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federal register

Thursday
August 18, 1983

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Authority Delegations (Government Agencies)
Agriculture Department

Aviation Safety
Federal Aviation Administration

Coal Mining
Surface Mining Reclamation and Enforcement Office

Cotton
Agricultural Marketing Service

Crop Insurance
Federal Crop Insurance Corporation

Government Procurement
General Services Administration

Grant Programs—Health
Veterans Administration

Marine Safety
Coast Guard

Maritime Carriers
Maritime Administration

Marketing Agreements
Agricultural Marketing Service

Medicare
Health Care Financing Administration

CONTINUED INSIDE

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Selected Subjects

Contents

Federal Register
Vol. 48, No. 161
Thursday, August 18, 1983

Separate Parts in This Issue

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 48, No. 161
Thursday, August 18, 1983

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture and General Officers of the Department to reflect the transfer of certain responsibilities relating to historically Black colleges and universities and to rename the Office of Minority Affairs.

EFFECTIVE DATE: August 18, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Edgar L. Kendrick, Director, Office of Grants and Program Systems, U.S. Department of Agriculture, Washington, D.C. (202) 447–8885.

SUPPLEMENTARY INFORMATION: The Food and Agriculture Act of 1977 designated the Department of Agriculture as the lead agency for agricultural research and teaching in the food and agricultural sciences. The Assistant Secretary for Science and Education has been assigned this responsibility within USDA. Executive Order No. 12232 required increased participation of historically Black colleges and universities in the programs of the Department. The Assistant Secretary for Administration and the Office of Minority Affairs (OMA) have been carrying out that responsibility within the Department.

Since the Assistant Secretary for Science and Education is responsible for teaching programs within the Department, it has been determined that he should be assigned program support and development functions through which the Department relates to historically Black colleges and universities. The Office of Grants and Program Systems will assist him in carrying out these responsibilities.

The Assistant Secretary for Administration and OMA will continue to have responsibility for monitoring agency activities and evaluating the effect of Department programs. Accordingly, the delegations of authority are revised to reflect this transfer of responsibility.

In addition, the delegations are revised to reflect the management support functions that the Agricultural Research Service and the Extension Service perform for other agencies that report to the Assistant Secretary for Science and Education.

Also, to better reflect its responsibilities, the Office of Minority Affairs has been renamed the Office of Equal Opportunity.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register.**

Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by Pub. L. 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, except as otherwise stated.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.25 is amended by revising paragraph (h)(16) to read as follows:

§ 2.25 Delegations of Authority to the Assistant Secretary for Administration.

* * * * *

(h) * * *

(16) Monitor, evaluate, and report on agency compliance with established policy and executive orders which further the participation of historically Black colleges and universities and with other colleges and universities with substantial minority group enrollment in Departmental programs and activities.

* * * * *

3. Section 2.30 is amended by adding a new paragraph (a)(76) as follows.

§ 2.30 Delegations of authority to the Assistant Secretary for Science and Education.

* * * * *

(a) * * *

(76) Maintain liaison with the historically Black colleges and universities and with other colleges and universities with substantial minority group enrollment, and assist USDA agencies in strengthening such institutions by facilitating institutional participation in USDA programs and activities and by encouraging minority students to pursue curriculum that could lead to careers in the food and agricultural sciences.

* * * * *

Subpart J—Delegations of Authority by the Assistant Secretary for Administration

4. Section 2.80 is amended by revising the heading and paragraph (a)(18) to read as follows:

§ 2.80 Director, Office of Equal Opportunity.

(a) * * *

(18) Monitor, evaluate, and report on agency compliance with established policy and executive orders which further the participation of historically Black colleges and universities and with other colleges and universities with

substantial minority group enrollment in Departmental programs and activities.

Subpart N—Delegations of Authority by the Assistant Secretary for Science and Education

5. Section 2.106 is amended by adding a new paragraph (a)(45) to read as follows:

§ 2.106 Administrator, Agricultural Research Service.

