be divided into evaporative emission family-control system combinations based on the criteria listed above, the Administrator will establish evaporative emission family-control system combinations for those vehicles based on features most related to their evaporative emission characteristics.

(b) Emission data:

(1) *Emission-data vehicles.* Paragraph (b)(1) of this section applies to light-duty vehicle and light-duty truck emission-data vehicles.

(i) Vehicles will be chosen to be operated and tested for emission data based upon engine family groupings. Within each engine family, one test vehicle will be selected based on the following criteria: The Administrator shall select the vehicle with the heaviest equivalent test weight (including options) within the family. Then within that vehicle the Administrator shall select, in the order listed, the highest road-load power, largest displacement, the transmission with the highest numerical final gear ratio (including overdrive), the highest numerical axle ratio offered in that engine family and the maximum fuel flow calibration.

(ii) The Administrator shall select one additional test vehicle from within each engine family. The vehicle selected shall be the vehicle expected to exhibit the highest emissions of those vehicles remaining in the engine family. If all vehicles within the engine family are similar the Administrator may waive the requirements of this paragraph.

(iii) Within an engine family and exhaust emission control system, the manufacturer may alter any emission-data vehicle (or other vehicles such as including current or previous model year emission-data vehicles, fuel economy data vehicles, and development vehicles provided they meet emission-data vehicles' protocol) to represent more than one selection under paragraph (b)(1) (i), (ii), (iv), or (vii) of this section.

(iv) If the vehicles selected in accordance with paragraphs (b)(1) (i) and (ii) of this section do not represent each engine-system combination, then one vehicle of each engine-system combination not represented will be selected by the Administrator. The vehicle selected shall be the vehicle expected to exhibit the highest emissions of those vehicles remaining in the engine family.

(v) For high-altitude exhaust emission compliance for each engine family, the manufacturer shall follow one of the following procedures:

(A) The manufacturer will select for testing under high-altitude conditions the vehicle expected to exhibit the highest emissions from the nonexempt vehicles selected in accordance with § 86.084–24(b)(1) (ii), (iii), and (iv) of this section or,

(B) In lieu of testing vehicles according to paragraph (A) of this section, a manufacturer may provide a statement in its application for certification that, based on the manufacturer's engineering evaluation of such high-altitude emission testing as the manufacturer deems appropriate,

(*1*) [Reserved]

(*2*) that light-duty trucks sold for principal use at designated high-altitude locations comply with the high-altitude emission requirements and, that all other light-duty trucks sold at low altitude and not exempt under § 86.084–9(g)(2) are capable of being modified to meet high-altitude standards.

(vi) If 90 percent or more of the engine family sales will be in California, a manufacturer may substitute emission-data vehicles selected by the California Air Resources Board criteria for the selections specified in paragraphs (b)(1)(i), (b)(1)(ii), and (b)(1)(iv) of this section.

(vii)(A) Vehicles of each evaporative emission family will be divided into evaporative emission control systems.

(B) The Administrator will select the vehicle expected to exhibit the highest evaporative emissions, from within each evaporative family to be certified, from among the vehicles represented by the exhaust emission-data selections for the engine family, unless evaporative testing has already been completed on the vehicle expected to exhibit the highest evaporative emissions for the evaporative family as part of another engine family's testing.

(C) If the vehicles selected in accordance with paragraph (b)(1)(vii)(B) of this section do not represent each evaporative emission control system then the Administrator will select the highest expected evaporative emission vehicle from within the unrepresented evaporative system.

(viii) For high-altitude evaporative emission compliance for each evaporative emission family, the manufacturer shall follow one of the following procedures:

(A) The manufacturer will select for testing under high-altitude conditions the one nonexempt vehicle previously selected under paragraphs (b)(1)(vii) (B) or (C) of this section which is expected to have the highest level of evaporative emissions when operated at high altitude or

(B) In lieu of testing vehicles according to paragraph (A) of this section, a manufacturer may provide a statement in its application for certification that based on the manufacturer's engineering evaluation of such high-altitude emission testing as the manufacturer deems appropriate,

(*1*) [Reserved]

(*2*) that light-duty trucks sold for principal use at designated high-altitude locations comply with the high-altitude emission requirements and that all other

light-duty trucks sold at low altitude and not exempt under § 86.084–9(g)(2) are capable of being modified to meet high-altitude standards.

(ix) Vehicles selected under paragraph (b)(1)(v)(A) of this section may be used to satisfy the requirements of (b)(1)(viii)(A) of this section.

(x) (Light-Duty Trucks Only) (A) The manufacturer may reconfigure any of the low-altitude emission-data vehicles to represent the vehicle configuration required to be tested at high altitude.

(B) The manufacturer is not required to test the reconfigured vehicle at low altitude.

(2) *Gasoline-fueled heavy-duty emission-data engines.* Paragraph (b)(2) of this section applies to gasoline-fueled heavy-duty engines.

(i) [Reserved]

(ii) [Reserved]

(iii) The Administrator shall select a maximum of two engines within each engine family based upon features indicating that they may have the highest emission levels of the engines in the engine family as follows:

(A) The Administrator shall select one emission-data engine first based on the largest displacement within the engine family. Then within the largest displacement the Administrator shall select, in the order listed, highest fuel flow at the speed of maximum rated torque, the engine with the most advanced spark timing, no EGR or lowest EGR flow, and no air pump or lowest actual flow air pump.

(B) The Administrator shall select one additional engine, from within each engine family. The engine selected shall be the engine expected to exhibit the highest emissions of those engines remaining in the engine family. If all engines within the engine family are similar the Administrator may waive the requirements of this paragraph.

(iv) If the engines selected in accordance with paragraph (b)(2) (ii) and (iii) of this section do not represent each engine displacement-exhaust emission control system combination, then one engine of each engine displacement-exhaust emission control system combination not represented shall be selected by the Administrator.

(v) Within an engine family and emission control system, the manufacturer may alter any emission-data engine to represent more than one selection under paragraph (b)(2) (iii) and (iv) of this section.

(3) *Diesel heavy-duty emission-data engines.* Paragraph (b)(3) of this section applies to diesel heavy-duty emission-data vehicles.

(i) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Engines of each engine family will be divided into groups based upon their exhaust emission control systems. One engine of each engine system combination shall be run for smoke emission data and gaseous emission data. Either the complete gaseous emission test or the complete smoke test may be conducted first. Within each combination, the engine that features the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed, will usually be selected. If there are military engines with higher fuel rates than other engines in the same engine system combinations, then one military engine shall also be selected. The engine with the highest fuel feed per stroke will usually be selected.

(iii) The Administrator may select a maximum of one additional engine within each engine-system combination based upon features indicating that it may have the highest emission levels of the engines of that combination. In selecting this engine, the Administrator will consider such features as the injection system, fuel system, compression ratio, rated speed, rated horsepower, peak torque speed, and peak torque.

(c) *Durability data:* (1) *Light-duty vehicle durability-data vehicles.* Paragraph (c)(1) of this section applies to light-duty vehicle durability-data vehicles.

(i) A durability-data vehicle will be selected by the Administrator to represent each engine-system combination. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with that control-system combination in that engine family and will be designated by the Administrator as to transmission type, fuel system, inertia weight class, and test weight.

(ii) A manufacturer may elect to operate and test additional vehicles to represent any engine-system combination. The additional vehicles must be of the same engine displacement, transmission type, fuel system and inertia weight class as the vehicle selected for that engine-system combination in accordance with the provisions of paragraph (c)(1)(i) of this section. Notice of an intent to operate and test additional vehicles shall be given to the Administrator no later than 30 days following notification of the test fleet selection.

Light-duty trucks. Paragraph (c)(2) of this section applies to vehicles, engines, subsystems, or components used to establish exhaust emission deterioration factors for light-duty trucks.

(i) The manufacturer shall select the vehicles, engines, subsystems, or components to be used to determine exhaust emission deterioration factors for each engine-family control system combination. Whether vehicles, engines, subsystems, or components are used, they shall be selected so that their emissions deterioration characteristics may be expeced to represent those of in-use vehicles, based on good engineering judgment.

(ii) [Reserved]

(3) *Heavy-duty engines.* Paragraph (c)(3) of this section applies to engines, subsystems, or components used to establish exhaust emission deterioration factors for heavy-duty engines.

(i) The manufacturer shall select the engines, subsystems, or components to be used to determine exhaust emission deterioration factors for each engine-family control system combination. Whether engines, subsystems, or components are used, they shall be selected so that their emissions deterioration characteristics may be expected to represent those of in-use engines, based on good engineering judgment.

(ii) [Reserved]

(d) For purposes of testing under § 86.084–26 (a)(9) or (b)(11), the Administrator may require additional emission-data vehicles (or emission-data engines) and durability-data vehicles (light-duty vehicles only) identical in all material respects to vehicles (or engines) selected in accordance with paragraphs (b) and (c) of this section, *Provided* that the number of vehicles (or engines) selected shall not increase the size of either the emission-data fleet or the durability-data fleet by more than 20 percent or one vehicle (or engine), whichever is greater.

(e)(1) Any manufacturer whose projected sales for the model year in which certification is sought is less than:

(i) 2,000 gasoline-fueled light-duty vehicles, or

(ii) 2,000 diesel light-duty vehicles, or

(iii) 2,000 gasoline-fueled light-duty trucks, or

(iv) 2,000 diesel light-duty trucks, or

(v) 2,000 gasoline-fueled heavy-duty engines, or

(vi) 2,000 diesel heavy-duty engines,

may request a reduction in the number of test vehicles (or engines) determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines would meet the objectives of this procedure.

(2) Any manufacturer may request to certify engine families with combined total sales of fewer than 10,000 light-duty vehicles, light-duty trucks, and heavy-duty engines utilizing assigned deterioration factors prescribed by the Administrator. The assigned deterioration factors shall be applied only to entire engine families.

(f) In lieu of testing an emission-data or durability-data vehicle (or engine) selected under paragraph (b) or (c) of this section, and submitting data therefor, a manufacturer may, with the prior written approval of the Administrator, submit exhaust emission data and/or fuel evaporative emission data, as applicable on a similar vehicle (or engine) for which certification has previously been obtained or for which all applicable data required under § 86.084–23 has previously been submitted.

(g)(1) This paragraph applies to light-duty vehicles and light-duty trucks, but does not apply to the production vehicles selected under paragraph (h) of this section.

(2) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with an optional item, the full estimated weight of that item shall be included, if required by the Administrator, in the curb weight computation for each vehicle available with that option in the engine family. Where it is expected that 33 percent or less of the vehicles in an engine family will be equipped with an item of optional equipment, no weight for that item will be added in computing curb weight. In the case of mutually exclusive options, only the weight of the heavier option will be added in computing curb weight. Optional equipment weighing less than 3 pounds per item need not be considered.

(3)(i) Where it is expected that more than 33 percent of a car line within an engine-system combination will be equipped with an item of optional equipment that can reasonably be expected to influence emissions, then such items shall actually be installed (unless excluded under paragraph (g)(3)(ii) of this section) on all emission-data and durability-data vehicles of that car line, within that engine-system combination, on which the items are intended to be offered in production. Optional equipment that can reasonably be expected to influence emissions are the air conditioner, power steering, power brakes and other items determined by the Administrator.

(ii) If the manufacturer determines by test data or engineering evaluation that the actual installation of the optional equipment required by paragraph (g)(3)(i) of this section does not affect the emissions or fuel economy values, the optional equipment need not be installed on the test vehicle. The weight of the options shall be included in the design curb weight and also be represented in the weight of the test vehicles. The engineering evaluation, including any test data, used to support the deletion of optional equipment from test vehicles, shall be maintained by the manufacturer and shall be made available to the Administrator upon request.

(h) *Alternative Durability Program durability-data vehicles.* Paragraph (h) of this section applies to light-duty vehicle and light-duty truck durability-data vehicles selected under the Alternative Durability Program. The Alternative Durability Program is described in § 86.081–13.

(1) In order to update the durability data to be used to determine a deterioration factor for each engine family group, the Administrator will select durability-data vehicles from the manufacturer's production line. Production vehicles will be selected from the 1981, 1982, and 1983 model year production of vehicles.

(i) The Administrator shall select the production durability-data vehicle designs from the designs that the manufacturer offers for sale. For each model year and for each engine family group, the Administrator may select production durabilty-data vehicle designs of equal number to the number of engine families within the engine family group, up to a maximum of three vehicles.

(ii) The production durability-data vehicles representing the designs selected in paragraph (h)(1)(i) of this section will be randomly selected from the manufacturer's production. The Administrator will make these random selections unless the manufacturer (with prior approval of the Administrator) elects to make the random selections.

(iii) The manufacturer may select additional production durability-data vehicle designs from within the engine family group. The production durability-data vehicles representing these designs shall be randomly selected from the manufacturer's production in accordance with paragraph (h)(1)(ii) of this section.

(iv) For each production durability-data vehicle selected under paragraph (h)(1) of this section, the manufacturer shall provide to the Administrator (before the vehicle is tested or begins service accumulation) the vehicle identification number. Before the vehicle begins service accumulation the manufacturer shall also provide the Administrator with a description of the durability-data vehicle as specified by the Administrator.

(2) If, within an existing engine family group, a manufacturer requests to certify vehicles of a new design, engine family, emission control system, or with any other durability-related design difference, the Administrator will determine if the existing engine family group deterioration factor is appropriate for the new design. If the Administrator cannot make this determination or deems the deterioration factor not appropriate, the Administrator shall select preproduction durability-data vehicles under the provisions of paragraph (c) of this section. If vehicles are then certified using the new design, the Administrator may select production vehicles with the new design under the provisions of paragraph (h)(1) of this section.

(3) If a manufacturer requests to certify vehicles of a new design that the Administrator determines are a new engine family group, the Administrator shall select preproduction durability-data vehicles under the provisions of paragraph (c) of this section. If vehicles are then certified using the new design, the Administrator may select production vehicles of that design under the provisions of paragraph (h)(1) of this section.

9. A new § 86.085–27 is added to read as follows:

§ 86.085–27 Special test procedures.

(a) The Administrator may, on the basis of a written application by a manufacturer, prescribe test procedures, other than those set forth in this part, for any light-duty vehicle, light-duty truck, heavy-duty engine, or gasoline-fueled heavy-duty vehicle which the Administrator determines is not susceptible to satisfactory testing by the procedures set forth in this part.

(b) If the manufacturer does not submit a written application for use of special test procedures but the Administrator determines that a light-duty vehicle, light-duty truck, heavy-duty engine, or gasoline-fueled heavy-duty vehicle is not susceptible to satisfactory testing by the procedures set forth in this part, the Administrator shall notify the manufacturer in writing and set forth the reasons for such rejection in accordance with the provisions of § 86.082–22(c).

10. A new paragraph (d) is added to § 86.085–28 to read as follows:

§ 86.085–28 Compliance with emission standards.

* * * * *

(d)(1) Paragraph (d) of this section applies to gasoline-fueled heavy-duty vehicles.

(2) The applicable fuel evaporative emission standard in § 86.085–10 applies to the emissions of vehicles for their useful life.

(3)(i) For vehicles with a GVWR of up to 26,000 pounds because it is expected that emission control efficiency will change during the useful life of the vehicle, an evaporative emission deterioration factor shall be determined from the testing described in § 86.085–23(b)(3) for each evaporative emission family-evaporative emission control system combination to indicate the evaporative emission control system deterioration during the useful life of the vehicle (minimum 50,000 miles). The factor shall be established to a minimum of two places to the right of the decimal.

(ii) For vehicles with a GVWR of greater than 26,000 pounds; because it is expected that emission control efficiency will change during the useful life of the vehicle, each manufacturer's statement as required in § 86.085–23(b)(4)(ii) shall include, in accordance with good engineering practice, consideration of control system deterioration.

(4) The evaporative emission test results, if any, shall be adjusted by the addition of the appropriate deterioration factor: *Provided,* that if the deterioration factor as computed in paragraph (c)(3) of this section is less than zero, that deterioration factor shall be zero for the purposes of this paragraph.

(5) The emission level to compare with the standard shall be the adjusted emission level of paragraph (c)(4) of this section. Before any emission value is compared with the standard, it shall be rounded, in accordance with ASTME 29–67, to two significant figures. The rounded emission values may not exceed the standard.

(6) Every test vehicle of an evaporative emission family must comply with the evaporative emission standard, as determined in paragraph (c)(5) of this section, before any vehicle in that family may be certified.

11. A new § 86.085–29 is added to read as follows:

§ 86.085–29 Testing by the Administrator.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The Administrator may require that any one or more of the test vehicles be submitted to him, at such place or places as he may designate, for the purposes of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3)(i) Whenever the Administrator conducts a test on a test vehicle, the results of that test shall, unless subsequently invalidated by the Administrator, comprise the official data for the vehicle at the prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards.

(ii) Whenever the Administrator does not conduct a test on a test vehicle at a test point, the manufacturer's test data will be accepted as the official data for that point: *Provided,* that if the Administrator makes a determination based on testing under paragraph (a)(2) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer, *and further provided,* that if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer is not accurate or has been obtained in violation of any provisions of this part, the Administrator may refuse to accept that data as the official data pending retesting or submission or further information. If the manufacturer conducts more than one test on a vehicle, as authorized under § 86.084–26 (a)(3)(i)(A) or (b)(4)(i)(A), the data from the last test in that series of tests on that vehicle, will constitute the official data.

(iii)(A)(*1*) The Administrator may adjust or cause to be adjusted any adjustable parameter of an emission data vehicle or engine which the Administrator has determined to be subject to adjustment for certification and Selective Enforcement Audit testing in accordance with § 86.084–22(e)(1), to any setting within the physically adjustable range of that parameter, as determined by the Administrator in accordance with § 86.084–22(e)(3)(i), prior to the performance of any tests to determine whether such vehicle or engine conforms to applicable emission standards, including tests performed by the manufacturer under § 86.084–23(c)(1). However, if the idle speed parameter is one which the Administrator has determined to be subject to adjustment, the Administrator shall not adjust it to a setting which causes a higher engine idle speed than would have been possible within the physically adjustable range of the idle speed parameter on the vehicle before it accumulated any mileage, all other parameters being adjusted identically for the purpose of comparison. The Administrator, in making or specifying such adjustments, will consider the effect of the deviation from the manufacturer's recommended setting on emissions performance characteristics as well as the likelihood that similar settings will occur on in-use light-duty vehicles or light-duty trucks. In determining likelihood, the Administrator will consider factors such as, but not limited to, the effect of the adjustment on vehicle performance characteristics and surveillance information from similar in-use vehicles.

(*2*) For those vehicles or engine parameters which the Administrator has not determined to be subject to adjustment during certification and Selective Enforcement Audit testing in accordance with § 86.084–22(e)(1), the emission-data vehicle presented to the Administrator for testing shall be calibrated within the production tolerances applicable to the manufacturer's specifications to be shown on the vehicle label (see § 86.084–35(a)(1)(iii)(D) or (a)(2)(iii)(D)) as specified in the application for certification. If the Administrator determines that a vehicle is not within such tolerances, the vehicle will be adjusted, at the facility designated by the Administrator, prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report, the Administrator will determine if the vehicle will be used as an emission-data vehicle.