(a) * * *

(45) Provide management support services for the National Agricultural Library as agreed upon by the agencies with authority to take actions required by law or regulation. As used herein, the term management support services includes budget, finance, personnel, procurement, property management, communications, paperwork management, ADP support, and related administrative services.

6. Section 2.108 is amended by adding a new paragraph (a)(23) to read as follows:

§ 2.108 Administrator, Extension Service.

(a) * * *

(23) Provide management support services for the Cooperative State Research Service and the Office of Grants and Programs Systems as agreed upon by the agencies with authority to take actions required by law or regulation. As used herein, the term management support services includes finance, personnel, procurement, property management, communications, paperwork management and related administrative services.

7. Section 2.110 is amended by adding a new paragraph (a)(15) to read as follows:

§ 2.110 Director, Office of Grants and Programs Systems.

(a) * * *

(5) Maintain liaison with the historically Black colleges and universities and with other colleges and universities with substantial minority group enrollment, and assist USDA agencies in strengthening such institutions by facilitating institutional participation in USDA programs and activities and by encouraging minority students to pursue curriculum that could lead to careers in the food and agricultural sciences.

For Subpart C:

Dated: August 15, 1983.

John R. Block,

Secretary of Agriculture

For Subpart J:

Dated: August 15, 1983.

John J. Franke, Jr.,

Assistant Secretary for Administration.

For Subpart N:

Dated: August 15, 1983.

Orville G. Bentley,

Assistant Secretary for Science and Education.

[FR Doc. 83-22564 Filed 8-17-83; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 313]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period August 19–August 25, 1983. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: August 19, 1983.

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

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona Valencia orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

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

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on February 22, 1983. The committee met again publicly on August 16, 1983 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges is easy.

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

List of Subjects in 7 CFR Part 908

Marketing Agreements and Orders, California, Arizona, Oranges (Valencia).

PART 908—[AMENDED]

Section 908.613 is added as follows:

§ 908.613 Valencia Orange Regulation 313.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period August 19, 1983 through August 25, 1983, are established as follows:

(1) District 1: 376,000 cartons;

(2) District 2: 424,000 cartons;

(3) District 3: Unlimited cartons.

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

Dated: August 17, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-22910 Filed 8-17-83; 11:28 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 97

[Docket No. 83-071]

Overtime Services Relating to Imports and Exports; Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service,USDA.

ACTION: Final rule.

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

EFFECTIVE DATE: August 18, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. J. L. Ellis, Executive Officer, VS, APHIS, USDA, Room 857, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8511.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final action has been reviewed under Executive Order 12291, and has been determined to be exempt from those requirements. Bert W. Hawkins, Administrator, Animal and Plant Health Inspection Service, has made this determination because commuted traveltime allowance are strictly a function of where the APHIS employee lives in relation to the place overtime or holiday duty is performed. As employees are transferred or change their residence or as the place of inspection changes, the number of hours of commuted traveltime allowed may change. This amendment merely reflects such changes and serves to notify the public of the new allowed hours.

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

List of Subjects in 9 CFR Part 97

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

Part 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service by § 97.1 of the regulations concerning overtime services relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1983 ed.), as amended February 14, 1983 (48 FR 6523-6524), March 2, 1983 (48 FR 8803-8804), and March 15, 1983 (48 FR 10808-10809), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty are further amended by revising the entries under "Montana" for "Morgan", Opheim", and "Raymond", in appropriate alphabetical sequence as shown below:

§ 97.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

Located covered	Served from	Metropolitan area: Within	Metropolitan area: Outside
* * * * *			
Remove:			
Montana: Port of Morgan	Wolf Point		6
* * * * *			
Add:			
Montana:			
Port of Opheim	Opheim		1
Do	Wolf Point		5
Port of Raymond	Raymond		1
* * * * *			

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

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

Done at Washington, D.C., this 12th day of August 1983.