(B) If the Administrator determines that the test data developed on an emission-data vehicle under paragraph (a)(3)(i) of this section would cause that vehicle to fail due to excessive 4,000 mile emissions or by application of the appropriate deterioration factor, then the following procedure shall be observed:

(*1*) The manufacturer may request a retest. Before the retest, those vehicle or engine parameters which the Administrator has not determined to be subject to adjustment for certification and Selective Enforcement Audit testing in accordance with § 86.063–22(e)(1) may be readjusted to manufacturer's specification, if these adjustments were made incorrectly prior to the first test. The Adminstrator may adjust or cause

to be adjusted any parameter which the Administrator has determined to be subject to adjustment to any setting within the physically adjustable range of that parameter, as determined by the Administrator in accordance with § 86.084–22(e)(3)(i). However, if the idle speed parameter is one which the Administrator has determined to be subject to adjustment, the Administrator shall not adjust it to a setting which causes a higher engine idle speed than would have been possible within the physically adjustable range of the idle speed parameter on the vehicle before it accumulated any mileage, all other parameters being adjusted identically for the purpose of comparison. Other maintenance or repairs may be performed in accordance with § 86.084–25. All work on the vehicle shall be done at such location and under such conditions as the Administrator may prescribe.

(*2*) The vehicle will be retested by the Administrator and the results of this test shall comprise the official data for the emission-data vehicle.

(iv) If sufficient durability data are not available at the time of any emission test conducted under paragraph (a)(2) of this section to enable the Administrator to determine whether an emission-data vehicle would fail, the manufacturer may request a retest in accordance with the provisions of paragraphs (a)(3)(iii) (A) and (B) of this section. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the vehicle from the test premises.

(b)(1) Paragraph (b) of this section applies to heavy-duty engines.

(2) The Administrator may require that any one or more of the test engines be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3)(i) Whenever the Administrator conducts a test on a test engine the results of that test, unless subsequently invalidated by the Administrator, shall comprise the official data for the engine at that prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards.

(ii) Whenever the Administrator does not conduct a test on a test engine at a test point, the manufacturer's test data will be accepted as the official data for that test point: *Provided,* that if the Administrator makes a determination based on testing under paragraph (b)(2) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer: *And further provided,* that if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer is not accurate or has been obtained in violation of any provision of this part, the Administrator may refuse to accept that data as the official data pending retesting or submission of further information.

(iii)(A)(*1*) The Administrator may adjust or cause to be adjusted any adjustable parameter of an emission-data engine which the Administrator has determined to be subject to adjustment for certification testing in accordance with § 86.084–22(e)(1), to any setting within the physically adjustable range of that parameter, as determined by the Administrator in accordance with § 86.084–22(e)(3)(i), prior to the performance of any tests to determine whether such engine conforms to applicable emission standards, including tests performed by the manufacturer under § 86.084–23(c)(2). However, if the idle speed parameter is one which the Administrator has determined to be subject to adjustment, the Administrator shall not adjust it to a setting which causes a higher engine idle speed than would have been possible within the physically adjustable range of the idle speed parameter on the engine before it accumulated any dynamometer service, all other parameters being identically adjusted for the purpose of the comparison. The Administrator, in making or specifying such adjustments, may consider the effect of the deviation from the manufacturer's recommended setting on emissions performance characteristics as well as the likelihood that similar settings will occur on in-use heavy-duty engines. In determining likelihood, the Administrator may consider factors such as, but not limited to, the effect of the adjustment on engine performance characteristics and surveillance information from similar in-use engines.

(*2*) For those engine parameters which the Administrator has not determined to be subject to adjustment for certification testing in accordance with § 86.084–22(e)(1), the emission-data engine presented to the Administrator for testing shall be calibrated within the production tolerances applicable to the manufacturer's specifications to be shown on the engine label (see § 86.084–35(a)(3)(iii)) as specified in the application for certification. If the Administrator determines that an engine is not within such tolerances, the engine shall be adjusted at the facility designated by the Administrator prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report, the Administrator will determine if the engine shall be used as an emission-data engine.

(B) If the Administrator determines that the test data developed under paragraph (b)(3)(iii)(A) of this section would cause the emission-data engine to fail due to excessive 125-hour emission values or by the application of the appropriate deterioration factor, then the following procedure shall be observed:

(*1*) The manufacturer may request a retest. Before the retest, those engine parameters which the Administrator has not determined to be subject to adjustment for certification testing in accordance with § 86.084–22(e)(1) may be readjusted to the manufacturer's specifications, if these adjustments were made incorrectly prior to the first test. The Administrator may adjust or cause to be adjusted any parameter which the Administrator has determined to be subject to adjustment in accordance with § 86.084–22(e)(3)(i). However, if the idle speed parameter is one which the Administrator has derermined to be subject to adjustment, the Administrator shall not adjust it to a setting which causes a higher engine idle speed than would have been possible within the physically adjustable range of the idle speed parameter on the engine before it accumulated any dynamometer service, all other parameters being identically adjusted for the purpose of the comparison. Other maintenance or repairs may be performed in accordance with § 86.084–25. All work on the vehicle shall be done at such location and under such conditions as the Administrator may prescribe.

(*2*) The engine will be retested by the Administrator and the results of this test

shall comprise the official data for the emission-data engine.

(iv) If sufficient durability data are not available at the time of any emission test conducted under paragraph (b)(2) of thid section to enable the Administrator to determine whether an emission-data engine would fail, the manufacturer may request a retest in accordance with the provisions of paragraph (b)(3)(iii)(B) (1) and (2) of this section. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the engine from the test premises.

(c)(1) Paragraph (c) of this section applies to gasoline-fueled heavy-duty vehicles.

(2) The Administrator may require that any one or more of the evaporative emission family-system combinations included in the manufacturer's statement(s) of compliance be installed on an appropriate vehicle and such vehicle be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3)(i) Whenever the Administrator conducts a test on an evaporative emission family-system combination the results of that test, unless subsequently invalidated by the Administrator, shall comprise the official data for the evaporative emission family-system combination and the manufacturer's data, analyses, etc. shall not be used in determining compliance with emission standards.

(ii) Whenever the Administrator does not conduct a test on an evaporative emission family-system combination, the manufacturer's test data will be accepted as the official data: *Provided,* that if the Administrator makes a determination based on testing under paragraph (c)(2) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer: *And further provided,* that if the Administrator has reasonable basis to believe that any test data, analyses, or other information submitted by the manufacturer is not accurate or has been obtained in violation of any provision of this part, the Administrator may refuse to accept that data, analyses, etc. as the official data pending retesting or submission of further information.

12. A new § 86.085–30 is added to read as follows:

§ 86.085–30 Certification.

(a)(1)(i) If, after a review of the test reports and data submitted by the manufacturer, data derived from any inspection carried out under § 86.078–7(c), and any other pertinent data or information, the Administrator determines that a test vehicle(s) (or test engine(s)) meet(s) the requirements of the Act and of this subpart, he will issue a certificate of conformity with respect to such vehicle(s) (or engine(s)) except in cases covered by paragraphs (a)(1)(ii) and (c) of this section.

(ii) *Gasoline-fueled heavy-duty vehicles.* If, after a review of the statement(s) of compliance submitted by the manufacturer under § 86.085–23(b)(4) and any other pertinent data or information, the Administrator determines that the requirements of the Act and this subpart have been met, he will issue one certificate of conformity per manufacturer with respect to the evaporative emission family(s) covered by such statement(s) except in cases covered by paragraph (c) of this section.

(2) Such certificate will be issued for such period not to exceed one model year as the Administrator may determine and upon such terms as he may deem necessary or appropriate to assure that any new motor vehicle (or new motor vehicle engine) covered by the certificate will meet the requirements of the Act and of this part.

(3)(i) One such certificate will be issued for each engine family. For gasoline-fueled light-duty vehicles and light-duty trucks, one such certificate will be issued for each engine family-evaporative emission family combination.

(A) *Light-Duty Vehicles.* Each certificate will certify compliance with no more than one set of standards.

(B) *Light-Duty Trucks.* Each certificate will certify compliance with no more than one set of standards except for low-altitude standards and high-altitude standards. The certificate shall state that it covers vehicles sold or delivered to an ultimate purchaser for principal use at a designated high-altitude location only if the vehicle conforms in all material respects to the design specifications that apply to those vehicles described in the application for certification at high altitude.

(ii) For gasoline-fueled heavy-duty vehicles, one such certificate will be issued for each manufacturer and will certify compliance for those vehicles previously identified in that manufacturer's statement(s) of compliance as required in § 86.085–23(b)(4)(i) and (ii).

(4) The adjustment or modification of any light-duty truck, in accordance with instructions provided by the manufacturer for the altitude where the vehicle is principally used will not be considered violation of Section 203(a)(3) of the Clean Air Act. A violation of Section 203(a)(1) of the Clean Air Act occurs when any manufacturer sells or delivers to an ultimate purchaser any light-duty truck, subject to the regulations under the Act, which is not configured to meet high-altitude requirements:

(i) At a designated high-altitude location, unless such manufacturer has substantial reason to believe that such motor vehicle will not be used principally at a designated high-altitude location; or

(ii) At an other than designated high-altitude location, when such manufacturer has reason to believe that such motor vehicle will be used principally at a designated high-altitude location.

(5) For the purpose of paragraph (a) of this section, "designated high-altitude location" is any county which has substantially all of its area located above 1,219 meters (4,000 feet) and which is identified below:

Counties Located Substantially Above 1,219 Meters (4,000 Feet) in Elevation

State of Arizona

Apache	Navajo
Cochise	Yavapai
Coconino	

State of Colorado

Adams	Cheyenne
Alamosa	Clear Creek
Arapahoe	Conejos
Archuleta	Costilla
Boulder	Crowley
Chaffee	Custer
Delta	Garfield
Denver	Gilpin
Dolores	Grand
Douglas	Gunnison
Eagle	Hinsdale
Elbert	Huerfano
El Paso	Jackson
Fremont	Jefferson
Kit Carson	Mesa
Lake	Mineral
La Plata	Moffat
Larimer	Montezuma
Las Animas	Montrose
Lincoln	Morgan

Otero	Saguache
Ouray	San Juan
Park	San Miguel
Pitkin	Summit
Pueblo	Teller
Rio Blanco	Washington
Rio Grande	Weld
Routt	

State of Idaho

Bannock	Camas
Bear Lake	Carribou
Bingham	Cassia
Blaine	Cark
Bonneville	Custer
Butte	
Franklin	Minidoka
Fremont	Oneida
Jefferson	Power
Lemhi	Teton
Madison	Valley

State of Montana

Beaverhead	Madison
Deer Lodge	Meagher
Gallatin	Park
Jefferson	Silver Bow
Judith Basin	Wheatland
Powell	

State of Nebraska

Banner	Kimball
Cheyenne	Sioux

State of Nevada

Carson City	Lyon
Douglas	Mineral
Elko	Nye
Esmeralda	Pershing
Eureka	Storey
Humboldt	Washoe
Lander	White Pine
Lincoln	

State of New Mexico

Bernalillo	De Baca
Catron	Grant
Colfax	Guadalupe
Curry	
Harding	Luna
Hidalgo	McKinley
Lincoln	Otero
Los Alamos	
Mora	Sierra
Rio Arriba	Socorro
Roosevelt	Taos
Sandoval	Torrance
San Juan	Union
San Miguel	Valencia
Santa Fe	

State of Oregon

Harney	Klamath
Lake	

State of Texas

Jeff Davis	Parmer
Hudspeth	

State of Utah

Beaver	Daggett
Box Elder	Davis
Cache	Duchesne
Carbon	Emery
Garfield	Kane
Grand	Millard
Iron	Morgan
Juab	
Piute	Tooele
Rich	Uintah
Salt Lake	Utah
San Juan	Wasatch
Sanpete	Wayne
Sevier	Weber
Summit	

State of Wyoming

Albany	Natrona
Cambell	Niobrara
Carbon	Park
Converse	Platte
Fremont	Sublette
Goshen	Sweetwater
Hot Springs	Teton
Johnson	Uinta
Laramie	Washakie
Lincoln	Weston

(6) [Reserved]

(7) Catalyst-equipped vehicles, otherwise covered by a certificate, which are driven outside the United States, Canada, and Mexico will be presumed to have been operated on leaded gasoline resulting in deactivation of the catalysts. If these vehicles are imported or offered for importation without retrofit of the catalyst, they will be considered not to be within the coverage of the certificate unless included in a catalyst control program operated by a manufacturer or a United States Government agency and approved by the Administrator.

(8) For incomplete light-duty trucks, a certificate covers only those new motor vehicles which, when completed by having the primary load-carrying device or container attached, conform to the maximum curb weight and frontal area limitations described in the application for certification as required in § 86.084–21(d).

(9) For heavy-duty engines, a certificate covers only those new motor vehicle engines installed in heavy-duty vehicles which conform to the minimum gross vehicle weight rating, curb weight, or frontal area limitations for heavy-duty vehicles described in § 86.082–2.

(10) For incomplete gasoline-fueled heavy-duty vehicles a certificate covers only those new motor vehicles which, when completed, conform to the nominal maximum fuel tank capacity limitations as described in the applicaton for certification as required in § 86.085–21(e).

(b)(1) The Administrator will determine whether a vehicle (or engine) covered by the application complies with applicable standards by observing the following relationships:

(i) *Light-duty vehicles.* (A) The durability-data vehicle(s) selected under § 86.084–24(c)(1)(i) shall represent all vehicles of the same engine-system combination.

(B) The emission-data vehicle(s) selected under § 86.084–24(b)(1) (ii) through (b)(1)(iv) shall represent all vehicles of the same engine-system combination as applicable.

(C) The emission-data vehicle(s) selected under § 86.084–24 (b)(1)(vii)(A) and (b)(1)(vii)(B) shall represent all vehicles of the same evaporative control system within the evaporative family.

(ii) *Light-duty trucks.*

(A) [Reserved]

(B) The emission-data vehicle(s) selected under § 86.084–24(b)(1)(ii), shall represent all vehicles of the same engine-system combination as applicable.

(C) The emission-data vehicle(s) selected under § 86.084–24 (b)(1)(vii)(A) and (b)(1)(vii)(B) shall represent all vehicles of the same evaporative control system within the evaporative family.

(D) The emission-data vehicle(s) selected under § 86.084–24(b)(1)(v) shall represent all vehicles of the same engine-system combination as applicable.

(E) The emission-data vehicle(s) selected under § 86.084–24(b)(1)(viii) shall represent all vehicles of the same evaporative control system within the evaporative emission family, as applicable.

(iii) *Heavy-duty engines.* (A) A gasoline-fueled emission-data test engine selected under § 86.080–24(b)(2)(ii) and (iv) shall represent all engines in the same family of the same engine displacement-exhaust emission control system combination.

(B) A gasoline-fueled emission-data test engine selected under § 86.080–24(b)(2)(iii) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(C) A diesel emission-data test engine selected under § 86.084–24(b)(3)(ii) shall represent all engines in the same engine-system combination.

(D) A diesel emission-data test engine selected under § 86.084–24(b)(3)(iii) shall represent all engines of that emission control system at the rated fuel delivery of the test engine.

(E) [Reserved]

(iv) *Gasoline-fueled heavy-duty vehicles.* A statement of compliance submitted under § 86.085–23(b)(4)(i) or § 86.085–23(b)(4)(ii) shall represent all vehicles in the same evaporative emission family-evaporative emission control system combination.

(2) The Adminstrator will proceed as in paragraph (a) of this section with respect to the vehicles (or engines) belonging to an engine family or engine family-evaporative emission family

combination (as applicable), all of which comply with all applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer, data derived from any additional testing conducted pursuant to § 86.084–29, data or information derived from any inspection carried out under § 86.078–7(c) or any other pertinent data or information, the Administrator determines that one or more test vehicles (or test engines) of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078–6 with respect to such issue.

(4) For light-duty vehicles and light-duty trucks the manufacturer may, at his option, proceed with any of the following alternatives with respect to an emission-data vehicle determined not in compliance with all applicable standards for which it was tested:

(i) Request a hearing under § 86.078–6; or

(ii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed, from his application;

(A) If the failed vehicle was tested for compliance with exhaust emissions standards only: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle to be tested for exhaust emission compliance only.

(B) If the failed vehicle was tested for compliance with both exhaust and evaporative emission standards: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle which will be tested for compliance with both exhaust and evaporative emission standards. If one vehicle cannot be selected in accordance with the selection criteria employed in selecting the failed vehicle, then two vehicles may be selected (i.e., one vehicle to satisfy the exhaust emission vehicle selection criteria and one vehicle to satisfy the evaporative emission vehicle selection criteria). The vehicle selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicle selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards; or

(iii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed from the application and add a vehicle configuration(s) (or evaporative vehicle configuration(s), as applicable) not previously listed. The Administrator may require, if applicable, that the failed vehicle be modified to the new engine code (or evaporative emission code, as applicable) and demonstrate by testing that it meets applicable standards for which it was originally tested. In addition, the Administrator may select, in accordance with the vehicle selection criteria given in § 86.084–24(b), a new emission-data vehicle or vehicles. The vehicles selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicles selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards; or

(iv) Correct a component or system malfunction and show that with a correctly functioning system or component the failed vehicle meets applicable standards for which it was originally tested. The Administrator may require a new emission-data vehicle, of identical vehicle configuration (or evaporative vehicle configuration, as applicable) to the failed vehicle, to be operated and tested for compliance with the applicable standards for which the failed vehicle was originally tested.

(5) For heavy-duty engines the manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test engine(s) determined not in compliance with applicable standards:

(i) Request a hearing under § 86.078–6; or

(ii) Delete from the application for certification the engines represented by the failing test engine. (Engines so deleted may be included in a later request for certification under 86.079–32.) The Administrator may then select in place of each failing engine an alternate engine chosen in accordance with selecting criteria employed in selection the engine that failed; or

(iii) Modify the test engine and demonstrate by testing that it meets applicable standards. Another engine which is in all material respects the same as the first engine, as modified, may then be operated and tested in accordance with applicable test procedures.

(6) If the manufacturer does not request a hearing or present the required data under paragraphs (b)(4) or (b)(5) (as applicable) of this section, the Administrator will deny certification.

(c)(1) Notwithstanding the fact that any certification vehicle(s) (or certification engine(s)) may comply with other provisions of this subpart, the Administrator may withhold or deny the issuance of a certificate of conformity (or suspend or revoke any such certificate which has been issued) with respect to any such vehicle(s) (or engine(s)) if:

(i) The manufacturer submits false or incomplete information in his application for certification thereof;

(ii) The manufacturer renders inaccurate any test data which he submits pertaining thereto or otherwise circumvents the intent of the Act, or of this part with respect to such vehicle (or engine);

(iii) Any EPA Enforcement Officer is denied access on the terms specified in § 86.078–7(c) to any facility or portion thereof which contains any of the following:

(A) The vehicle (or engine);

(B) Any components used or considered for use in its modification or buildup into a certification vehicle (or certification engine);

(C) Any production vehicle (or production engine) which is or will be claimed by the manufacturer to be covered by the certificate;

(D) Any step in the construction of a vehicle (or engine) described in (c)(1)(iii)(C) of this section;

(E) Any records, documents, reports, or histories required by this part to be kept concerning any of the above;

(iv) Any EPA Enforcement Officer is denied "reasonable assistance" (as defined in § 86.078–7(c)) in examining any of the items listed in paragraph (c)(1)(iii) of this section.