James O. Lee, Jr.,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 83-22561 Filed 8-17-83; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL RESERVE SYSTEM

12 CFR Part 221

[Docket No. 0458]

Credit by Banks for the Purpose of Purchasing or Carrying Margin Stock; Regulation U

AGENCY: Federal Reserve System.

ACTION: Final rule, correction.

SUMMARY: This document corrects printing production errors in a previous **Federal Register** document (FR Doc. 83-20981), appearing in the issue of August 3, 1983, 48 FR 35070.

FOR FURTHER INFORMATION CONTACT: Robert Lord, Attorney, (202) 452-2781.

The corrections are as follows:

1. Section 221.1(b) of the new rule, appearing at 48 FR 35076, is corrected by changing the word "bank" to its plural form, "banks."

2. Section 221.5(c)(10) of the new rule, appearing at 48 FR 35079 is corrected to read as follows:

"(10) *Loans to specialists.* Credit extended to finance the specialty security and permitted offset positions of members of a national securities exchange who are registered and acting as specialists on the exchange, provided the credit is extended on a good faith loan value basis."

By order of the Board of Governors of the Federal Reserve System, August 11, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-22445 Filed 8-17-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-48-AD; Amdt. 39-4704]

Lockheed-California Company Model L-1011 Series Airplanes; Airworthiness Directive

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On May 3, 1983, the FAA issued a telegraphic airworthiness directive (AD) T83-09-51, effective upon receipt to all known operators of Lockheed Model L-1011 series airplanes, certificated in all categories. This AD required revision of the FAA approved Airplane Flight Manual (AFM) to include additional limitations and emergency procedures. This action was

prompted by two incidents where operators reported an uncontrolled high rate of fuel transfer from fuel tank 2L to 2R. In both instances the problem was caused by a failed boost pump to engine feed line fitting in tank 2R resulting in 18, 000 lbs of fuel being trapped in tank 2R and less than 3,000 lbs. of usable fuel remaining at landing.

This AD differs from the telegraphic version by requiring inspection and replacement, if necessary, of P/N 1527605–101 fittings in fuel tanks 2L and 2R. This AD is hereby published in the **Federal Register** to make it effective to all persons.

DATES: Effective August 18, 1983.

This AD was effective earlier to all recipients of telegraphic AD T83–09–51, dated May 3, 1983.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63–11, U–33, B–1. This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Kolb, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2835.

SUPPLEMENTARY INFORMATION: On May 3, 1983, the FAA issued telegraphic AD T83–09–51 applicable to Lockheed Model L–1011 series airplanes requiring revision of the FAA approved AFM to include additional limitations and emergency procedures.

This action was prompted by two incidents where operators reported an uncontrolled high rate of fuel transfer from fuel tank 2L to 2R. With all crossfeed valves closed and boost pumps on, the transfer rate was approximately 10,000 lbs/hr., and the rate doubled with crossfeed valves open. In both instances, investigation revealed a failed flange on the boost pump to the engine feed line fitting, P/N 1527605–101, in tank 2R, resulting in 18,000 lbs. of fuel being trapped in tank 2R and less than 3,000 lbs. of usable fuel remaining at landing. The feed line separation in tank 2R permitted uncontrolled fuel transfer from tank 2L, and resulted in loss of boost pump pressure in the 2R feed line with no warning to the flight crew. By following existing Airplane Flight Manual (AFM) procedures for low fuel quantity in any tank, specifying crossfeed valves open, fuel was transferring from tanks 2L, 1, and 3 into 2R.

Since the affected fittings are identical in tanks 2L And 2R, the potential exists for a fitting failure in either tank 2L or 2R. After the failure of a fitting, with crossfeed valves closed, fuel starvation to number 2 engine is possible at any time while on suction feed, and the remaining fuel in tanks 2L and 2R will be considered as trapped fuel and not available for engines 1 and 3. If the transfer of fuel into tank 2L or 2R is allowed to continue without corrective action by the flight crew, there may be a lateral imbalance between tanks 2L and 2R of approximately 25,000 lbs of fuel.

This AD differs from the telegraphic version by requiring inspection and replacement, if necessary, of the P/N 1527605–101 fittings in tanks 2L and 2R in accordance with Lockheed L–1011 Service Bulletin 093–28–060. This requirement is added by a new paragraph C. Paragraph C. and D. are reidentified as D. and E.

Since this condition is likely to exist or develop on other airplanes of the same type design, this AD requires a revision to the AFM Limitations and Emergency Procedures sections and inspection and replacement, if necessary, of P/N 1527605–101 fittings in fuel tanks 2L and 2R.

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

Lockheed-California Company: Applies to Lockheed California Company L–1011 series airplanes certificated in all categories prior to S/N 1201 not in compliance with Lockheed L–1011 Service Bulletin 093–28–060, dated June 18, 1980; Revision 1, dated November 20, 1980; Revision 2, dated April 28, 1983; or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region. Compliance required as indicated unless previously accomplished.

A. Within 5 calendar days after recipt of this AD, revise the Lockheed L–1011 FAA approved Airplane Flight Manual (AFM) LR–25925 to add the following and provide to flight crews:

Section 1—Limitations

Fuel system

1. In addition to normal fuel reserves, flight planning must be predicated on the following:

(a) A fuel fitting failure occurs in tank 2L or 2R at anytime during the flight.

(b) At the time of failure, the fuel in tanks 2L and 2R is considered to be trapped and unavailable to any engine.

(c) At the time of failure, number 2 engine is considered to become inoperative, and

(d) At the time of failure, a landing can be accomplished at a suitable airport with the remaining fuel in tanks 1 and 3.

2. The center crossfeed valve between tanks 1 and 3 must be operational prior to all flight operations.

3. Inflight crossfeed operations to number 2 engine are prohibited if either cockpit fuel quantity indicating system for tank 2L or 2R is inoperative prior to takeoff.

4. The fuel flow equalizer must be operational prior to all flight operations.

5. Integrated drive generator (IDG) assembly for engines number 1 and 3 must be operative prior to all flight operations more than 400 nautical miles from a suitable airport.

Note.—Not applicable to aircraft equipped with APU fuel supply from tank 3. If number 2 engine is shutdown, then engine 2 tank valve must be closed.

6. During flight, the fuel quantity in each tank must be closely monitored and logged at intervals not to exceed 15 minutes.

Section 2—Emergencies

Uncontrolled fuel transfer into fuel tank 2L or 2R reference

If a fuel quantity differential of 1500 lbs. or more develops between tanks 2L and 2R, the following procedure applies:

1. All tank pumps—ON.

2. All fuel crossfeed valves—CLOSED.

3. Tank pumps (low quantity tank 2L or 2R)—OFF.

4. Fuel quantity indicators—MONITOR.

5. A. If fuel quantity differential between tank 2L and 2R decreases, resume normal operation when fuel tank quantities are equal.

5. B. If fuel quantity differential between tank 2L and 2R remains constant, or is increasing:

(1) All tank 2L and 2R fuel pumps—OFF.

(2) Aircraft range—CHECK.

(3) Continue number 2 engine operation on suction feed until the low fuel pressure light illuminates.

(4) Shut down number 2 engine.

B. A copy of this AD inserted in the FAA approved AFM may be considered as an acceptable means of compliance with required AFM revisions.

C. Within 1200 hours time in service, or four (4) months after the effective date of this amendment, whichever occurs first, inspect and replace, if necessary, P/N 1527605-101 fittings in fuel tanks 2L and 2R as specified in Part 2, Accomplishment Instructions of Lockheed L-1011 Service Bulletin 093-28-060, dated June 18, 1980; Revision 1, dated November 20, 1980; Revision 2, dated April 28, 1983; or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region. This action terminates the requirement for the AFM revised limitations and emergency procedures required in paragraph A., above.

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the repair requirements of this AD.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63-11, U-33, B-1. These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective August 18, 1983.

and was effective earlier to those recipients of telegraphic AD T83-09-51, dated May 3, 1983.