(2) The sanctions of withholding, denying, revoking, or suspending of a certificate may be imposed for the reasons in paragraphs (c)(1)(i), (ii), (iii), or (iv) of this section only when the infraction is substantial.

(3) In any case in which a manufacturer knowingly submits false or inaccurate information or knowingly renders inaccurate or invalid any test data or commits any other fraudulent

acts and such acts contribute substantially to the Administrator's decision to issue a certificate of conformity, the Administrator may deem such certificate void ab initio.

(4) In any case in which certification of a vehicle (or engine) is proposed to be withheld, denied, revoked, or suspended under paragraph (c)(1)(iii) or (c)(1)(iv) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.078–7(c) in fact occurred, the manufacturer, if he wishes to contend that, even though the violation occurred, the vehicle (or engine) in question was not involved in the violation to a degree that would warrant withholding denial, revocation, or suspension of certification under either paragraph (c)(1)(iii) or (c)(1)(iv) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(5) Any revocation or suspension of certification under paragraph (c)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.078–6 hereof.

(ii) Extend no further than to forbid the introduction into commerce of vehicles (or engines) previously covered by the certification which are still in the hands of the manufacturer, except in cases of such fraud or other misconduct as makes the certification invalid ab initio.

(6) The manufacturer may request in the form and manner specified in paragraph (b)(3) of this section that any determination made by the Administrator under paragraph (c)(1) of this section to withhold or deny certification be reviewed in a hearing conducted in accordance with § 86.078–6. If the Administrator finds, after a review of the request and supporting data, that the request raises a substantial factual issue, he will grant the request with respect to such issue.

(d)(1) *For light-duty vehicles.* Notwithstanding the fact that any vehicle configuration or engine family may be covered by a valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of conformity in whole or in part with respect to such vehicle configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 86.603; or

(ii) The manufacturer refuses to comply with any of the requirements of § 86.603; or

(iii) The manufacturer submits false or incomplete information in any report or information provided pursuant to the requirements of § 86.609; or

(iv) The manufacturer renders inaccurate any test data which he submits pursuant to § 86.609; or

(v) Any EPA Enforcement Officer is denied access to a facility on the terms specified in § 86.606; or

(vi) Any EPA Enforcement Officer is denied the opportunity on the terms specified in § 86.606, to:

(A) Monitor vehicle selection pursuant to § 86.607, or

(B) Select vehicles for testing pursuant to § 86.607, or

(C) Monitor vehicle testing performed to satisfy any of the requirements of this part; or

(vii) Any EPA Enforcement Officer is denied "reasonable assistance" as defined in § 86.606 in examining any of the items listed in that section; or

(viii) The manufacturer refuses to comply with the requirements of §§ 86.604(a), 86.605, and 86.607, 86.608, 86.610, or 86.611.

(2) The sanction of suspending a certificate may not be imposed for the reasons in paragraphs (d)(1) (i), (ii), or (viii) of this section where such refusal is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with those requirements. Such conditions and circumstances shall include, but not be limited to, any uncontrollable factors which results in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(3) The sanctions of suspending a certificate may be imposed for the reasons in paragraphs (d)(1) (iii), (iv), (v), (vi), or (vii) of this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submitted false or inaccurate information or knowingly rendered inaccurate any test data or committed any other fraudulent acts, and such acts contributed substantially to the Administrator's original decision not to suspend or revoke a certificate of conformity in whole or in part, the Administrator may deem such certificate void from the date of such fraudulent act.

(5) In any case in which certification of a vehicle is proposed to be suspended under paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.606 in fact occurred, the manufacturer, if he wishes to contend that even though the violation occurred, the vehicle configuration or engine family in question was not involved in the violation to the degree that would warrant suspension of certification under either paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) Any suspension of certification under paragraph (d)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.613 hereof, and

(ii) Not apply to vehicles no longer in the hands of the manufacturer.

(e) *For light-duty trucks and heavy-duty engines.* (1) Notwithstanding the fact that any vehicle configuration or engine family may be covered by a valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of conformity in whole or in part with respect to such vehicle or engine configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 86.1003; or

(ii) The manufacturer refuses to comply with any of the requirements of § 86.1003; or

(iii) The manufacturer submits false or incomplete information in any report or information provided pursuant to the requirements of § 86.1009; or

(iv) The manufacturer renders inaccurate any test data submitted pursuant to § 86.1009; or

(v) Any EPA Enforcement Officer is denied the opportunity to conduct activities related to entry and access as authorized in § 86.1006 of this part and in a warrant or court order presented to the manufacturer or the party in charge of a facility in question; or

(vi) EPA Enforcement Officers are unable to conduct activities related to entry and access as authorized in § 86.1006 of this part because a manufacturer has located a facility in a foreign jurisdiction where local law prohibits those activities; or

(vii) The manufacturer refuses to or in fact does not comply with the requirements of §§ 86.1004(a), 86.1005, 86.1007, 86.1008, 86.1010, 86.1011, or 86.1013.

(2) The sanction of suspending a certificate may not be imposed for the reasons in paragraphs (e)(1) (i), (ii), or (vii) of this section where such refusal or denial is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with those requirements. Such conditions and circumstances shall include, but are not limited to, any uncontrollable factors which result in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturers to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(3) The sanction of suspending a certificate may be imposed for the reasons outlined in paragraph (e)(1), (iii), (iv), or (v) of this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submitted false or inaccurate information or knowingly rendered inaccurate any test data or committed any other fraudulent acts, and such acts contributed substantially to the Administrator's original decision not to suspend or revoke a certificate of conformity in whole or in part, the Administrator may deem such certificate void from the date of such fraudulent act.

(5) In any case in which certification of a light-duty truck or heavy-duty engine is proposed to be suspended under paragraph (e)(1)(v) of this section and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.1006 in fact occurred, if the manufacturer wishes to contend that, although the violation occurred, the vehicle or engine configuration or engine family in question was not involved in the violation to a degree that would warrant suspension of certification under paragraph (e)(1)(v) of this section, he shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) Any suspension of certification under paragraph (e)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.1014 and

(ii) Not apply to vehicles or engines no longer in the hands of the manufacturer.

(7) Any voiding of a certificate of conformity under paragraph (e)(4) of this section shall be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.1014.

13. A new § 86.085–35 is added to read as follows:

§ 86.085–35 Labeling.

(a) The manufacturer of any motor vehicle (or motor vehicle engine) subject to the applicable emission standards of this subpart, shall, at the time of manufacture, affix a permanent legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such vehicles (or engines) available for sale to the public and covered by a certificate of conformity under § 86.084–30(a).

(1) *Light-duty vehicles.* (i) A permanent, legible label shall be affixed in a readily visible position in the engine compartment.

(ii) The label shall be affixed by the vehicle manufacturer who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label. The label shall not be affixed to any equipment which is easily detached from such vehicle.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(A) The label heading: Vehicle Emission Control Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement (in cubic inches), engine, family identification and evaporative family identification;

(D) Engine tune-up specifications and adjustments, as recommended by the manufacturer in accordance with the applicable emission standards, including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable), as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tune-up and what accessories (e.g., air conditioner), if any, should be in operation. If adjustments or modifications to the vehicle are necessary to insure compliance with either the emission standards at low altitude or the optional emission standards at high altitude, the manufacturer shall either include the instructions for such adjustments on the label, or indicate on the label where instructions for such adjustments may be found. The label shall indicate whether the engine tune-up or adjustment specifications are applicable to elevation below or above 4,000 feet.

(E) An unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations which apply to light-duty vehicles;

(2) Light-duty trucks. (i) A legible, permanent label shall be affixed in a readily visible position in the engine compartment.

(ii) The label shall be affixed by the vehicle manufacturer who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label. The label shall not be affixed to any equipment which is easily detached from such vehicle.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label.

(A) The label heading: Important Vehicle Information;

(B) Full corporate name and trademark of manufacturers;

(C) Engine displacement (in cubic inches) and engine family identification;

(D) Engine tune-up specifications and adjustments, as recommended by the manufacturer in accordance with the applicable emission standards, including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable), as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tune-up and what accessories (e.g., air conditioner), if any, should be in operation. If adjustments or modifications to the vehicle are necessary to insure compliance with emission standards at either high or low altitude, the manufacturer shall either include the instructions for such adjustments on the label, or indicate on the label where instructions for such adjustments may be found. The label shall indicate whether the engine tune-up or adjustment specifications are

applicable to high altitude, low altitude or both.

(E) The prominent statement: "(Manufacturer's corporate name) has determined this vehicle has an average useful life of —— miles or —— hours of operation, whichever occurs first." The manufacturer may alter this statement only to express the useful life in terms other than miles or hours (e.g., years, or hours only).

(F) The subordinate addition to the statement in paragraph (a)(2)(iii)(E) of this section: "This engine's actual life may vary depending on its service application. (For additional information see the owner's maintenance instructions.) This engine conforms to U.S. EPA regulations applicable to 19— Model Year New Heavy-Duty Engines for its useful life."

(G) A statement, if applicable, that the adjustments or modifications indicated on the label are necessary to ensure emission control compliance at the altitude specified.

(H) A statement, if applicable, that the high-altitude vehicle was designated or modified for principal use at high altitude. This statement must be affixed by the manufacturer at the time of assembly or by any dealer who performs the high-altitude modification or adjustment prior to sale to an ultimate purchaser.

(I) A statement, if applicable, that the vehicle has been exempted from meeting the high-altitude gaseous emission standards as specified in § 86.084–9(g)(4) or § 86.085–9(g)(2), as applicable, and that its unsatisfactory performance under high-altitude conditions makes it unsuitable for principal use at high altitude.

(J) A statement, if applicable, that the vehicle has been exempted from meeting the high-altitude gaseous emissions standards as specified in § 86.084–9(g)(2) and, as a consequence, the emission performance warranty provisions of 40 CFR Part 85, Subpart V do not apply when the vehicle is tested at high altitude.

(3) Heavy-duty engines. (i) A permanent legible label shall be affixed to the engine in a position in which it will be readily visible after installation in the vehicle.

(ii) The label shall be attached to an engine part necessary for normal engine operation and not normally requiring replacement during engine life.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals which shall be of a color that contrasts with the background of the label:

(A) The label heading: Important Engine Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement (in cubic inches) and engine family and model designations;

(D) Date of engine manufacture (month and year). The manufacturer may, in lieu of including the date of manufacture on the engine label, maintain a record of the engine manufacture dates. The manufacturer shall provide the date of manufacture records to the Administrator upon request;

(E) Engine specifications and adjustments as recommended by the manufacturer. These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air conditioner), if any, should be in operation;

(F) For gasoline-fueled engines the label should include the idle speed, ignition timing, and the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), and valve lash;

(G) For diesel engines the label should include the advertised hp at rpm, fuel rate at advertised hp in mm3 stroke, valve lash, initial injection timing, and idle speed;

(H) The prominent statement: "(Manufacturer's corporate name) has determined that this engine has an average useful life of —— miles or —— hours of operation, whichever occurs first." The manufacturer may alter this statement only to express the useful life in terms other than miles or hours (e.g., years, or hours only);

(I) The subordinate addition to the statement in paragraph (a)(3)(iii)(H) of this section: "This engine's actual life may vary depending on its service application. (For additional information see the owner's maintenance instructions.) This engine conforms to U.S. EPA regulations applicable to 19— Model Year New Heavy-Duty Engines for its useful life."

(iv) The label may be made up of one or more pieces; *Provided*, That all pieces are permanently attached to the same engine or vehicle part as applicable.

(4)(i) *Gasoline-fueled heavy-duty vehicles.* A permanent, legible label shall be affixed in a readily visible position in the engine compartment. If such vehicles do not have an engine compartment, the label required in paragraphs (a)(4) and (g)(1) of this section shall be affixed in a readily visible position on the operator's enclosure or on the engine.

(ii) The label shall be affixed by the vehicle manufacturer who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label. The label shall not be affixed to any equipment which is easily detached from such vehicle.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals which shall be of a color that contrasts with the background of the label:

(A) The label heading: Vehicle Emission Control Information;

(B) Full corporate name and trademark of manufacturer;

(C) Evaporative family identification;

(D) The maximum nominal fuel tank capacity (in gallons) for which the evaporative control system is certified.

(E) An unconditioned statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations which apply to gasoline-fueled heavy-duty vehicles.

(b) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such vehicle (or engine) conforms to any applicable state emission standards for new motor vehicles (or new motor vehicle engines) or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the vehicle (or engine).

(c)(1) The Manufacturer of any light-duty vehicle or light-duty truck subject to the emission standards of this subpart shall, in addition and subsequent to setting forth those statements on the label required by the Department of Transportation (DOT) pursuant to 49 CFR 567.4, set forth on the DOT label or on an additional label located in proximity to the DOT label and affixed as described in 40 CFR 567.4(b), the following information in the English language, lettered in block letters and numerals not less than three thirty-seconds of an inch high; of a color that contrasts with the background of the label:

(i) The Heading: "Vehicle Emission Control Information."

(ii)(A) *For light-duty vehicles*, the statement: "This Vehicle Conforms to U.S. EPA Regulations Applicable to 19— Model Year New Motor Vehicles."

(B) *For light-duty trucks*, the statement: "(Manufacturer's Corporate Name) Has Determined That This Vehicle Has An Average Useful Life of —— Miles Or —— Hours Of Operation, Whichever Occurs First. This Engine's Actual Life May Vary Depending On It's Service Application (For additional information see the owner's

maintenance instructions.) This Vehicle Conforms To U.S. EPA Regulations Applicable To 19—Model Year New Motor Vehicles, For Its Useful LIfe." The manufacturer may alter this statement only to express the useful life in terms other than miles or hours (e.g., years, or hours only).

(iii) One of the following statements, as applicable, in letters and numerals not less than six thirty-seconds of an inch high and of a color that contrasts with the background of the label:

(A) For all vehicles certified as non-catalyst-equipped: "NON-CATALYST"

(B) For all vehicles certified as catalyst-equipped which are included in a manufacturer's catalyst control program for which approval has been given by the Administrator: "CATALYST—APPROVED FOR IMPORT"

(C) For all vehicles certified as catalyst-equipped which are not included in a manufacturer's catalyst control program for which prior approval has been given by the Administrator: "CATALYST"

(2) In lieu of selecting either of the labeling options of paragraph (c)(1) of this section, the manufacturer may add the information required by paragraph (c)(1)(iii) of this section to the label required by paragraph (a) of this section. The required information will be set forth in the manner prescribed by paragraph (c)(1)(iii) of this section.

(d)(1) Incomplete light-duty trucks or incomplete heavy-duty vehicles optionally certified as light-duty trucks shall have the following prominent statement printed on the label required in paragraph (a)(2) of this section in lieu of the statement required by paragraph (a)(2)(iii)(E) of this section: "(Manufacturer's Corporate Name) has determined that this vehicle has an average useful life of —— miles or hours of operation, whichever occurs first." The manufacturer may alter this statement only to express the useful life in terms other than miles or hours (e.g., years, or hours only).

(2) The subordinate addition to the statement in subparagraph (1) of this paragraph: "This vehicle's actual life may vary depending on its service application. (For additional information see the owner's maintenance instructions.) This engine conforms to U.S. EPA regulations applicable to 19—Model Year New Heavy-Duty Engines when installed in a vehicle completed at a curb weight of more than 6,000 pounds or with a frontal area greater than 45 square feet for its useful life."

(e)(1) Incomplete heavy-duty vehicles having an 8,500-pound gross vehicle weight rating or less shall have the following prominent statement printed on the label required in paragraph (a)(3) of this section in lieu of the statement required by paragraph (a)(3)(iii)(H) of this section: ("Manufacturer's corporate name) has determined that this engine has an average useful life of —— miles or —— hours of operation, whichever occurs first." The manufacturer may alter this statement only to express the useful life in terms other than miles or hours (e.g., years, or hours only).

(2) In addition, the label shall have the following subordinate statement in lieu of the statement required by paragraph (a)(3)(iii)(I) of this section: "This engine's actual life may vary depending on its service application. (For additional information see the owner's maintenance instructions.) This engine conforms to U.S. EPA regulations applicable to 19— Model Year New Heavy-Duty Engines when installed in a vehicle completed at a curb weight of more than 6,000 pounds or with a frontal area greater than 45 square feet for its useful life."

(f) The manufacturer of any incomplete vehicle shall notify the purchaser of such vehicle of any curb weight, frontal area, or gross vehicle weight rating limitations affecting the emission certificate applicable to that vehicle. This notification shall be transmitted in a manner consistent with National Highway Traffic Safety Administration safety notification requirements published in 49 CFR Part 568.

(g)(1) Incomplete gasoline-fueled heavy-duty vehicles with a Gross Vehicle Weight Rating of greater than 8500 pounds shall have the following prominent statement printed on the label required in paragraph (a)(4) of this section: "(Manufacturer's corporate name) has determined that this vehicle conforms to U.S. EPA regulations applicable to 19— Model Year New Gasoline-Fueled Heavy-Duty Vehicles when completed with a nominal fuel tank capacity not to exceed — gallons. Persons wishing to add fuel tank capacity beyond the above maximum must submit a written statement to the Administrator that the hydrocarbon storage system has been upgraded according to the requirements of 40 CFR 86.085-35(g)(2)."

(2) Persons wishing to add fuel tank capacity beyond the maximum specified on the label required in paragraph (g)(1) of this section shall:

(i) Increase the amount of fuel tank vapor storage material according to the following function:

$$Cap_f = Cap_i \frac{T.\ Vol.}{Max.\ Vol.}$$

where:

Cap_f = final amount of fuel tank vapor storage material, grams.

Cap_i = initial amount of fuel tank vapor storage material, grams.

T. Vol. = total fuel volume of completed vehicle, gallons.

Max. Vol. = maximum fuel tank volume as specified on the label required in paragraph (g)(1) of this section, gallons.

(ii) Use, if applicable, hosing for fuel vapor routing which is at least as impermeable to hydrocarbon vapors as that used by the primary manufacturer.

(iii) Use vapor storage material with the same adsorptive characteristics as that used by the primary manufacturer.

(iv) Connect, if applicable, any new hydrocarbon storage device to the existing hydrocarbon storage device in series such that the original hydrocarbon storage device is situated between the fuel tank and the new hydrocarbon storage device. The original hydrocarbon storage device shall be sealed such that vapors cannot reach the atmosphere. The elevation of the original hydrocarbon storage device shall be equal to or lower than the new hydrocarbon storage device.

(v) Submit a written statement to the Administrator that paragraphs (g)(2)(i)-(iv) of this section have been complied with.

(3) If applicable, the Administrator will send a return letter verifying the receipt of the written statement required in paragraph (g)(2)(v) of this section.

14. A new § 86.085-37 is added to read as follows:

§ 86.085-37 Production vehicles and engines.

(a) Any manufacturer obtaining certification under this part shall supply to the Administrator, upon request, a reasonable number of production vehicles (or engines) selected by the Administrator which are representative of the engines, emission control systems, fuel systems, and transmission offered and typical of production models available for sale under the certificate. These vehicles (or engines) shall be supplied for testing at such time and place and for such reasonable periods as the Administrator may require. Heavy-duty engines supplied under this paragraph may be required to be mounted in chassis and appropriately equipped for operation on a chassis dynamometer.