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

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

Issued in Seattle, Washington on July 28, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-22620 Filed 8-17-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-69-AD; Amdt. 39-4705]

Sundstrand Data Control, Inc., Model AV-557A, AV-557B, and AV-557C Cockpit Voice Recorders; Airworthiness Directive

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires an inspection and replacement, as necessary, of the Sundstrand Model AV-557A, AV-557B and AV-557C Cockpit Voice Recorders (CVR) installed on Boeing 727, 737, and 747 and McDonnell Douglas DC-9 and DC-10 airplanes. This AD is necessary because some CVRs were manufactured with a split-type socket connector in the tape deck housing and are subject to loose connections which can result in intermittent operation, erroneous self-test indications, and/or sensor or tape-off-reel problems. The failure of a CVR will result in the loss of data which may be necessary to determine probable cause in the event of an accident.

DATE: Effective date September 12, 1983.

ADDRESSES: The Service Bulletin specified in this airworthiness directive may be obtained upon request to Sundstrand Data Control, Inc., Overlake Industrial Park, Redmond, Washington 98052, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Ted Ebina, Systems & Equipment Branch, ANM-130S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2500. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring the inspection and replacement, as necessary, of the tape deck housing connector in all Sundstrand Models AV-557A, AV-557B, and AV-557C Cockpit Voice Recorders was published in the **Federal Register** on September 27, 1982 (47 FR 42373). The comment period closed on November 24, 1982.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received.

Two commenters recommended the adoption of the proposed AD as written.

Three commenters concurred with the intent of the proposed AD, but disagreed with the AD compliance date. One commenter suggested the compliance date be made sooner than the date specified in the proposed AD while the remaining two suggested extending the compliance time. The FAA does not concur with either extending or reducing the compliance time. The compliance time is not unduly burdensome, but accounts for parts availability and the manufacturer's capability to modify the affected CVRs.

Two commenters stated that the issuance of the proposed AD is not necessary because: (a) only a limited number of the CVRs are defective, and (b) a service bulletin is adequate to ensure that each user will comply with the corrective action. The FAA does not concur. Two hundred and nine (209) CVRs were examined by the CVR manufacturer. Thirty-six percent of the sampled CVRs (75 out of 209 CVR's) had split-type socket connectors which required replacement. Further, the manufacturer has estimated that 29% of in-service CVRs may have incorrect connectors. This data indicates that the percentage of defective CVRs is significant. This remedial action, however, cannot be satisfied by a service bulletin (SB). The SB only identifies the potential problems associated with the CVRs and their resolution and is not mandatory. The above two commenters also suggested that the AD effective date be extended. The FAA does not concur for reasons noted above.

It is estimated that over 2,114 CVRs (not 580 as previously reported in the NPRM) are affected by this AD and that it will take approximately ½ manhour to identify the type or tape deck housing connector sockets used. Because of the importance of ensuring the environmental integrity of the tape deck housing, a replacement of connectors can be accomplished only at the factory. There will be no charge until January 2, 1984. Based on these figures, the maximum cost of this AD to all operators is estimated to be $52,850. For these reasons, the AD is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities, within the meaning of the

Regulatory Flexibility Act will be affected.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and public interest require the adoption of the rule as proposed.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

Sundstrand Data Control, Inc: Applies to Sundstrand Model AV-557A, AV-557B and AV-557C Cockpit Voice Recorders, (CVR).

To prevent loss of recorded data, accomplish the following within the next 2,000 hours time in service after the effective date of this AD, unless already accomplished:

A. Inspect the CVRs for the type of tape deck housing connector sockets used in accordance with Sundstrand Service Bulletin 012-0296-109, dated January 25, 1982. Remove CVRs from service that have incorrect connectors for repair to be accomplished at the factory.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Region.

This amendment becomes effective September 12, 1983.