(b)(1) Any manufacturer of light-duty vehicles or light-duty trucks obtaining certification under this part shall notify the Administrator, on a yearly basis, of the number of vehicles domestically produced for sale in the United States and the number of vehicles produced and imported for sale in the United States during the preceding year. A manufacturer may elect to provide this information every 60 days instead of yearly by combining it with the notification required under § 86.079–36. The notification must be submitted 30 days after the close of the reporting period. The vehicle production information required shall be submitted as follow:

(i) Total production volume expressed in terms of units produced;

(ii) Model type production volume, expressed for each model type in terms of units produced and as a percentage of total production;

(iii) Base level production volume, expressed for each base level in terms of units produced and as percentage of:

(A) Total production of its respective model type(s), and

(B) Total production; and

(iv) Vehicle configuration production volume, expressed for each vehicle configuration in terms of units produced, and as a percentage of the total production of its respective base level. In addition, each vehicle configuration shall be identified by its appropriate engine-system combination.

(2) All light-duty vehicles and light-duty trucks covered by a certificate of conformity under § 86.082–30(a) shall be adjusted by the manufacturer to the ignition or injection timing specification detailed in § 86.079–36(a)(1)(iii)(D).

(c) Any heavy-duty engine or gasoline-fueled heavy-duty vehicle manufacturer obtaining certification under this part shall notify the Administrator, on a yearly basis, of the number of engines or vehicles of such engine family-evaporative emission family-engine displacement-exhaust emission control system-fuel system combination produced for sale in the United States during the preceding year.

(d) The following definitions apply to this section:

(1) "Model type" means a unique combination of car line, basic engine, and transmission class.

(2) "Base level" means a unique combination of basic engine, inertia weight, and transmission class.

(3) "Vehicle configuration" means a unique combination of basic engine, engine code, inertia weight, transmission configuration, and axle ratio within a base level.

Part 86 of Chapter I, Title 40 of the Code of Federal Regulations is amended by adding a new Subpart M to read as follows:

Subpart M—Evaporative Emission Test Procedures for New Gasoline-Fueled Heavy-Duty Vehicles

Sec.

86.1201–85 Applicability.
86.1202–85 Definitions.
86.1203–85 Abbreviations.
86.1204– [Reserved]
86.1205–85 Introduction; structure of subpart.
86.1206–85 Equipment required; overview.
86.1207–85 Sampling and analytical systems; evaporative emissions.
86.1208– [Reserved]
86.1209– [Reserved]
86.1210– [Reserved]
86.1211– [Reserved]
86.1212– [Reserved]
86.1213–85 Fuel Specifications.
86.1214–85 Analytical gases.
86.1215–85 EPA heavy-duty vehicle (HDV) urban dynamometer driving schedule.
86.1216–85 Calibrations; frequency and overview.
86.1217–85 Evaporative emission enclosure calibrations.
86.1218–85 Dynamometer calibration.
86.1219– [Reserved]
86.1220– [Reserved]
86.1221–85 Hydrocarbon analyzer calibration.
86.1222– [Reserved]
86.1223– [Reserved]
86.1224– [Reserved]
86.1225– [Reserved]
86.1226–85 Calibration of other equipment.
86.1227–85 Test procedures; overview.
86.1228–85 Transmissions.
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86.1233–85 Diurnal breathing loss test.
86.1234–85 Running loss test.
86.1235–85 Dynamometer procedure.
86.1236–85 Engine starting and restarting.
86.1237–85 Dynamometer runs.
86.1238–85 Hot soak test.
86.1239– [Reserved]
86.1240– [Reserved]
86.1241– [Reserved]
86.1242–85 Records required.
86.1243–85 Calculations; evaporative emissions.
86.1244– [Reserved]
86.1245– [Reserved]

Authority: Sections 202, 206, 301 of the Clean Air Act as amended, 42 U.S.C. 7521, 7525, 7601.

Subpart M—Evaporative Emission Test Procedure for New Gasoline-Fueled Heavy-Duty Vehicles

§ 86.1201–85 Applicability.

(a) The provisions of this subpart are applicable to new gasoline-fueled heavy-duty vehicles.

(b) Provisions of this subpart apply to tests performed by both the Administrator and motor vehicle manufacturers.

(c) Test procedures and equipment other than those described in this subpart may be used by the vehicle manufacturer if shown to yield results which correlate with results yielded by those described in this subpart (with the reference driving schedule described in § 86.1215–85(a)) and if approved in advance by the Administrator.

§ 86.1202–85 Definitions

Applicable definitions in sections (§§)86.077–2, 86.078–2, 86.079–2, 86.080–2, 86.081–2, 86.082–2 and 86.085–2 apply to this subpart.

§ 86.1203–85 Abbreviations.

The abbreviations in § 86.079–3 apply to this subpart.

§ 86.1204 [Reserved]

§ 86.1205–85 Introduction; structure of subpart.

(a) This subpart describes the equipment required and the procedures to follow in order to determine evaporative emission levels from gasoline-fueled heavy-duty vehicles.

(b) Three topics are addressed in this subpart. §§ 86.1206–85 through 86.1215–85 set forth specifications and equipment requirements; §§ 86.1216–85 through 86.1226–85 discuss calibration methods and frequency; test procedures and data requirements are listed (in approximate order of performance) in §§ 86.1227–85 through 86.1245–85.

§ 86.1206–85 Equipment required; overview.

This subpart specifies procedures for testing of gasoline-fueled heavy-duty vehicles. Equipment required and specifications are as follows:

(a) *Evaporative emissions tests.* § 86.1207–85 specifies the necessary equipment.

(b) *Fuel, analytical gas, and driving schedule specifications.* Fuel specifications for emission testing and for service accumulation are specified in § 86.1213–85. Analytical gases are specified in § 86.1214–85. Both vehicle preconditioning for the diurnal loss test and vehicle operation prior to the hot soak loss test include operation on a chassis dynamometer. The driving cycle (EPA heavy-duty vehicle urban dynamometer driving schedule) is specified in § 86.1215–85.

§ 86.1207–85 Sampling and analytical system; evaporative emissions.

The following is a description of the components which will be used in evaporative emissions sampling systems for testing under this subpart.

(a) *Evaporative emission measurement enclosure.* The enclosure shall be readily sealable, rectangular in shape, with space for personnel access to all sides of the vehicle. When sealed, the enclosure shall be gas tight in accordance with § 86.1217–81. Interior surfaces must be impermeable to hydrocarbons. At least one surface shall be constructed of flexible, impermeable material to allow for minor volume changes which result from temperature changes. No interior surface temperatures shall be less than 68°F (20°C).

(b) *Evaporative emission hydrocarbon analyzer.* A hydrocarbon analyzer utilizing the hydrogen flame ionization principle (FID) shall be used to monitor the atmosphere within the enclosure. Instrument bypass flow may be returned to the enclosure. The FID shall have a response time to 90 percent of final reading of less than 1.5 seconds, and be capable of meeting performance requirements expressed as a function of C_{std}, where C_{std} is the specific enclosure hydrocarbon level, in ppm, corresponding to the evaporative emission standard.

(1) Stability of the analyzer shall be better than 0.01 C_{std} ppm at zero and span over a 15-minute period on all ranges used.

(2) Repeatability of the analyzer, expressed as one standard deviation, shall be better than 0.005 C_{std} ppm on all ranges used.

(c) *Evaporative emission hydrocarbon date recording system.* The electrical output of the FID shall be recorded at least at the initiation and termination of each diurnal and hot soak. The recording may be by means of a strip chart potentiometric recorder, by use of an online computer system, or by other suitable means. In any case, the recording system must have operational characteristics (signal to noise ratio, speed of response, etc.) equivalent to or better than those of the signal source being recorded, and must provide a permanent record of results. The record shall show a positive indication of the initiation and completion of each soak.

(d) *Tank fuel heating system.* The tank fuel heating system shall consist of a heat source and a temperature controller. A typical heat source is a 2000 W heating pad. Other sources may be used as required by circumstances. The temperature controller may be manual, such as a variable voltage transformer, or may be automated. The heating system must not cause hot spots on the tank wetted surface which could cause local overheating of the fuel. Heat must not be applied to the vapor in the tank above the liquid fuel. The temperature controller must be capable of controlling the fuel tank temperature during the diurnal soak to within ±3°F (1.7°C) of the following equation:

$$F = T_o + 0.4t$$

or for SI units:

$$C = T_o + (2/9)t$$

Where:
F = Temperature in °F
C = Temperature in °C
t = Time since start of test in minutes
T_o = Initial temperature in °F (or in °C for SI units)

(e) *Temperature recording system.* Strip chart recorder(s) or an automatic data processor shall be used to record enclosure ambient and vehicle fuel tank temperature at least once every minute. The temperature recorder or data processor shall have a time accuracy of ± 15s, a time precision of ± 15s and be capable of resolving temperature to ± 0.75°F (0.42°C). The temperature recording system (recorder and sensor) shall have an accuracy of ± 3°F (1.7°C). Two ambient temperature sensors, connected to provide one average output, shall be located in the enclosure. These sensors shall be located at the approximate vertical centerline of each side wall extending 4 inches (nominally) into the enclosure at a height of 3 ± 0.5 ft (0.9 + 0.2 m). The vehicle fuel tank temperature sensor shall be located in the fuel tank so as to measure the temperature of the prescribed test fuel at the approximate mid-volume of the fuel. Manufacturers shall arrange that vehicles furnished for testing at Federal certification facilities be equipped with iron-constantan Type J thermocouples for measurement of fuel tank temperature.

(f) *Purge blower.* One or more portable or fixed blowers shall be used to purge the enclosure. The blowers shall have sufficient flow capacity to reduce the inclosure hydrocarbon concentration from the test level to the ambient level between tests. Actual flow capacity will depend upon the time available between tests.

(g) *Mixing blower.* One or more blowers or fans with a total capacity of 250 to 750 cfm per 1000 ft³ of enclosure volume shall be used to mix the contents of the enclosure during evaporative emission testing. The mixing blower(s) shall be arranged such that a uniform concentration is maintained. No portion of the air stream shall be directed towards the vehicle.

§ 86.1208 [Reserved]

§ 86.1209 [Reserved]

§ 86.1210 [Reserved]

§ 86.1211 [Reserved]

§ 86.1212 [Reserved]

§ 86.1213–85 Fuel specifications.

(a) Gasoline having the following specifications will be used in emissions testing.

Item	ASTM	Leaded	Unleaded
Octane; research, minimum	D2699	98	93
Sensitivity, minimum		7.5	7.5
Lead (organic), grams/U.S. gallon		[1]1.4	0.00–0.05
Distillation range:			
IBP, °F	D86	75–95	75–95
10 pct point, °F	D86	120–135	120–135
50 pct point, °F	D86	200–230	200–230
90 pct point, °F	D86	300–325	300–325
EP, °F (maximum)	D86	415	415
Sulphur, weight percent, maximum	D1266	0.10	0.10
Phosphorous, grams/U.S. gallon, maximum		0.01	0.005
RVP, pounds per square inch	D323	8.7–9.2	8.7–9.2
Hydrodcarbon composition:			
Olefins, percent maximum	D1319	10	10
Aromatics, percent maximum	D1319	35	35
Saturates	D1319	[2]	[2]

[1] Minimum.
[2] Remainder.

(b) Gasoline representative of commercial gasoline which will be generally available through retail outlets shall be used in service accumulation. For leaded gasoline the minimum lead content shall be 1.4 grams per U.S. gallon, except that where the Administrator determines that vehicles represented by a test vehicle will be operated using gasoline of different lead content than that prescribed in this paragraph, he may consent in writing to use a gasoline with a different lead content. The octane rating of the gasoline used shall be no higher than 1.0 research octane number above the minimum recommended by the manufacturer and have a minimum sensitivity of 7.5 octane numbers, where sensitivity is defined as the research octane number minus the motor octane number. The Reid vapor pressure of the gasoline used shall be characteristic of the motor fuel used during the season in which the service accumulation takes place.

(c) The specification range of the gasoline to be used under paragraph (b) of this section shall be recorded.

§ 86.1214–85 Analytical gases.

(a) Analyzer gases.

(1) Gases for the hydrocarbon analyzer shall be single blends of propane using air as the diluent.

(2) Fuel for the evaporative emission enclosure FID shall be a blend of 40±2% hydrogen with the balance being helium. The mixture shall contain less than 1 ppm equivalent carbon response. 98 to 100 percent hydrogen fuel may be used with advance approval by the Administrator.

(3) The allowable zero air impurity concentration shall not exceed 1 ppm equivalent carbon response.

(4) "Zero grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

(5) The use of proportioning and precision blending devices to obtain the required analyzer gas concentrations is allowable provided their use has been approved in advance by the Administrator.

(b) Calibration gases shall be traceable to within ±1 percent of NBS gas standards.

(c) Span gases shall be accurate to within ±2 percent of true concentration, where true concentration refers to NBS gas standards.

§ 86.1215–85 EPA heavy-duty vehicle (HDV) urban dynamometer driving schedule.

(a) The EPA dynamometer driving schedule for heavy-duty vehicles is a 1060 second transient speed versus time cycle which is designed to simulate gasoline-fueled HDV operation in urban areas. A second by second listing of this schedule is given in Appendix I(d) of this part. Thirty-three percent of the cycle is idle operation, and the average vehicle speed is 18.9 mph (30.4 km/hr).

(b) The speed tolerance at any given time on the transient speed vs. time driving schedule is defined by upper and lower limits. The upper limit is 4 mph (6.4 km/hr) higher than the highest point on the trace within 1 second of the given time. The lower limit is 4 mph (6.4 km/hr) lower than the lowest point on the trace within 1 second of the given time. Speed variations greater than the tolerances (such as may occur during gear changes) are acceptable provided they occur for less than 2 seconds on any occasion. Speeds lower than those prescribed are acceptable provided the vehicle is operated at maximum available power during such occurrences.

(c) The Administrator will use this driving schedule when conducting evaporative emission tests.

§ 86.1216–85 Calibrations; frequency and overview.

(a) Calibrations shall be performed as specified in §§ 86.1217–85 through 86.1226–85.

(b) At least yearly or after any maintenance which could alter background emission levels, enclosure background emission measurements shall be performed.

(c) At least monthly or after any maintenance which could alter calibration, the following calibrations and checks shall be performed:

(1) Calibrate the hydrocarbon analyzer (see § 86.1221–85).

(2) Calibrate the dynamometer. If the dynamometer receives a weekly performance check (and remains within calibration) the monthly calibration need not be performed (see § 86.1218–85).

(3) Perform a hydrocarbon retention check and calibration on the evaporative emission enclosure (see § 86.1217–85).

§ 86.1217–85 Evaporative emission enclosure calibrations.

The calibration of the evaporative emission enclosure consists of three parts: Initial and periodic determination of enclosure background emissions; initial determination of enclosure internal volume; and periodic hydrocarbon retention check and calibration.

(a) *Initial and periodic determination of enclosure background emissions.* Prior to its introduction into service, annually thereafter, and after any repair which can affect the enclosure background emissions, the enclosure shall be checked to determine that it does not contain materials which will themselves emit hydrocarbons. Proceed as follows:

(1) Zero and span (calibrate if required) the hydrocarbon analyzer.

(2) Purge the enclosure until a stable background hydrocarbon reading is obtained.

(3) Turn on the mixing blower (if not already on).

(4) Seal enclosure and measure background hydrocarbon concentration, enclosure temperature, and barometric pressure. These are the initial readings C_{HCi}, T_i, and P_{Bi} for the enclosure background determination.

(5) Allow the enclosure to stand undisturbed without sampling for four hours.

(6) Measure the hydrocarbon concentration on the same FID. This is the final concentration, C_{HCf}. Also measure final temperature and barometric pressure.

(7) Calculate the mass change of hydrocarbons in the enclosure according to the equations in paragraph (d) of this section. The enclosure background emissions shall not be greater than 0.4g for the 4 hours.

(b) *Initial determination of enclosure internal volume.* Prior to its introduction into service the enclosure internal volume shall be determined by the following procedure.

(1) Carefully measure the internal length, width and height of the enclosure, accounting for irregularities (such as braces, cooling system components, etc.) and calculate the internal volume.

(2) Perform an enclosure calibration check according to paragraphs (c) (1) through (7) of this section.

(3) If the calculated mass does not agree within ±2 percent of the injected propane mass, then corrective action is required.

(c) *Hydrocarbon retention check and calibration.* The hydrocarbon retention check provides a check upon the calculated volume and also measures the leak rate. Prior to its introduction into service and at least monthly thereafter the enclosure leak rate shall be determined as follows:

(1) Zero and span (calibrate if required) the hydrocarbon analyzer.

(2) Purge the enclosure until a stable background hydrocarbon reading is obtained.

(3) Turn on the mixing blower(s) (if not already on).

(4) Seal enclosure and measure background hydrocarbon concentration, temperature and barometric pressure. These are the initial readings (c_{HCi}, T_i and P_{Bi} for the enclosure calibration.

(5) Inject into the enclosure a known quantity of pure propane. (4g is a convenient quantity.) The propane may be measured by volume flow or by mass measurement. The method used to measure the propane shall have an accuracy and precision of ±0.5 percent of the measured value.

(6) After a minimum of 5 minutes of mixing, analyze the enclosure atmosphere for hydrocarbon content; also record temperature and pressure. These measurements are the final readings for the enclosure calibration as well as the initial readings for the retention check.

(7) To verify the enclosure calibration calculate the mass of propane using the measurements taken in steps (4) and (6) using the equations in paragraph (d) of this section. This quantity must be within ±2 percent of that measured in step (5) above.

(8) Allow the enclosure to remain sealed for a minimum of 4 hours without sampling and with the mixing blower(s) operating. After 4 hours analyze the enclosure atmosphere for hydrocarbon content; record temperature and barometric pressure. These are the final readings for the hydrocarbon retention check.

(9) Calculate the hydrocarbon mass using the equations in paragraph (d) of this section and the readings taken in (8). It may not differ by more than ±4 percent of the value in step (6).

(d) *Calculations.* The calculation of net hydrocarbon mass change is used to determine enclosure background and leak rate. It is also used to check the enclosure volume measurements. The mass change is calculated from the initial and final readings of hydrocarbon concentration, temperature and pressure according to the following equation:

$$M_{HC} = kV \times 10^{-4} \left[\frac{C_{HCf} P_{Bf}}{T_f} - \frac{C_{HCi} P_{Bi}}{T_i} \right]$$

Where:

M_{HC} = Hydrocarbon mass change, g.
C_{HC} = Hydrocarbon concentration as ppm carbon.
V = Enclosure volume, ft^3 (m^3), as measured in paragraph (b)(1) of this section.
P_B = Barometric pressure, in. Hg (kPa).
T = Enclosure ambient temperature, R(K).
k = 3.05, for SI units k = 17.68.
i = Indicated initial reading.
f = Indicates final reading.

Note.—Hydrocarbon concentration is stated in ppm carbon, that is, ppm propane x 3. Expressions in parentheses are for SI units.

§ 86.1218-85 Dynamometer calibration.

(a) The dynamometer shall be calibrated at least once each month or performance verified at least once each week and then calibrated as required. The calibration shall consist of the manufacturer's recommended calibration procedure plus a determination of the dynamometer frictional power absorption. If the dynamometer is to be used for driving only the reference (transient) schedule, the frictional power absorption needs to be determined only at 50.0 mph (80.5 km/hr). If the dynamometer is to be used for driving the steady-state cycle, the frictional power absorption needs to be determined through the range of 15 to 50 mph. One method for determining dynamometer frictional power absorption at 50.0 mph (80.5 km/hr) is described below. The same general method can be used at other speeds. Other methods may be used if shown to yield equivalent results. The measured absorbed road power includes the dynamometer friction as well as the power absorbed by the power absorption unit. The dynamometer is driven above the test speed range. The device used to drive the dynamometer is then disengaged from the dynamometer and the roll(s) is (are) allowed to coastdown. The kinetic energy of the system is dissipated by the dynamometer. This method neglects the variations in roll bearing friction due to the drive axle weight of the vehicle. In the case of dynamometers with paired rolls, the inertia and power absorption of the free (rear) roll may be neglected if its inertia is less than 3.0 percent of the total equivalent inertia required for vehicle testing.

(1) Devise a method to determine the speed of the roll(s) to be measured for power absorption. A fifth wheel, revolution pickup, or other suitable means may be used.

(2) Place a vehicle on the dynamometer or devise another method of driving the dynamometer.

(3) If the dynamometer is capable of simulating more than a single inertia mass, engage the inertial flywheel or other inertial simulation system for the most common vehicle mass category for which the dynamometer is used. In addition, other vehicle mass categories may be calibrated, if desired.

(4) Drive the dynamometer up to 50 mph (80.5 km/hr).

(5) Record indicated road power.

(6) Drive the dynamometer up to 60 mph (96.9 km/hr).

(7) Disengage the device used to drive the dynamometer.

(8) Record the time for the dynamometer roll(s) to coastdown from 55.0 mph (88.5 km/hr) to 45.0 mph (72.4 km/hr).

(9) Adjust the power absorption unit to a different level.

(10) Repeat steps (4) to (8) above sufficient times to cover the range of road power used.

(11) Calculate absorbed road power (HP_d). (See paragraph (c) of this section.)

(12) Plot indicated road load power at 50 mph (80.5 km/hr) versus road load power at 50 mph (80.5 km/hr).

(b) The performance check consists of conducting a dynamometer coastdown and comparing the coastdown time to that recorded during the last calibration. If the coastdown times differ by more than 1 second or by 5 percent of the time recorded during the last calibration, whichever is greater, a new calibration is required.

(c) Calculations. The road load power actually absorbed by each roll assembly (or roll-inertia weight assembly) of the dynamometer is calculated from the following equation:

$$HP_d = (\tfrac{1}{2})\,(W/32.2)\,(V_1^2 - V_2^2)/550t$$

Where:

HP_d = Power, horsepower (kilowatts)
W = Equivalent inertia, lb (kg)
V_1 = Initial velocity, ft/s (m/s) (55 mph = 88.5 km/h = 80.67 ft/s = 24.58 m/s)
V_2 = Final velocity, ft/s (m/s) (45 mph = 72.4 km/h = 66 ft/s = 20.11 m/s)
t = Elapsed time for rolls to coast from 55 mph to 45 mph (88.5 to 72.4 km/hr).

(Expressions in parenthesis are for SI units). When the coastdown is from 55 to 45 mph (88.5 to 72.4 km/hr) the above equation reduces to:

$HP_d = 0.06073\,(W/t)$

For SI units:

$HP_d = 0.09984\,(W/t)$

The total road load power actually absorbed by the dynamometer is the sum of the absorbed road load power of each roll assembly.

§ 86.1210 [Reserved]

§ 86.1220 [Reserved]

§ 86.1221-85 Hydrocarbon analyzer calibration.

The FID hydrocarbon analyzer shall receive the following initial and periodic calibration.

(a) Initial and periodic optimization of detector response. Prior to its introduction into service and at least annually thereafter the FID hydrocarbon analyzer shall be adjusted for optimum hydrocarbon response. Alternate methods yielding equivalent results to the procedure listed below may be used.

(1) Follow the manufacturer's instructions for instrument startup and basic operating adjustment using the appropriate fuel and zero-grade air.

(2) Optimize on the most common operating range. Introduce into the analyzer, a propane in air mixture with a propane concentration equal to approximately 90 percent of the most common operating range.

(3) Select an operating fuel flow rate that will give near maximum response and least variation in response with minor fuel flow variations.4

(4) To determine the optimum air flow, use the fuel flow setting determined above and vary air flow.

(5) After the optimum flow rates have been determined, they are recorded for future reference.

(b) Initial and periodic calibration. Prior to its introduction into service and monthly thereafter the FID hydrocarbon analyzer shall be calibrated on all normally used instrument ranges. Use the same flow rate as when analyzing samples.

(1) Adjust analyzer to optimize performance.

(2) Zero the hydrocarbon analyzer with zero-grade air.

(3) Calibrate on each normally used operating range with propane-in-air calibration gases having nominal concentrations of 15, 30, 45, 60, 75, and 90 percent of that range. For each range calibrated, if the deviation from a least-squares best-fit straight line is 2 percent or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds 2 percent at any point, the best-fit non-linear equation which represents the data to within 2 percent of each test point shall be used to determine concentration.

§ 86.1222 [Reserved]

§ 86.1223 [Reserved]

§ 86.1224 [Reserved]

§ 86.1225 [Reserved]

§ 86.1226-85 Calibration of other equipment.

Other test equipment used for testing shall be calibrated as often as required by the manufacturer or as necessary according to good practice.

§ 86.1227-85 Test procedures; overview.

(a) The overall test consists of prescribed sequences of fueling, parking, and operating conditions. Vehicles are tested only for evaporative emissions.

(b) The evaporative emission test (gasoline-fueled vehicles only) is designed to determine hydrocarbon evaporative emissions as a consequence of diurnal temperature fluctuation, urban driving and hot soaks during engine-off periods. It is associated with a series of events representative of heavy-duty vehicle operation, which result in hydrocarbon vapor losses. The test procedure is designed to measure:

(1) Diurnal breathing losses resulting from daily temperature changes, measured by the enclosure technique;

(2) Running losses from suspected sources (if indicated by engineering analysis or vehicle inspection) resulting from a simulated trip on a chassis dynamometer, measured by carbon traps; and

(3) Hot soak losses which result when the vehicle is parked and the hot engine is turned off, measured by the enclosure technique.

§ 86.1228-85 Transmissions.

(a) All test conditions, except as noted, shall be run in a manner representative of in-use operation, and where appropriate, according to the manufacturer's recommendation to the ultimate purchaser.

(b) Except for the first idle mode, idle modes less than one minute in length shall be run with automatic transmissions in "Drive" and the wheels braked; manual transmissions shall be in gear with the clutch disengaged, except first idle. The first idle mode and idle modes longer than one minute in length shall be run with automatic transmissions in "Neutral," and manual transmissions shall be in "Neutral" with the clutch engaged (clutch may be disengaged for engine start-up).

(c) The vehicle shall be driven with minimum accelerator pedal movement to maintain the desired operation.

(d) Accelerations shall be driven smoothly according to the manufacturer's recommendation to the ultimate purchaser. For manual transmissions, the operator shall accomplish each shift with minimum time. If the vehicle cannot accelerate at the specified rate, the vehicle shall be operated at maximum available power until the vehicle speed reaches the value prescribed for that time in the driving schedule.

(e) For those deceleration modes which decelerate to zero, manual transmission clutches shall be depressed when the speed drops below 15 mph (24.1 km/hr), when engine roughness is evident, or when engine stalling is imminent.

§ 86.1229-85 Dynamometer load determination.

(a) Flywheels, electrical or other means of simulating inertia shall be used. The value of equivalent inertia weight shall be within 250 pounds of the loaded vehicle weight (LVW). Loaded vehicle weight is defined as follows:

(1) For test vehicles which have an actual weight less than 0.5×(GVWR),

LVW=0.5×(Gross Vehicle Weight Rating)

(2) For test vehicles which have an actual weight (As tested) greater than 0.5×(GVWR),

LVW=Actual Weight of Test Vehicle.

(b) *Power absorption unit adjustment.* (1) The power absorption unit shall be adjusted to reproduce road load power at 50 mph true speed. The indicated road load power setting shall take into account the dynamometer friction. The relationship between road load (absorbed) power and indicated road load power for a particular dynamometer shall be determined by the procedure outlined in § 86.1218-85 or other suitable means.

(2) The road load power used shall be determined from the following equation:

$$RLP = 0.67\,(H - 0.75)W + 0.00125\,[LVW - (N \times DW)]$$

where

RLP = Road Load Power at 50 mph (horsepower).

H = Vehicle overall maximum height (feet).

LVW = Loaded vehicle weight (pounds).

DW = Vehicle weight supported by the dynamometer (pounds).

N = Number of dynamometer rolls supporting a tire.

or, for vehicles which the manufacturer could have certified by the light-duty trucks (LDT) test procedure as allowed in the optional certification provision (§ 86.074-1(b)), the manufacturer may determine the road load power by an alternate procedure (including coastdown) if approved in advance by the Administrator. For vehicles which the manufacturer does choose to certify by the light-duty truck test procedure, the evaporative emission test procedure (and standard) will be that specified by the light-duty truck regulations.

§ 86.1230-85 Test sequence; general requirements.

The test sequence shown in Figure M82-1 shows the steps encountered as the test vehicle undergoes the test procedure. Ambient temperature levels encountered by the test vehicle throughout the test sequence shall not be less than 68°F (20°C) nor more than 86°F (30°C). The vehicle shall be approximately level during all phases of the test sequence to prevent abnormal fuel distribution.

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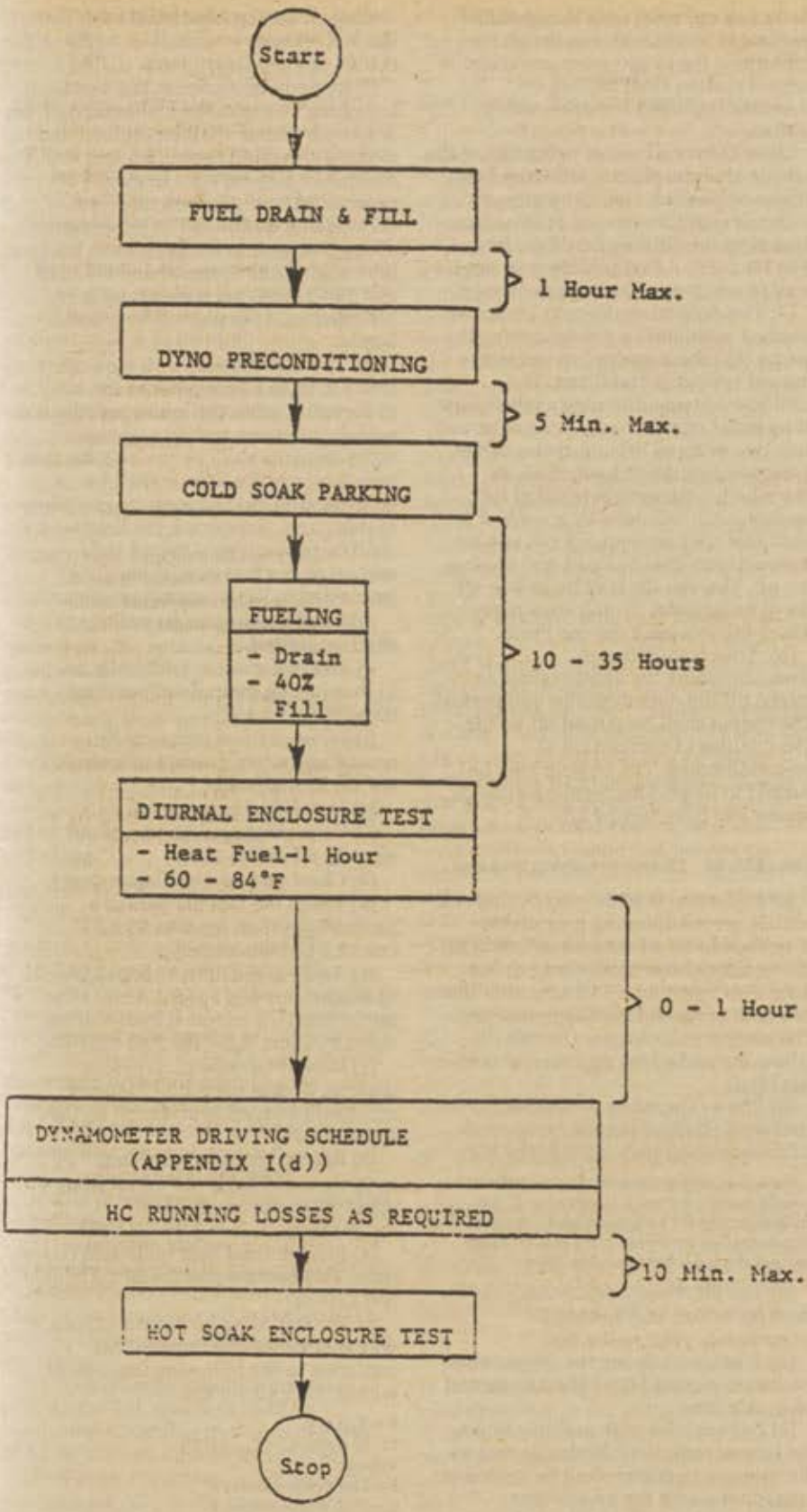


Figure M85-1 - Test Sequence

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§ 86.1231–85 Vehicle preparation.

(a) Prepare the fuel tank(s) for recording the temperature of the prescribed test fuel at the approximate mid-volume of the fuel when the tank is 40% full.

(b) Provide additional fittings and adapters, as required, to accommodate a fuel drain at the lowest point possible in the tank(s) as installed on the vehicle.

(c)(1) Any vapor storage device which adsorbs HC vapors and subsequently releases them to the engine induction system during vehicle operation shall be subjected to a minimum of 30 load-purge cycles or the equivalent thereof (4,000 miles or more of actual in-use vehicle service accumulation shall be considered equivalent). One load-purge cycle shall be accomplished by conducting one of the following procedures:

(i) *Vehicle Procedure.* Park a fully-warm vehicle (a vehicle that has been driven for at least 15 minutes) for a time period of at least 3 hours. Fill the fuel tank(s) to the prescribed "tank fuel volume" with specified test fuel (§ 86.1213–85) at room temperature. Then drive the vehicle through at least one cycle of the HDV reference (transient) urban dynamometer driving schedule.

(ii) *Laboratory Procedure.* Flow gasoline vapors into a pre-purged vapor storage device until at least 10 percent of the input HC mass flow rate is passing through the device. Purge the device with a volume of air which is at least as great as, and which has a temperature no higher than that which would be drawn through the device if it were installed on the test vehicle and the vehicle was operated according to the HDV reference (transient) urban dynamometer driving schedule. The vapor flow rate, the method used to generate the vapors, the air flow rate, and the air temperature shall be recorded. If pre-blended gas is used, then the composition and characteristics of the gas shall be recorded.

(2) Ten load-purge cycles accumulated immediately prior to testing shall be conducted according to the method in paragraph (c)(1)(i) of this section. The preceding 20 cycles (minimum) shall be conducted according to either of the methods in paragraph (c)(1)(i) or (ii) of this section.

§ 86.1232–85 Vehicle preconditioning.

(a) The vehicle shall be moved to the test area and the following operations performed:

(1) The fuel tank(s) shall be drained through the provided fuel tank(s) drain(s) and filled to the prescribed "tank fuel volume" with the specified test fuel, § 86.1213–85. For the above operations the evaporative emission control system shall neither be abnormally purged nor abnormally loaded.

(2) Within one hour of being fueled the vehicle shall be placed, either by being driven or pushed, on a dynamometer and operated through one HDV urban dynamometer driving schedule, (see § 86.1251–85). A test vehicle may not be used to set dynomometer horsepower.

(3) The Administrator may choose to conduct additional preconditioning to insure that the evaporative emissions control system is stabilized. The additional preconditioning shall consist of an intial one hour minimum soak and one, two or three driving cycles of the dynamometer driving schedule, as described in paragraph (a)(2) of this section, each followed by a soak of at least one hour with engine off, engine compartment cover closed and cooling fan off. The vehicle may be driven off the dynamometer for the soak period which follows each driving cycle.

(b) After completion of preconditioning the vehicle shall be driven off the dynamometer and parked. The engine shall be turned off within five minutes of completion of preconditioning. The vehicle may be pushed to its parking location after its engine has been turned off.

§ 86.1233–85 Diurnal breathing loss test.

(a) Following vehicle preparation and vehicle preconditioning procedures described in §§ 86.1231–85 and 86.1232–85 the diurnal test shall start not less than 10 or more than 35 hours after the end of the preconditioning procedure. The start of vehicle operation shall follow the end of the diurnal test within one hour.

(b) The evaporative emissions enclosure shall be purged for several minutes immediately prior to the test.

Note.—If at any time the hydrocarbon concentration exceeds 15,000 ppm C the enclosure should be immediately purged. This concentration provides a 4:1 safety factor against the lean flammability limit.

(c) The FID hydrocarbon analyzer shall be zeroed and spanned immediately prior to the test.

(d) If not already on, the evaporative enclosure mixing fan(s) shall be turned on at this time.

(e) For vehicles with multiple tanks, the largest tank shall be designated as the primary tank and shall be heated in accordance with the procedures described in paragraph (l) of this section. All other tanks shall be designated as auxiliary tanks and shall undergo a similar heat build such that the fuel temperature shall be within 3°F (1.6°C) of the primary tank.

(f) Immediately prior to the diurnal breathing loss test, the fuel tank(s) of the prepared vehicle shall be drained and recharged with the specified test fuel, as defined in § 86.1213–85, to the prescribed "tank fuel volume", as defined in § 86.078–2. The temperature of the fuel prior to its delivery to the fuel tank shall be between 50 and 60°F (10 and 16°C). The fuel tank cap(s) is not installed until the diurnal heat build begins.

(g) The test vehicle, with the engine shut off, shall be moved into the evaporative emission enclosure, the test vehicle windows and any storage compartments shall be opened, the fuel tank temperature sensor shall be connected to the temperature recording system, and, if required, the heat source shall be properly positioned with respect to the fuel tank(s) and/or connected to the temperature controller.

(h) The temperature recording system shall be started.

(i) The fuel may be artificially heated to the starting diurnal temperature, 60±2°F (16±1.1°C).

(j) When the fuel temperature recording system reaches at least 58°F (14°C), immediately:

(1) Install fuel tank cap(s).

(2) Turn off purge blowers, if not already off at this time.

(3) Close and seal enclosure doors.

(k) When the fuel temperature recording system reaches 60±2°F (16±1.1°C) immediately:

(1) Analyze enclosure atmosphere for hydrocarbons and record. This is the initial (time=0 minutes) hydrocarbon concentration, C_{HCi} (see § 86.1243–85).

(2) Record barometric pressure reading. This is the initial (time=0 minutes) barometric pressure, P_{bi} (see § 86.1243–85).

(3) Record enclosure ambient temperature. This is the initial (time=0 minutes) enclosure ambient temperature, T_i (see § 86.1243–85).