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

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have significant economic effect on a substantial number of small entities since it involves few, if any, small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the captions "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington, on July 28, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-22825 Filed 8-17-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-NM-17-AD; Amdt. 39-4710]

Aerospatiale (Sud Nord) Nord 262A and 262A-12 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to Aerospatiale (Sud Nord) Nord 262A and 262A-12 series airplanes which requires visual inspections, treatment against corrosion, and replacement of rudder hinge support tubes if necessary. There have been reports of internal corrosion in rudder hinge support tubes on the Nord 262 fleet which, if allowed to progress, could result in loss of rudder control.

DATES: Effective September 22, 1983.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to Aerospatiale, Service Commercial N262, Boite Postale 159, 36003 Chateauroux, France or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Direction General de l'Aviation Civile (DGAC) has declared Aerospatiale N262 Fregate Service Bulletin No. 55-10 as mandatory. Internal corrosion and corrosion penetration to the outer surface has been found in rudder hinge support tubes during routine maintenance. The service bulletin prescribes inspection procedures, protective treatment and replacement of components, as necessary, on the rudder hinge support structure.

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring visual inspection of the upper and lower rudder hinge support tubes, support tube replacement or corrosion protection treatment, and repetitive inspections as appropriate was published in the **Federal Register** on April 25, 1983 (48 FR 17600). The comment period closed on June 13, 1983.

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

It is estimated that 16 U.S. registered airplanes will be affected by this AD, that it will take about 13 manhours per airplane to accomplish the required actions, and that the average labor cost will be $35 per manhour. Repair parts are estimated at $250 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $11,280. For these reasons, the AD is not considered to be a major rule under the criteria of Executive Order 12291. Few small entities within the meaning of the Regulatory Flexibility Act will be affected by this action.

Therefore, since no new information has been presented that might change the rule, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

Aerospatiale (Sud Nord): Applies to Nord 262A and 262A-12 series airplanes, certificated in all categories. Compliance required within 100 hours time in service or 3 months, whichever occurs first, after the effective date of this AD. To prevent failure of the rudder hinge support tubes and subsequent loss of rudder control, accomplish the following unless previously accomplished:

A. Inspect, protect against corrosion, or replace components, if necessary, in accordance with paragraph II, Accomplishment Instructions, of Aerospatiale N262 Fregate Service Bulletin No. 55-10, Revision 1, dated December 29, 1981.

B. Repeat the inspection required by paragraph A., above, at intervals not to exceed five years.

C. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective September 22, 1983.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502);

49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington on August 8, 1983.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-22624 Filed 8-17-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-AWA-10]

Alteration of VOR Federal Airways; Minneapolis, MN, Area

Correction

In FR Doc. 83-20407 beginning on page 34249 in the issue of Thursday, July 28, 1983, make the following correction: On page 34249, third column, seventh line from the botton of the page, "V-418 [Amended]" should read "V-418 [Revoked]".

BILLING CODE 1505-01-M

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14 CFR Part 71

[Airspace Docket No. 83-AWA-12]

Alteration of VOR Federal Airways; Albuquerque, NM, Area

Correction

In FR Doc. 83-20405 beginning on page 34248 in the issue of Thursday, July 28, 1983, make the following correction: On page 34249, second column, twelfth line from the top of the page, "V-389 [Amended]" should read "V-389 [New]".

BILLING CODE 1505-01-M

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14 CFR Part 71

[Airspace Docket No. 83-ANM-3]

Establishment of Transition Area; Fort Morgan, Colorado

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes a 700' transition area to provide controlled airspace for aircraft executing new NDB Instrument Approach Procedures to Fort Morgan Municipal Airport, Fort Morgan, Colorado. The intended effect of this action is to ensure segregation of aircraft using approach procedures in instrument weather conditions and other aircraft operating in visual weather conditions.

EFFECTIVE DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: Ted Melland, Airspace & Procedures Specialist, ANM-533, FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The telephone number is (206) 431-2533.

SUPPLEMENTARY INFORMATION: The floor of controlled airspace in this area will be lowered to 700' above the ground. Development of new Instrument Approach Procedures requires that the FAA lower the floor of controlled airspace to ensure that the procedures will be contained within cotrolled airspace. The area will be shown on aeronautical charts which enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule conditions.

History

On page 20728 of the **Federal Register** dated May 9, 1983, the FAA proposed to amend Section 71.181 of the Federal Aviation Regulations (14 CFR Part 71) so as to establish a new 700' controlled airspace transition area near Fort Morgan, Colorado. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. The U.S. Air Force expressed concern regarding the possibility of delays on Military Training Route IR-416. However, air traffic control procedures have already been established which will accommodate both training activities and approach procedures. No other comments were received.

List of Subjects in 14 CFR Part 71

Transition areas—aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Section 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 G.M.T., September 29, 1983, as follows:

Fort Morgan, Colorado (New)

That airspace extending upward from 700 feet above the surface within a 10.5 mile radius of the Fort Morgan Municipal Airport (Latitude 40°20'00"N, Longitude 103°48'16"W); and 9.5 miles southwest to 5.5 miles northeast of the 333 true bearing (322 magnetic bearing) extending 18 miles northwest of the airport; and 9.5 miles southwest to 5.5 miles northeast of the 151 true bearing (140 magnetic bearing) extending 19 miles southeast of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); (Sec. 11.65 of the Federal Aviation Regulations and 14 CFR 11.69))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (14 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington on August 8, 1983.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-22619 Filed 8-17-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-142; Re: Notices 360 and 412]

Establishment of Los Carneros Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms; Department of the Treasury.

ACTION: Final rule (Treasury decision).

SUMMARY: This final rule establishes a viticultural area in Napa and Sonoma Counties, California, named "Los Carneros." The Bureau of Alcohol, Tobacco and Firearms (ATF) believes that the establishment of this viticultural area and its subsequent use as an appellation of origin on wine labels and in wine advertisements will allow wineries to better designate, and help consumers to better identify, the wines from this distinctive grape-growing area.

EFFECTIVE DATE: September 19, 1983.

FOR FURTHER INFORMATION CONTACT: Steve Simon, FAA, Wine and Beer Branch, P.O. Box 385, Washington, D.C. 20044-0385; telephone: (202) 566-7626.

SUPPLEMENTARY INFORMATION:

Background

ATF regulations in 27 CFR Part 4 allow the establishment of definite viticultural areas and the use of an approved viticultural area name as an appellation of origin on wine labels and in wine advertisements. In 27 CFR 4.25a(e)(1) and 9.11, the term "viticultural area" is defined as a delimited, grape-growing region distinguishable by geographical features. In 27 CFR 4.25a(e)(2), procedures for proposing an American viticultural area are outlined. Those procedures allow any interested person to submit a petition for the establishment of an American viticultural area.

In response to a petition from Beaulieu Vineyard, ATF published a notice of proposed rulemaking, Notice No. 360, in the **Federal Register** on December 15, 1980 (45 FR 82470). Notice No. 360 proposed a "Los Carneros" viticultural area with boundaries entirely within Napa County, California. ATF solicited public comment concerning the proposed area, and on January 14, 1981, a public hearing was held in Santa Rosa, California.

Based on written comments submitted and oral testimony from the hearing, ATF determined that the boundaries of Los Carneros should extend into Sonoma County. Consequently, a second notice of proposed rulemaking, Notice No. 412, was published in the **Federal Register** on June 4, 1982 (47 FR 24344). Numerous additional comments were submitted in response to that notice. All such comments were given careful consideration in the preparation of this final rule.

Evidence of Name

"Los Carneros" was the name given for the area in the original Beaulieu petition. Evidence submitted at the hearing and in written comments shows clearly that, although the area has in the past been known by other names, this name is the one by which it is best known today.