(4) Start diurnal heat build and record time. This commences the 60±2 minute test period.

(l) The fuel shall be heated in such a way that its temperature change conforms to the following function to within ±3°F (±1.6°C):

$F = T_o + 0.4t$

for SI units, $C = T_o + (2/9)t$

Where:

F = fuel temperature, F°

C = fuel temperature, F°

t = fuel temperature, F°

T_o = initial temperature in °F (or in °C for SI units).

After 60±2 minutes of heating, the fuel temperature rise shall be 24±°F (13.3±0.5°C).

(m) The FID hydrocarbon analyzer shall be zeroed and spanned immediately prior to the end of the diurnal test.

(n)(1) The end of the diurnal breathing loss test occurs 60±2 minutes after the heat build begins (paragraph (k)(4)). Analyze the enclosure atmosphere for hydrocarbon and record. This is the final (time=60 minutes) hydrocarbon concentration, C_{HCf} (see § 86.1234–85). The time (or elapsed time) of this analysis shall be recorded.

(2) Record barometric pressure reading. This is the final (time=60 minutes) barometric pressure, P_{bf} (see § 86.1234–85).

(3) Record enclosure ambient temperature. This is the final (time=60 minutes) enclosure ambient temperature, T_f (see § 86.1234–85).

(o) The heat source shall be turned off and the enclosure doors unsealed.

(p) The heat source shall be moved away from the vehicle, if required, and/or disconnected from the temperature controller, the fuel tank temperature sensor shall be disconnected from the temperature recording system, and the test vehicle windows and any storage compartments may be closed. The vehicle shall be either driven or pushed out of the evaporative emission enclosure.

§ 86.1234–85 Running loss test.

If an engineering analysis or vehicle inspection indicates the possibility of evaporative emissions during vehicle operation, evaporative emission running loss measurements shall be made during vehicle operation on the dynamometer in preparation for the hot soak test. Since running loss measurements cannot be made in the enclosure, the equipment described in Subpart B, § 86.177–17 for running loss measurements shall be used to collect these emissions.

(a) The procedure in § 86.1235–85 shall be followed.

(b) Prior to the initiation of the dynamometer hot soak preparation run, the vapor loss measurement system shall be connected to all suspected sources of running loss evaporative emissions.

(c) Operation on the dynamometer prior to the hot soak test shall be conducted according to the procedures of §§ 86.1235–85 through 86.1237–85.

(d) Within one minute after the end of the hot soak preparation run, the vapor loss measurement system shall be disconnected from the vehicle and the inlets and outlets sealed.

(e) Within one hour from the end of the running loss measurement, the vapor collection traps shall be weighed.

§86.1235–85 Dynamometer procedure.

(a) The dynamometer run consists of one HDV urban dynamometer driving schedule cycle starting within one hour after completion of the diurnal loss test. This run includes engine startup (with all accessories turned off) and operation over the driving schedule.

(b) During dynamometer operation, one or more cooling fans shall be positioned so as to direct cooling air to the vehicle in an appropriate manner. The engine compartment cover shall be closed. If, however, the manufacturer can show that the engine compartment cover must be open to provide a test representative of field operation, the Administrator will allow the engine cover to be open. In the case of vehicles with front engine compartments, the fan(s) shall be squarely positioned within 12 inches of the vehicle. In the case of vehicles with rear engine compartments (or if special designs make the above impractical), the cooling fan(s) shall be placed in a position to provide sufficient air to maintain vehicle cooling. The fan capacity shall normally not exceed 10,600 (cfm (5.0 m^3/s)). If, however, the manufacturer can show that during field operation the vehicle receives additional cooling, and that such additional cooling is needed to provide a representative test, the fan capacity may be increased or additional fans used.

(c) The vehicle speed as measured from the dynamometer rolls shall be used.

(d) Practice runs over the prescribed driving schedule may be performed at test points, provided emissions are not measured, for the purpose of finding the minimum throttle action to maintain the proper speed-time relationship, or to permit test procedure adjustments.

Note.—When using two-roll dynamometers a truer speed-time trace may be obtained by minimizing the rocking of the vehicle in the rolls. The rocking of the vehicle changes the tire rolling radius on each roll. This rocking may be minimized by restraining the vehicle horizontally (or nearly so) by using a cable and winch, or chain.

(e) Drive wheel tires shall be inflated to the maximum gauge pressure recommended to the ultimate purchaser. If drive wheel tires have a maximum recommended inflation gauge pressure of less than 45 psi (310 kPa), they may be inflated up to a gauge pressure of 45 psi (310 kPa) in order to prevent tire damage. The drive wheel tire pressure shall be recorded with the test results.

(f) If the dynamometer has not been operated during the 2-hour period immediately preceding the test it shall be warmed up for 15 minutes by operating at 30 mph (48 km/h) using a non-test vehicle or as recommended by the dynamometer manufacturer.

(g) If the dynamometer horsepower must be adjusted manually, the power shall be set within 1 hour prior to dynamometer operation preceding the hot soak test. The test vehicle shall not be used to make the adjustment.

(h) If the dynamometer horsepower is selected by automatic control, the power may be set anytime prior to the beginning of the driving cycle.

(i) Multiple drive axle vehicles will be tested in one axle drive mode of operation. Full time multiple drive axle vehicles will have all but one axle temporarily disengaged by the vehicle manufacturer. Multiple drive axle vehicles which can be manually shifted to a one axle drive mode will be tested in the one axle drive mode of operation, unless this would pose a safety hazard, in which case all but one axle will be temporarily disengaged by the vehicle manufacturer.

§ 86.1236–85 Engine starting and restarting.

(a) Starting: (1) The engine shall be started (includinding choke operation) accaording to the manufacturers recommended starting procedures in the owner's manual. The initial idle period shall begin when the engine starts.

(2) The operator may use the choke, accelerator pedal, etc., where necessary to keep the engine running.

(3) If the manufacturer's operating instructions in the owner's manual do not specify a warm engine starting procedure, the engine shall be started by depressing the accelerator pedal about half way and cranking the engine until it starts.

(4) If the vehicle does not start after 10 seconds of cranking, cranking shall cease and the reason for failure to start shall be determined. If failure to start is an operational error, the vehicle shall be rescheduled for the running loss test. If failure to start is caused by a vehicle malfunction, corrective action of less than 30 minutes duration may be taken, and the test continued. When the engine starts, the driving schedule timing sequence shall begin. If failure to start is caused by vehicle malfunction and the vehicle cannot be started, the test shall be voided, the vehicle removed from the dynamometer, and corrective action may be taken. The reasons for the malfunction (if determined) and the

corrective action taken shall be recorded.

(b) *Stalling:* (1) If the engine stalls during an idle period, the engine shall be restarted immediately and the driving schedule continued. If the engine cannot be started soon enough to allow the vehicle to follow the next acceleration as prescribed, the driving schedule indicator shall be stopped. When the vehicle restarts, the driving schedule indicator shall be reactivated.

(2) If the engine stalls during some operating mode other than idle, the driving schedule indicator shall be stopped, the vehicle shall then be restarted and accelerated to the speed required at that point in the driving schedule and the driving schedule continued. During acceleration to this point, shifting shall be performed in accordance with § 86.1228–85.

(3) If the vehicle will not restart within one minute, the test shall be voided, the vehicle removed from the dynamometer, corrective action taken, and the vehicle rescheduled for testing. The reason for the malfunction (if determined) and the corrective action taken shall be recorded.

§ 86.1237–85 Dynamometer runs.

(a) The vehicle shall be either driven or pushed onto the dynamometer; however, if driven, the period of engine operation between the end of the diurnal loss test and beginning of the hot soak preparation run shall not exceed 3 minutes, and the vehicle shall be driven at minimum throttle. The dynamometer run shall follow the diurnal heat build by not more than one hour. The vehicle shall be stored prior to dynamometer operation in such a manner that it is not exposed to precipitation (e.g., rain or dew).

(b) The following steps shall be taken for the dynamometer run:

(1) Place drive wheels of vehicle on the dynamometer.

(2) Position the cooling fan(s).

(3) Attach an exhaust tube to the vehicle tailpipe(s).

(4) Start the engine.

(5) Turn on the cooling fan (s).

(6) Operate the vehicle according to the dynamometer driving schedule (§ 86.1215–85).

(7) At the end of the last deceleration, disconnect the exhaust tube from the vehicle tailpipe(s) and drive vehicle from the dynamometer.

§ 86.1238–85 Hot soak test.

The one-hour hot-soak evaporative emission test shall be conducted immediately following one cycle of the dynamometer driving schedule.

(a) Prior to the completion of the dynamometer cycle, the evaporative emission enclosure shall be purged for several minutes.

(b) The FID hydrocarbon analyzer shall be zeroed and spanned immediately prior to the test.

(c) If not already on, the evaporative enclosure mixing fan(s) shall be turned on at this time.

(d) Upon completion of the dynamometer run the exhaust tube shall be disconnected from the vehicle tailpipe(s), the cooling fan(s) shall be moved, and the vehicle shall be disconnected from the dynamometer and driven at minimum throttle to the vehicle entrance of the enclosure.

(e) The vehicle's engine must be stopped before any part of the vehicle enters the enclosure. The vehicle may be pushed or coasted into the enclosure.

(f) The test vehicle windows and any storage compartments shall be opened, if not already open.

(g) The temperature recording system shall be started and the time of engine shut off shall be noted on the evaporative emissions hydrocarbon data recording system.

(h) The enclosure doors shall be closed and sealed within four minutes of engine shutdown and within ten minutes after the end of the dynamometer run.

(i) The 60±0.5 minute hot soak begins when the enclosure doors are sealed. The enclosure atmosphere shall be analyzed and recorded. This is the initial (time=0 minutes) hydrocarbon concentration, C_{HCi}, for use in calculating evaporative losses, (see § 86.1243–85).

(j) The test vehicle shall be permitted to soak for a period of one hour in the enclosure.

(k) The FID hydrocarbon analyzer shall be zeroed and spanned immediately prior to the end of the test.

(l) At the end of the 60±0.5 minute test period, the enclosure atmosphere shall again be analyzed and the time recorded. This is the final (time=60 minutes) hydrocarbon concentration, C_{HCf}, for use in calculating evaporative losses, (see § 86.1243–85). This operation completes the evaporative emission measurement procedure.

§ 86.1239 [Reserved]

§ 86.1240 [Reserved]

§ 86.1241 [Reserved]

§ 86.1242–85 Records required.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) System or device tested (brief description).

(c) Date and time of day for each part of the test schedule.

(d) Instrument operator.

(e) Driver or operator.

(f) Vehicle: ID number; Manufacturer; Model Year; Engine family; Evaporative emissions family; Basic engine description (including displacement, number of cylinders, and catalyst usage); Engine maximum power rating and rated speed; Fuel system (including number of carburetors, number of carburetor barrels, fuel injection type, fuel tank(s) capacity and location, and number and size (volume and working capacity) of evaporative control canisters, Engine code; Gross vehicle weight rating; Actual curb weight at zero miles; Actual road load at 50 mph; Transmission configuration; Axle ratio; Vehicle line; Odometer reading; Idle rpm; and Drive wheel tire pressure, as applicable.

(g) Indicated road load power absorption at 50 mph (80 km/hr) and dynamometer serial number. As an alternative to recording the dynamometer serial number, a reference to a vehicle test cell number may be used, provided the test cell records show the pertinent information.

(h) All pertinent instrument information such as tuning, gain, serial number, detector number and range. As an alternative, a reference to a vehicle test cell number may be used, with the advance approval of the Administrator, provided test cell calibration records show the pertinent instrument information.

(i) Recorder charts: Identify zero, span and enclosure gas sample traces.

(j) Test cell barometric pressure and ambient temperature.

Note.—A central laboratory barometer may be used: *Provided*, That individual test cell barometric pressures are shown to be within ±0.1 percent of the barometric pressure at the central barometer location.

(k) Fuel temperatures as prescribed.

§ 86.1243–85 Calculations; evaporative emissions.

The calculation of the net hydrocarbon mass change in the enclosure is used to determine the diurnal and hot-soak mass emissions. The mass is calculated from initial and final hydrocarbon concentrations in ppm carbon, initial and final enclosure ambient temperatures, initial and final barometric pressures, and net enclosure volume using the following equation:

$$M_{HC} = kV_e \times 10^{-4} \left(\frac{C_{HCf} P_{Bf}}{T_f} - \frac{C_{HCi} P_{Bi}}{T_i} \right)$$

Where:
M_{HC} = Hydrocarbon mass, g.
C_{HC} = Hydrocarbon concentration as ppm carbon.
V_n = Net enclosure volume ft³ (m³) as determined by subtracting 100 ft³ (2.84 m³) (volume of vehicle with windows and any storage compartments open) from the enclosure volume. A manufacturer may use the measured volume of the vehicle (instead of the nominal 100 ft³) provided the measured volume is determined and used for all vehicles tested by that manufacturer.
P_b = barometric pressure, in. Hg (kPa).
T = enclosure ambient temperature, R (K).
k = .208 (12+H/C); for SI units, k = 1.2 (12+H/C)
Where:
H/C = Hydrogen-carbon ratio.
H/C = 2.33 for diurnal emissions.
H/C = 2.2 for hot soak emissions.
i = Indicates initial reading.
f = Indicates final reading.

The final recorded results shall be computed by summing the individual evaporative emissions results determined for the diurnal breathing loss test, running loss test, and the hot soak test.

§ 86.1244 [Reserved]

§ 86.1245 [Reserved]

Authority: Section 202, 206, 301 of the Clean Air Act as amended, 42 U.S.C. 7521, 7525, 7601.

2. Appendix I of Part 86, is amended by adding a new paragraph (d) to read as follows:

Appendix I—Urban Dynamometer Driving Schedules

* * * * *

(d) EPA Urban Dynamometer Driving Schedule for Heavy-Duty Vehicles.

SPEED VERSUS TIME SEQUENCE

Record (sec)	Speed (mph)
0	0.0
1	0.0
2	0.0
3	0.0
4	0.0
5	0.0
6	0.0
7	0.0
8	0.0
9	0.0
10	0.0
11	0.0
12	0.0
13	0.0
14	0.0
15	0.0
16	0.0
17	0.0
18	0.0
19	0.0
20	0.0
21	0.0
22	0.0
23	0.0
24	0.0
25	0.19
26	1.00
27	1.51
28	2.65
29	4.64
30	6.96
31	8.86
32	7.71
33	7.45
34	9.22
35	10.00
36	9.08
37	10.08
38	11.24
39	12.79
40	14.00
41	12.58
42	12.87
43	13.00
44	13.00
45	13.68
46	15.00
47	15.00
48	13.37
49	12.08
50	12.26
51	14.29
52	14.56
53	15.20
54	16.76
55	17.00
56	17.00
57	17.23
58	18.77
59	20.54
60	19.60
61	18.14
62	17.98
63	17.00
64	16.34
65	15.00
66	15.00
67	15.00
68	15.96
69	12.35
70	15.26
71	14.27
72	12.59
73	12.25
74	9.28
75	8.00
76	8.00
77	8.38
78	9.53
79	10.69
80	11.00
81	9.00
82	9.00
83	9.32
84	10.00
85	9.36
86	9.00
87	9.95
88	14.33
89	17.53
90	19.42
91	20.00
92	20.74
93	21.00
94	21.11
95	23.84
96	27.00
97	27.00
98	29.05
99	32.52
100	31.01
101	31.00
102	31.62
103	33.00
104	32.37
105	30.43
106	30.00
107	30.00
108	30.51
109	32.41
110	33.00
111	32.27
112	32.00
113	31.04
114	32.20
115	33.36
116	34.00
117	34.00
118	34.00
119	33.01
120	31.86
121	30.10
122	26.17
123	23.39
124	21.46
125	17.28
126	15.83
127	13.76
128	12.60
129	10.33
130	8.28
131	5.38
132	2.91
133	0.0
134	0.0
135	0.0
136	0.0
137	0.0
138	0.0
139	0.0
140	0.0
141	0.0
142	0.0
143	0.0
144	0.0
145	0.0
146	0.0
147	0.0
148	0.0
149	0.0
150	0.0
151	0.0
152	0.0
153	0.0
154	0.0
155	0.0
156	0.0
157	0.0
158	0.0
159	0.0
160	0.0
161	0.0
162	0.0
163	0.0
164	0.0
165	0.0
166	0.0
167	0.0
168	0.0
169	0.0
170	0.0
171	0.0
172	0.0
173	0.0
174	0.51
175	0.33
176	0.0
177	0.0
178	0.0
179	0.0
180	0.0
181	0.0
182	0.0
183	0.0
184	0.0
185	0.0
186	0.0
187	0.0
188	0.0
189	0.0
190	0.0
191	0.0
192	0.0
193	0.0
194	0.0
195	0.0
196	0.0
197	0.13
198	0.71
199	0.0
200	0.0
201	0.0
202	0.0
203	4.15
204	6.00
205	6.00
206	6.00
207	5.30
208	4.14
209	1.96
210	0.0
211	0.0

SPEED VERSUS TIME SEQUENCE—Continued

Record (sec)	Speed (mph)
212	0.0
213	0.0
214	0.0
215	0.0
216	0.0
217	0.0
218	0.0
219	0.0
220	0.0
221	0.0
222	0.0
223	0.0
224	0.0
225	0.0
226	0.0
227	0.0
228	0.0
229	0.0
230	0.0
231	0.48
232	1.64
233	0.41
234	0.0
235	0.0
236	0.0
237	0.0
238	0.0
239	0.0
240	0.0
241	0.0
242	0.0
243	0.0
244	0.0
245	0.0
246	0.0
247	0.0
248	0.0
249	0.0
250	0.0
251	0.0
252	0.0
253	0.0
254	0.0
255	0.0
256	0.0
257	0.0
258	0.0
259	0.0
260	0.0
261	0.0
262	0.0
263	0.0
264	0.0
265	0.0
266	0.0
267	0.0
268	0.0
269	0.0
270	0.0
271	0.0
272	0.0
273	0.0
274	0.0
275	0.0
276	0.0
277	0.0
278	0.0
279	0.0
280	0.0
281	0.0
282	0.0
283	0.0
284	0.0
285	0.0
286	0.0
287	0.0
288	0.0
289	0.0
290	0.0
291	0.0
292	0.0
293	0.0
294	0.0
295	0.0
296	0.0
297	0.0
298	0.0
299	0.0
300	0.24
301	0.60
302	0.0

SPEED VERSUS TIME SEQUENCE—Continued

Record (sec)	Speed (mph)
303	1.42
304	2.00
305	3.08
306	5.63
307	4.00
308	4.00
309	3.34
310	1.37
311	1.00
312	0.0
313	0.0
314	0.0
315	0.0
316	0.0
317	0.0
318	0.0
319	0.23
320	1.39
321	2.00
322	4.11
323	5.00
324	6.02
325	7.16
326	7.33
327	6.49
328	7.00
329	7.00
330	7.00
331	7.00
332	7.00
333	7.43
334	8.00
335	8.00
336	7.09
337	11.06
338	12.89
339	14.49
340	11.46
341	13.08
342	16.55
343	16.00
344	15.34
345	12.32
346	13.00
347	13.00
348	13.00
349	15.86
350	12.00
351	11.73
352	11.00
353	11.00
354	11.00
355	11.90
356	12.89
357	10.36
358	7.26
359	4.95
360	4.68
361	6.68
362	8.00
363	7.84
364	7.00
365	6.53
366	7.89
367	10.57
368	11.00
369	10.10
370	10.74
371	10.42
372	11.00
373	12.46
374	14.77
375	14.09
376	16.20
377	17.00
378	17.00
379	17.00
380	17.00
381	15.02
382	15.71
383	14.00
384	14.92
385	15.38
386	15.78
387	16.00
388	16.00
389	16.25
390	17.41
391	18.56
392	19.00
393	19.88

SPEED VERSUS TIME SEQUENCE—Continued

Record (sec)	Speed (mph)
394	21.00
395	21.00
396	21.00
397	20.49
398	20.00
399	19.18
400	19.00
401	18.86
402	18.29
403	19.00
404	19.61
405	20.00
406	20.00
407	20.00
408	20.00
409	20.00
410	19.45
411	20.42
412	21.87
413	20.97
414	20.37
415	22.00
416	22.00
417	22.66
418	23.00
419	23.97
420	25.51
421	29.00
422	29.00
423	29.00
424	30.51
425	31.00
426	30.00
427	30.00
428	30.00
429	30.54
430	31.00
431	31.86
432	31.00
433	31.17
434	32.33
435	33.00
436	33.00
437	33.80
438	34.00
439	35.12
440	36.00
441	36.00
442	34.82
443	33.25
444	32.09
445	32.00
446	32.00
447	32.00
448	32.00
449	32.00
450	32.85
451	33.01
452	34.00
453	33.68
454	32.52
455	32.00
456	32.00
457	32.95
458	33.00
459	33.00
460	33.42
461	34.00
462	34.74
463	35.00
464	35.00
465	35.00
466	35.00
467	35.00
468	35.00
469	35.84
470	37.99
471	38.00
472	37.69
473	38.41
474	39.37
475	39.00
476	39.00
477	38.10
478	39.00
479	39.41
480	40.57
481	41.73
482	42.00
483	41.92
484	40.00

SPEED VERSUS TIME SEQUENCE—Continued

Record (sec)	Speed (mph)
485	40.00
486	39.48
487	37.66
488	37.00
489	36.01
490	34.88
491	33.70
492	32.54
493	29.54
494	26.46
495	22.26
496	19.91
497	18.76
498	17.60
499	16.44
500	14.57
501	13.13
502	11.97
503	10.81
504	9.31
505	7.50
506	6.34
507	4.37
508	3.03
509	1.87
510	0.71
511	0.0
512	0.0
513	0.0
514	0.0
515	0.0
516	0.0
517	0.0
518	0.0
519	0.0
520	0.0
521	0.0
522	0.0
523	0.0
524	0.0
525	0.0
526	0.0
527	0.0
528	0.0
529	0.0
530	0.0
531	0.0
532	0.0
533	0.0
534	0.0
535	0.0
536	0.0
537	0.0
538	0.0
539	0.0
540	0.0
541	0.0
542	0.0
543	0.0
544	2.36
545	3.84
546	5.31
547	8.26
548	9.42
549	11.15
550	12.73
551	14.78
552	16.05
553	17.41
554	19.72
555	21.52
556	23.35
557	24.83
558	25.99
559	27.15
560	29.31
561	29.46
562	30.62
563	31.78
564	32.94
565	34.18
566	36.25
567	37.41
568	38.56
569	39.72
570	40.00
571	40.00
572	40.00
573	40.00
574	40.00
575	40.00

SPEED VERSUS TIME SEQUENCE—Continued

Record (sec)	Speed (mph)
576	40.82
577	41.00
578	41.00
579	41.30
580	42.00
581	42.00
582	42.00
583	42.93
584	43.00
585	43.00
586	43.00
587	43.56
588	44.71
589	45.00
590	44.97
591	44.18
592	44.66
593	44.00
594	44.00
595	44.81
596	45.00
597	45.00
598	45.00
599	45.44
600	46.00
601	46.00
602	46.92
603	47.00
604	47.00
605	47.00
606	47.00
607	47.00
608	47.00
609	47.04
610	49.00
611	49.33
612	49.51
613	49.00
614	49.00
615	49.00
616	49.00
617	48.72
618	48.87
619	50.00
620	50.00
621	50.00
622	50.00
623	49.78
624	49.00
625	49.00
626	49.89
627	50.00
628	50.00
629	50.00
630	49.68
631	49.00
632	49.00
633	48.20
634	48.00
635	48.00
636	48.27
637	49.00
638	49.58
639	50.00
640	50.00
641	50.00
642	50.00
643	50.00
644	50.00
645	50.00
646	50.00
647	50.00
648	50.00
649	50.00
650	50.47
651	51.00
652	51.00
653	51.00
654	51.00
655	51.00
656	51.42
657	52.00
658	52.00
659	52.00
660	52.00
661	52.20
662	53.00
663	53.00
664	53.00
665	53.00
666	53.00

SPEED VERSUS TIME SEQUENCE—Continued

Record (sec)	Speed (mph)
667	53.00
668	53.00
669	53.00
670	52.38
671	52.00
672	52.93
673	52.91
674	52.25
675	53.00
676	53.00
677	53.00
678	53.00
679	53.00
680	53.00
681	53.00
682	53.00
683	53.00
684	53.00
685	53.98
686	55.00
687	55.00
688	55.00
689	55.00
690	55.00
691	55.00
692	55.00
693	56.00
694	55.00
695	55.00
696	55.00
697	55.00
698	55.00
699	55.00
700	55.00
701	54.50
702	54.66
703	55.00
704	54.03
705	54.00
706	54.00
707	54.00
708	54.00
709	54.00
710	54.00
711	54.00
712	54.00
713	54.77
714	56.00
715	56.00
716	56.00
717	56.02
718	57.00
719	56.67
720	56.00
721	56.00
722	56.00
723	56.00
724	56.00
725	56.00
726	56.00
727	56.00
728	56.00
729	56.91
730	57.00
731	57.00
732	57.00
733	57.00
734	57.00
735	57.85
736	58.00
737	58.00
738	58.00
739	58.00
740	58.00
741	58.00
742	58.00
743	58.00
744	58.00
745	57.15
746	56.00
747	56.00
748	56.00
749	56.00
750	56.00
751	55.63
752	55.00
753	55.00
754	55.00
755	55.00
756	55.00
757	55.00

SPEED VERSUS TIME SEQUENCE—Continued

Record (sec)	Speed (mph)
758	55.00
759	55.00
760	54.22
761	54.00
762	54.00
763	54.00
764	54.00
765	54.00
766	54.00
767	54.00
768	54.00
769	54.00
770	54.00
771	54.00
772	54.00
773	54.00
774	53.01
775	50.86
776	49.70
777	48.54
778	47.39
779	46.23
780	45.07
781	43.91
782	42.51
783	40.60
784	39.44
785	38.28
786	37.13
787	35.94
788	33.81
789	32.66
790	30.50
791	28.34
792	26.37
793	25.03
794	21.87
795	19.85
796	16.56
797	15.40
798	14.24
799	12.17
800	10.71
801	6.08
802	2.61
803	1.45
804	0.30
805	0.0
806	0.0
807	0.0
808	0.0
809	0.0
810	0.0
811	0.0
812	0.0
813	0.0
814	0.0
815	0.0
816	0.0
817	0.0
818	0.0
819	0.0
820	0.0
821	0.0
822	0.0
823	0.0
824	0.0
825	0.0
826	0.0
827	0.0
828	0.0
829	0.0
830	0.0
831	0.19
832	1.00
833	1.51
834	2.66
835	4.64
836	6.98
837	8.86
838	7.71
839	7.45
840	9.22
841	10.00
842	9.08
843	10.08
844	11.24
845	12.79
846	14.00
847	12.58
848	12.87

SPEED VERSUS TIME SEQUENCE—Continued

Record (sec)	Speed (mph)
849	13.00
850	13.00
851	13.68
852	15.00
853	15.00
854	13.37
855	12.03
856	12.26
857	14.29
858	14.56
859	15.20
860	16.76
861	17.00
862	17.00
863	17.23
864	18.77
865	20.54
866	19.60
867	18.14
868	17.98
869	17.00
870	16.34
871	15.00
872	15.00
873	15.00
874	15.96
875	12.35
876	15.28
877	14.27
878	12.59
879	12.25
880	9.28
881	8.00
882	8.00
883	8.38
884	9.53
885	10.69
886	11.00
887	9.00
888	9.00
889	9.32
890	10.00
891	9.36
892	9.00
893	9.95
894	14.33
895	17.53
896	19.42
897	20.00
898	20.74
899	21.00
900	21.11
901	23.84
902	27.00
903	27.00
904	29.05
905	32.52
906	31.01
907	31.00
908	31.62
909	33.00
910	32.37
911	30.43
912	30.00
913	30.00
914	30.51
915	32.41
916	33.00
917	32.27
918	32.00
919	31.04
920	32.20
921	33.36
922	34.00
923	34.00
924	34.00
925	33.01
926	31.86
927	30.10
928	26.17
929	23.39
930	21.46
931	17.28
932	15.83
933	13.76
934	12.60
935	10.33
936	8.28
937	5.38
938	2.91
939	0.0

SPEED VERSUS TIME SEQUENCE—Continued

Record (sec)	Speed (mph)
940	0.0
941	0.0
942	0.0
943	0.0
944	0.0
945	0.0
946	0.0
947	0.0
948	0.0
949	0.0
950	0.0
951	0.0
952	0.0
953	0.0
954	0.0
955	0.0
956	0.0
957	0.0
958	0.0
959	0.0
960	0.0
961	0.0
962	0.0
963	0.0
964	0.0
965	0.0
966	0.0
967	0.0
968	0.0
969	0.0
970	0.0
971	0.0
972	0.0
973	0.0
974	0.0
975	0.0
976	0.0
977	0.0
978	0.0
979	0.0
980	0.51
981	0.33
982	0.0
983	0.0
984	0.0
985	0.0
986	0.0
987	0.0
988	0.0
989	0.0
990	0.0
991	0.0
992	0.0
993	0.0
994	0.0
995	0.0
996	0.0
997	0.0
998	0.0
999	0.0
1000	0.0
1001	0.0
1002	0.0
1003	0.13
1004	0.71
1005	0.0
1006	0.0
1007	0.0
1008	0.0
1009	4.15
1010	6.00
1011	6.00
1012	6.00
1013	5.30
1014	4.14
1015	1.96
1016	0.0
1017	0.0
1018	0.0
1019	0.0
1020	0.0
1021	0.0
1022	0.0
1023	0.0
1024	0.0
1025	0.0
1026	0.0
1027	0.0
1028	0.0
1029	0.0
1030	0.0

SPEED VERSUS TIME SEQUENCE—Continued

Record (sec)	Speed (mph)
1031	0.0
1032	0.0
1033	0.0
1034	0.0
1035	0.0
1036	0.0
1037	0.48
1038	1.64
1039	0.41
1040	0.0
1041	0.0

SPEED VERSUS TIME SEQUENCE—Continued

Record (sec)	Speed (mph)
1042	0.0
1043	0.0
1044	0.0
1045	0.0
1046	0.0
1047	0.0
1048	0.0
1049	0.0
1050	0.0
1051	0.0
1052	0.0

SPEED VERSUS TIME SEQUENCE—Continued

Record (sec)	Speed (mph)
1053	0.0
1054	0.0
1055	0.0
1056	0.0
1057	0.0
1058	0.0
1059	0.0
1060	0.0

[FR Doc. 83-199 Filed 1-11-83; 8:45 am]
BILLING CODE 6560-50-M

federal register

Wednesday
January 12, 1983

Part V

Environmental Protection Agency

Gaseous Emission Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL 2249-7a]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Gaseous Emission Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This notice proposes for public comment two options which EPA is considering for revising the useful-life definition for 1985 and later model year light-duty trucks (LDTs) and heavy-duty engines (HDEs). In addition to the original full-life useful-life definition established for the 1984 model year, EPA is considering a modified version of the full-life useful-life definition, and an extended half-life useful-life definition.

This proposal arises as a result of comments received in response to previous EPA requests for comments on the LDT/HDE useful life issue. Through this proposal EPA seeks to establish a final LDT/HDE useful-life definition which is both workable and practicable for the regulated industry and complies with the useful-life provisions of the Clean Air Act as amended in 1977.

A full description of the options proposed today is contained elsewhere in this **Federal Register** as part of a parallel final rulemaking. Those desiring to review and possibly comment on the proposal should refer to the final rule for further information.

DATES: The record will remain open for comments on this proposal for 45 days following publication, or for 39 days after a public hearing should one be requested. Therefore, all comments must be submitted on or before February 28, 1983, if a public hearing is not held.

Any person requesting a public hearing on this proposal should submit such a request in writing to the information contact shown below no later than January 27, 1983. If a hearing is requested, its date and location will be announced in a subsequent **Federal Register** notice

ADDRESS: Written comments should be submitted directly to: U.S. EPA, Central Docket Section (A-130), Attn: Docket No. A-81-11, 401 M Street SW., Washington, D.C. 20460.

Docket No. A-81-11 contains materials relevant to this proposal and is located in the U.S. EPA, Central Docket Section, West Tower Lobby, Gallery 1, 401 M Street, SW., Washington, D.C. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays, and a reasonable fee may be charged for copying services. The telephone number at the Central Docket Section is (202) 382-7548.

FOR FURTHER INFORMATION CONTACT: Mr. Glenn Passavant, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Rd., Ann Arbor, MI 48105, Telephone: (313) 668-4408.

SUPPLEMENTARY INFORMATION:

I. Background

In December of 1979, EPA promulgated a revised useful-life definition for 1984 and later model year HDEs which incorporated for the first time a full-life concept in lieu of the previously used half-life concept (45 FR 4136). In a separate rulemaking published in September of 1980, the full-life useful-life definition was also adopted for 1984 and later model year LDTs (45 FR 63734).

As a part of the Administration's regulatory relief program announced on April 6, 1981, EPA committed to a further study of the full-life useful-life requirement and on June 17, 1981, EPA published a formal request for comments on the full-life useful-life provisions (46 FR 31677). This request encouraged general comments on the new useful life definition and posed several specific questions for comments. The period for comment closed on December 1, 1981 (see public docket A-81-20).

Upon review and study of the comments received and in other correspondence and contacts with the regulated industry it was evident that a number of problems still existed with the full-life useful-life definition, and that it would be necessary to reopen the full-life useful-life issue formally in order to adequately resolve these concerns. This was accomplished in the EPA proposed rule "Revised Gaseous Emission Regulations for 1984 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines," in which EPA sought general comment on the full-life useful-life provisions, and preserved the option to modify the useful-life provisions as a part of the final rulemaking process (47 FR 1642, January 13, 1982). The two additional approaches being proposed here for comment arose from discussions at the public hearing on the January 13, 1982, NPRM and from the written comments which followed.

II. Components of the Proposal

In addition to the currently promulgated full-life useful-life definition, EPA is proposing two other possible approaches for 1985 and later model years: A "modified full-life" definition and an "extended half-life" definition. The details of each of these proposals are discussed in a separate final rulemaking action also published today in the **Federal Register** entitled, "Revised Gaseous Emission Regulations for 1984 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines." The discussions can be found in the Supplementary Information portion of the aforementioned action. The discussion of the proposed modified full-life approach is in the section entitled "1984 and Later Full-Life Option." The discussion of the proposed extended half-life approach is in the section which immediately follows entitled "Proposed Half-Life Option for 1985 and Later Model Years." The reader is referred to these sections for full detail on these two additional proposed approaches for the 1985 and later model year useful life definition for LDTs and HDEs.

III. Authority

Statutory authority for this proposal is provided in sections 202(d)(2) and 301(a) of the Clean Air Act as amended in 1977, (42 U.S.C. 2541(d)(2) and 2601(a)).

IV. Request for Comments

As in past rulemaking activities, EPA desires full public participation in arriving at a final rulemaking decision. Therefore, EPA solicits comments on all aspects of today's proposal from all interested parties. Wherever applicable, full supporting data and detailed analyses should be submitted to allow EPA to make full use of the comments. EPA especially encourages commenters who object to any aspects of the proposal to attempt to suggest constructive modifications.

V. List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Administrative Designation

Under Executive Order 12291 EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it involves no negative cost impacts over current 1985 regulations and has no significant adverse effect on

competition, productivity, investment, employment, or innovation.

This proposed regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Effect on Small Entities

Section 605 of the Regulatory Flexibility Act requires that the Administrator certify regulations that do not have a significant impact on a substantial number of small entities. I certify that this regulation indeed does not have any significant impact on small entities. This proposed regulation affects motor vehicle and engine manufacturers, and this group does not include a substantial number of small entities.

Impacts of Reporting Requirements

This proposed rule does not increase the existing reporting requirements over current 1985 LDT and HDE emission regulations.

Dated: December 22, 1982.

John W. Hernandez,

Acting Administrator.

[FR Doc. 83-197 Filed 1-11-83; 8:45 am]

BILLING CODE 6560-50-M

federal register

Wednesday
January 12, 1983

Part VI

Department of Agriculture

Agricultural Stabilization and Conservation Service

Special Program of Payment in Kind for Acreage Diversion for 1983 Crops of Wheat, Corn, Grain Sorghum, Upland Cotton and Rice; Interim Rule

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 770

Special Program of Payment In Kind for Acreage Diversion for 1983 Crops of Wheat, Corn, Grain Sorghum, Upland Cotton and Rice

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Interim rule.

SUMMARY: This interim rule establishes a program of payment in kind for acreage diversion for the 1983 crops of wheat, corn, grain sorghum, rice and upland cotton. Under the program producers will be offered a quantity of a commodity as compensation for diverting acreage normally planted to that commodity in addition to that being taken out of production under the 1983 acreage reduction and cash land diversion programs for wheat, corn, grain sorghum, rice and upland cotton previously announced. Even with these programs the supply of these commodities will greatly exceed demand. Accordingly, the Department has determined that the diversion of additional acreage from the production of such crops is necessary to adjust the total national acreage of such commodities to desirable goals and that producers should be compensated by receipt of like commodities. This document sets forth, in general, the requirements for program participation and the manner in which payment in kind will be made available.

DATES: Effective date January 12, 1983. Comments must be submitted on or before February 11, 1983, in order to be assured of consideration.

ADDRESS: Comments should be addressed to Director, Analysis Division, ASCS, USDA, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Dr. Howard C. Williams, ASCS, 202–447–3391.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under Department of Agriculture procedures implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified as "major" since the program will have an annual effect on the economy exceeding $100 million.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since the Department is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The Department has prepared an Interim Regulatory Impact Analysis of this regulation. Copies of the analysis are available to the public from Director, Analysis Division, Agricultrural Stabilization and Conservation Service, USDA, Room 3741, South Agriculture Building, 14th and Independence Avenue, SW., Washington, D.C. 20250.

The title and number of the federal assistance program to which this notice applies are: Cotton Production Stabilization, 10.052; Feed Grain Production Stabilization, 10.055; Rice Production Stabilization, 10.065; and Wheat Production Stabilization, 10.058; as found in the Catalog of Federal Domestic Assistance.

Statutory Authority

The program will be conducted pursuant to the authority of the Agricultural Act of 1949, as amended, and the Commodity Credit Corporation Charter Act. The Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, authorizes the Secretary to make land diversion payments to producers of wheat, feed grains, upland cotton and rice if the Secretary determines that the payments are necessary to assist in adjusting the total national acreage of the commodities to desirable goals. The Charter Act gives the Corporation broad authority to support the price of agricultural commodities, stabilize agricultural commodity markets and remove and dispose of agricultural surpluses.

Need for Program

Acreage reduction and land diversion programs have already been instituted for the 1983 crops of wheat, feed grains, upland cotton and rice under provisions of the Agricutural Act of 1949, as amended. Producers participating in those programs will reduce planted acreage for wheat by at least 20%, for feed grains by at least 20%, for upland cotton by at least 20%, and for rice by at least 20%. Even with these programs the supply of these commodities will greatly exceed demand. Record production coupled with a weak worldwide demand for these commodities due to the global recession and severe financial problems of some of our major foreign customers has created undesirable surpluses. Accordingly, the Department has determined that the diversion of additional acreage from the production of such crops is necessary to adjust the total national acreage of such commodities to desirable goals and that producers should be compensated by receipt of like commodities.

Program Provisions

Contracts. The Commodity Credit Corporation will enter into contracts with producers under which producers who divert acreage from the production of 1983 crops of wheat, corn, grain sorghum, upland cotton or rice and devote the acreage to approved conservation uses will be compensated in the form of quantities of those commodities. The acreage would be in addition to that which the producer has agreed to take out of production under the 1983 acreage reduction and cash land diversion programs previously announced.

Acreage Diversion. Any producer may enter into a contract to divert not less than 10 percent nor more than 30 percent of the farm acreage base for any crop. In addition, producers may submit bids for a contract to divert 100 percent of the farm acreage base for any crop. Bids must be in terms of the percentage of the farm's yield for the crop which the producers consider to be an acceptable level of compensation. The Department will determine the number of acres for which bids will be accepted for each commodity in each county, based on particular supply/demand situations, conditions in local communities, and other relevant factors. In no event will more than 50 percent of the total acreage bases for a commodity in a county be taken out of production under this and the previously announced 1983 acreage reduction and cash land diversion programs.

Compensation. In the case of contracts for the diversion of between 10 and 30 percent of the acreage base of a commodity, the quantity of the commodity received as compensation will be the acreage diverted times the farm's yield for the commodity, multiplied by 95 percent for wheat, 80 percent for corn and grain sorghum, 80 percent for upland cotton, and 80 percent for rice. In the case of contracts for the diversion of 100 percent of the acreage base of a commodity, the quantity of the commodity received as compensation will be determined in the same way utilizing the percentage of the farm's yield specified in the bid.

To the extent that a producer has outstanding farmer owned reserve loans obtained before January 12, 1983 or regular price support loans for which the producer has pledged as security a commodity which the Department is obligated to pay the producer, the producer must sell the commodity to the Department up to the quantity the Department is obligated to pay the producer at a price equal to the cost of liquidating the loan for which the commodities sold to the Department are pledged. In the case of farmer owned reserve loans, the price will be reduced by the amount of any unearned advance storage payments. Further, in the case of farm stored farmer owned reserve loans, the price will include additional compensation to take account of long term storage related commitments the producer may have undertaken. It is the present intention of the Department to provide 15.5 cents per bushel in additional compensation. The commodities sold to the Department will then be paid to the producer. To the extent that commodities are not available for purchase by the Department from the producer, the producer will receive commodities from warehouses designated by CCC. In all cases, proper adjustments for grade and other characteristics affecting quality will be made.

Other Contract Provisions. The regulations authorize the Department to include other appropriate terms and conditions in its contracts with producers.

The Department will pay commodities which it owes a producer upon request at any time during the five month period beginning on the normal harvest date for the commodity in the producer's area. These days will be established by the Department on a county-by-county basis. The Department presently intends to include in the contracts provisions under which it will pay producers who request the commodities after the normal harvest date, and are paid commodities previously pledged by them as loan security, the costs the Department would have incurred had it been required to store the commodities from the normal harvest date until the date of payment. The payment will be calculated on the basis of an annual rate of $.265 per bushel for wheat and corn, $.4732 per hundredweight for grain sorghum and $.85 per hundredweight for rice. The rate for upland cotton will be based on individual warehouse rate schedules.

The Department also intends to offer additional payment in kind to producers whose conservation use acreage requirement under the previously announced acreage reduction and cash land diversion programs has been reduced because of the payment limitation imposed by section 1101 of the Agriculture and Food Act of 1981. These producers will have the opportunity to forego this reduction in conservation use acreage in return for a payment in kind based on 50 percent of the farm yield for the commodity to which the acreage is normally planted.

Payment Limitation. The limitations imposed by section 1101 of the Agriculture and Food Act of 1981 on the amount of payments which a person may receive under the wheat, feed grain, upland cotton and rice programs are not applicable to commodities received as compensation under the payment in kind program.

If the payment in kind program is to be effective in reducing production with respect to 1983 crops in order to assist in bringing supply in line with demand and stabilizing the domestic market, the program must be made effective as soon as possible without opportunity for public comment so that producers and others might be made aware of their opportunity to participate in the program. Comments received on the program will be considered and any appropriate changes in the program will be made before the final rule is issued. The Department anticipates issuing a final rule by February 25. Producers may sign contracts and submit bids for contracts until March 11, and previously submitted contracts and bids may be withdrawn until that date. If any change is made in the regulations, producers who have already signed contracts or submitted bids will have an opportunity to revoke them if they are unwilling to agree to the modifications.

The form of the contracts to be used by the Department in implementing this rule will not become effective until approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980.

List of Subjects in 7 CFR Part 770

Cotton, Feed grains, Price support program, Wheat, Rice.

Accordingly, Subchapter C of Chapter VII of Title 7 of the Code of Federal Regulations is amended by adding after Part 760 a new Part 770 as follows:

PART 770—SPECIAL PROGRAM OF PAYMENT IN KIND FOR ACREAGE DIVERSION FOR 1983 CROPS OF WHEAT, CORN, GRAIN SORGHUM, UPLAND COTTON AND RICE

Sec.

770.1 General description of program.
770.2 Obligations of operators and producers.
770.3 Obligations of the Department.
770.4 Other contract provisions.
770.5 Contracting procedures.
770.6 Miscellaneous provisions.

Authority: Secs. 101(i), 103(g), 105B and 107B of the Agricultural Act of 1949, as amended (7 U.S.C. 1441, 1444, 1444d and 1445b-1) and the Commodity Credit Corporation Charter Act (15 U.S.C. 714).

§ 770.1 General description of program.

(a) The Department of Agriculture will enter into contracts with operators and producers who agree to devote acreage normally planted to wheat, corn, grain sorghum, upland cotton or rice to a conserving use in return for compensation in the form of the commodity normally planted on the acreage. This part describes the general terms and conditions of these contracts and the procedures under which the Department will enter into them.

(b) This special program is available throughout the United States, including Puerto Rico, for the 1983 crops of wheat, corn, grain sorghum, upland cotton and rice.

§ 770.2 Obligations of operators and producers.

(a) The contract between the Department and the operator of a farm and any other producers on the farm will impose the following obligations on the operator and any other producers:

(1) The operator and any other producers will be required to comply with all of the requirements of any other acreage reduction or paid diversion program established by the Department for any commodity included in the contract.

(2) The operator and any other producers will be required to devote a percentage of the farm's acreage base for any commodity included in the contract to an approved conserving use in addition to any other acreage reduction or paid diversion. This percentage will depend on the contract between the Department and the operator and any other producers.

(i) The Department will enter into a contract with the operator of a farm and any other producers on the farm which provides for devoting from 10 to 30 percent of the farm's acreage base for one or more commodities to an approved conserving use, with a concomitant reduction in permitted acreage, if the operator and any other producers wish to do so. The operator and any other producers may select the commodities to be included in the contract, except that the contract must include either both corn and grain

sorghum or neither. They may also select, within the 10 to 30 percent range, the percentage of the acreage base of each included commodity that will be devoted to an approved conserving use. Compensation to operators and other producers under these contracts will be based on a fixed percentage of the farm yield for each of the commodities included in the contract. See § 770.3(a)(1).

(ii) In addition, the Department may, in some cases, enter into a contract with the operator of a farm and any other producers on the farm which requires the operator and any other producers to devote 100 percent of the farm's acreage base for one or more commodities to an approved conserving use. These contracts will be awarded on a competitive bid basis and the compensation to an operator and any other producers under one of these contracts will be based on the percentage of the established yield for the farm for each of the commodities included in the contract which was bid by the operator and any other producers. See § 770.5(b).

(3) If the operator of a farm or any other producers on the farm have outstanding farmer owned reserve loans obtained prior to January 12, 1983, or regular price support loans, for which they have pledged as security a commodity which the Department is obligated to pay them under the contract, at the time they request payment of the commodity, they must sell the commodity to the Department up to the quantity the Department is obligated to pay them, at a price equal to the cost of liquidating the loan or portion of the loan for which the quantity sold to the Department is pledged, subject to the following adjustments:

(i) In the case of a farmer owned reserve loan, the price will be reduced by the amount of any unearned advance storage payments received under the loan.

(ii) In the case of farm stored commodities pledged as security for a farmer owned reserve loan, additional compensation will be provided to take account of long term storage related commitments the operator or other producer may have undertaken.

(4) To the extent that the operator or any other producers have loans to which paragraph (a)(3) of this section applies at the time they enter into the contract, they may liquidate those loans or forfeit the commodity securing them only to the extent that the liquidation or forfeiture does not reduce the quantity of the commodity pledged as security for the loans still held by the operator and such other producers below the quantity of the commodity the Department is obligated to pay the operator and such other producers under the contract. The commodities pledged as security for loans that must be held under this paragraph will be used by the Department to compensate the operator and any other producers under the contract. See § 770.3(a)(2)(i).

(b) The contract shall provide for the payment of liquidated damages in the event that the operator or any other producers fail to comply with their obligations under the contract.

§ 770.3 Obligations of the Department.

(a) The contract between the Department and the operator of a farm and any other producers on the farm will impose the following obligations on the Department:

(1) The Department will be required to compensate the operator and any other producers for devoting acreage to an approved conserving use by payment of a quantity of the commodity or commodities that would otherwise have been produced on that acreage, except that the Department may substitute corn of equivalent quantity for grain sorghum. The quantity shall be the yield for the farm for a commodity multiplied by the acreage devoted to a conserving use under the contract that would otherwise have been planted to that commodity, multiplied by 95 percent for wheat, 80 percent for corn and grain sorghum, 80 percent for upland cotton, and 80 percent for rice, except that in the case of contracts awarded on a competitive bid basis, the percentage shall be the percentage bid by the operator and any other producers.

(2) The contract will provide that the commodities will be paid in the following manner:

(i) To the extent that the operator and any other producers have outstanding regular price support or farmer owned reserve loans for which they have pledged as security a commodity which they must sell to the Department, the commodities sold to the Department will be paid to the operator and such other producers. See § 770.2(a)(3).

(ii) To the extent that a commodity cannot be paid using the procedure described in paragraph (a)(2)(i) of this section, it shall be paid out of stocks available to the Department for that purpose.

(3) The contract will provide that the commodities will be paid upon request of the operator and any other producers at any time during the five month period beginning with normal harvest date for the commodity in the area where the farm is located.

(4) The contract may contain special arrangements and requirements with respect to the Department's obligations to producers who are active members of a marketing cooperative.

§ 770.4 Other contract provisions.

(a) The contract between the Department and the operator of a farm and any other producers on the farm will establish standards for the grade and other characteristics affecting the quality of any commodity the Department is obligated to pay to the operator and any other producers. It will further provide for adjustments in the quantity of a commodity paid to the operator and any other producers to compensate for any differences between these standards and the grade and other characteristics affecting the quality of the commodity paid to the operator and any other producers. For the purpose of determining these adjustments, a commodity paid under the procedure described in § 770.3(a)(2)(i) shall be treated as having the grade and other characteristics affecting its quality which it was treated as having at the time that the price support or farmer owned reserve loan for which it was pledged as security was made.

(b) The contract between the Department and the operator of a farm and any other producers on the farm shall contain such other provisions as the Department determines appropriate to carry out the program established by this part.

§ 770.5 Contracting procedures.

(a) An operator of a farm and any other producers on the farm may enter into a contract with the Department which provides for devoting 10 to 30 percent of the farm's acreage base for one or more commodities to an approved conserving use at the appropriate county ASCS office prior to the close of business on March 11, 1983.

(b) An operator of a farm and any other producers on the farm may submit a bid for a contract with the Department which provides for devoting 100 percent of the farm's acreage base for one or more commodities to an approved conserving use at the appropriate county ASCS office prior to the close of business on March 11, 1983.

(1) The operator and any other producers may select the commodities to be included in the bid, except that the bid must include either both corn and grain sorghum or neither.

(2) The bid shall state the percentage of the established yield for the farm for each of the commodities included in the bid to be used in determining the

compensation to be paid to the operator and any other producers under the contract if the bid is accepted. The operator and any other producers may select any percentage, except that the percentage for a commodity cannot exceed 95 percent for wheat, 80 percent for corn and grain sorghum, 80 percent for upland cotton, or 80 percent for rice. The percentage may be different for different commodities, except that the percentage must be the same for corn and grain sorghum.

(c) After March 11 the bids in each county shall be ranked for each commodity, treating corn and grain sorghum as a single commodity, on the basis of the percentage of established yield to be used in determining compensation stated in the bids, with the lowest percentage being ranked highest. In the case of identical bids, they shall be ranked in the order received. The bids for each commodity shall then be accepted in rank order. The Department will establish the number of acres for which bids will be accepted for each commodity in each county, based on particular supply/demand situations, conditions in local communities, and other relevant factors. In no case will more than 50 percent of the total of the acreage bases for a commodity in a county be removed from production of the commodity under the program established by this part and any other acreage reduction or diversion program established under part 713 of this chapter. Acceptance of a bid under this subsection with respect to a commodity shall terminate any contractual obligations with respect to that commodity entered into under paragraph (a) of this section.

§ 770.6 Miscellaneous provisions.

(a) Payments in kind under the program established by this part shall not be considered payments for purposes of the payment limitations imposed by section 1101 of the Agriculture and Food Act of 1981.

(b) Part 713 of this chapter contains regulations which govern regular annual acreage reduction and diversion and other programs for wheat, feed grains, cotton and rice. Sections 713.60 through 713.74 of that part concerning land eligible for designation as conserving use acreage and the obligations of producers with respect to the use of that acreage shall apply to the program established by this part, except for the following:

(1) Summer fallow producers may designate only land that would normally be devoted to production of small grains or row crops in 1983.

(2) Wheat planted prior to January 11, 1983, may be grazed throughout the year and harvested for hay.

(c) In addition, the following provisions of this title concerning general program administration also apply to the program established by this part.

(1) Part 707—Payments Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent.

(2) Part 718—Determination of Acreage and Compliance.

(3) Part 780—Appeal Regulations.

(4) Part 790—Incomplete Performance Based Upon Action Or Advice of an Authorized Representative of the Secretary.

(5) Part 791—Authority to Make Payments When There Has Been a Failure to Comply Fully with the Program.

(6) Part 1403—Interest on Delinquent Debts.

(7) Section 110 of Part 713 concerning protection of tenants and sharecroppers.

Signed at Washington, D.C. on January 10, 1983.

John R. Block,

Secretary.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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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
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Listing of Public Laws

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

H.R. 2475 / Pub. L. 97–426 To modify a withdrawal of certain lands in Mono County, California, to facilitate an exchange for certain other lands in Mono County, California, and for other purposes. (Jan. 8, 1983; 96 Stat. 2264) Price: $1.75.

H.R. 7423 / Pub. L. 97–427 To recognize the organization known as Former Members of Congress. (Jan. 8, 1983; 96 Stat. 2265) Price: $1.75.

H.R. 4001 / Pub. L. 97–428 To authorize the exchange of certain land held in trust by the United States for the Navajo Tribe, and for other purposes. (Jan. 8, 1983; 96 Stat. 2268) Price: $1.75.

H.R. 4496 / Pub. L. 97–429 Texas Band of Kickapoo Act (Jan. 8, 1983; 96 Stat. 2269) Price: $1.75.

H.R. 5027 / Pub. L. 97–430 To designate the building known as the United States Post Office and Courthouse in Norfolk, Virginia, as the "Walter E. Hoffman United States Courthouse". (Jan. 8, 1983; 96 Stat. 2272) Price: $1.75.

H.R. 4568 / Pub. L. 97–431 To direct the Secretary of the Interior to release on behalf of the United States certain restrictions contained in a previous conveyance of land to the city of Albuquerque, New Mexico, and for other purposes. (Jan. 8, 1983; 96 Stat. 2273) Price: $1.75.

H.R. 5456 / Pub. L. 97–432 To amend the Plant Quarantine Act of August 20, 1912, as amended, to eliminate certain unnecessary regulatory requirements. (Jan. 8, 1983; 96 Stat. 2276) Price: $1.75.

H.R. 7316 / Pub. L. 97–433 National Park System Visitor Facilities Fund Act. (Jan. 8, 1983; 96 Stat. 2277) Price: $1.75.

H.R. 5916 / Pub. L. 97–434 To declare certain Federal lands acquired for the benefit of Indians to be held in trust for the Tribes of such Indians. (Jan. 8, 1983; 96 Stat. 2280) Price: $1.75.

H.R. 6419 / Pub. L. 97–435 To direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University. (Jan. 8, 1983; 96 Stat. 2281) Price: $1.75.

H.R. 6243 / Pub. L. 97–436 To provide for the distribution of Warm Springs judgment funds awarded in docket numbered 198 before the Indian Claims Commission, and for other purposes. (Jan. 8, 1983; 96 Stat. 2283) Price: $1.75.

H.R. 6519 / Pub. L. 97–437 To amend title 5, United States Code, to allow student interns of the Internal Revenue Service to have access to certain information required by such students in the performance of their official duties. (Jan. 8, 1983; 96 Stat. 2285) Price: $1.75.

H.R. 7143 / Pub. L. 97–438 To amend the Foreign Assistance Act of 1961 to extend for an additional year the Agricultural and Productive Credit and Self-Help Community Development Programs. (Jan. 8, 1983; 96 Stat. 2286) Price: $1.75.

H.R. 7005 / Pub. L. 97–439 Federal Seed Act Amendments of 1982. (Jan. 8, 1983; 96 Stat. 2287) Price: $1.75.

H.R. 7159 / Pub. L. 97–440 To amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH. (Jan. 8, 1983; 96 Stat. 2289) Price: $1.75.

S.J. Res. 101 / Pub. L. 97–441 Designating "National High School Activities Week". (Jan. 8, 1983; 96 Stat. 2291) Price: $1.75.

S.J. Res. 240 / Pub. L. 97–442 To authorize and request the President to designate the week of January 16, 1983, through January 22, 1983 as "National Jaycee Week". (Jan. 8, 1983; 96 Stat. 2292) Price: $1.75.

S.J. Res. 264 / Pub. L. 97–443 To designate the week of March 13, 1983, through March 19, 1983, as "National Children and Television Week". (Jan. 8, 1983; 96 Stat. 2293) Price: $1.75.

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