It has come to ATF's attention that the area is often simply referred to as "Carneros." In fact, "Carneros" and "Los Carneros" are generally used interchangeably. ATF has approved many labels, over a period of more than ten years, that simply use "Carneros," and wineries are concerned about the possible adverse effects of having to alter the designation by which their wines have achieved consumer acceptance. In view of these facts, and considering that the Spanish word "los" simply means "the," ATF has determined that "Carneros" and "Los Carneros" are not different names, but are equivalent forms of the same name. Consequently, either form may be used on labels and in advertising to refer to this area.

Geographic Evidence

Los Carneros is distinguished geographically from the surrounding areas on the basis of soil and climate. The soil types generally associated with Los Carneros are the Haire-Coombs/Diablo soils. Although these soils predominate in the Carneros area, they are rarely found elsewhere in the surrounding areas of either Napa Valley or Sonoma Valley.

The climatic factors distinguishing Los Carneros from the surrounding areas are perhaps more significant then the soil differences. Los Carneros is an area of low hills and flatlands located at the northern end of San Pablo Bay; consequently, the climate of the area is profoundly affected by intrusion of cool, marine air from that body of water. The Beaulieu petition describes the climate as follows:

> When compared to other parts of Napa Valley, Carneros has a long cool growing season. In general, the region * * * follows the San Pablo Bay. The close proximity of this water mass, greatly influences the daily temperatures, and generally results in a more moderate climate. Daytime highs are slightly lower than other parts of Napa Valley, and the Carneros region cools off in the afternoon faster than other parts of the Napa Valley because of daily sea breezes. These cool ocean breezes rapidly drop the air temperature and vine temperature so that the vine does not experience high afternoon temperatures during the Summer.
>
> Consequently this makes for a cool growing season and also lengthens the growing season slightly. Because of the cool growing conditions in Carneros we have found bud break, and bloom, to be approximately 7–14 days behind our other Napa Valley vineyards. It has also been our experience that the Carneros region is too cool to adequately mature/ripen Cabernet Sauvignon grapes.

Other evidence establishes that the area is suited to early-ripening grape varieties such as Pinot Noir and Chardonnay. The Cannoisseur's Guide Handbook of California Wines states (p. 18): "Carneros Chardonnay hangs on the vines longer [than Chardonnay grown on the Napa Valley floor] and thus is capable of developing sugars in incremental steps while retaining high acid levels."

Boundaries

All commenters agreed that a Carneros viticultural area should be established, but there was some disagreement as to what its boundaries should be. The only boundary on which there was unanimity is the eastern boundary. No suggestion was made that the eastern boundary should be anything other than the Napa River.

The southern boundary. The original **Beaulieu** petition proposed the Napa **County**-Solano County line as the **southern** boundary of the Carneros viticultural area. The reason for this, as brought out at the hearing, was to coincide with the southern boundary of Napa Valley. Beaulieu took the position that Los Carneros should be exclusively associated with Napa Valley; therefore, the proposed Carneros boundaries were drawn up so as to coincide whenever possible with the Napa Valley boundaries. However, in Notice No. 412, ATF rejected the contention that Los Carneros is exclusively associated with Napa Valley. Therefore, it is not necessary for the boundaries of the two areas to coincide, if there are geographical reasons why they should not coincide.

The Beaulieu petition admitted that the area of "mud flats and heavily saline soils along the [proposed] southern boundary" is viticulturally distinguishable from the Carneros grape-growing area. A significant number of comments submitted in response to Notice No. 412 urged the exclusion of those mud flats.

Examination of the soil surveys of Napa and Sonoma Counties disclosed that the line formed by the Southern Pacific Railroad tracks, the township line T.4N./T.5N., and the Northwestern Pacific Railroad tracks coincides almost exactly with the change from Haire-Coombs/Diablo soils to Clear Lake-Reyes soils. The primary difference between these two soil associations is that the former is moderately well drained or well drained, while the latter (found south of the tracks) is poorly drained. Soil drainage is feature "which distinguish[es] the viticultural features of the proposed area from surrounding areas" (27 CFR 4.25a). Therefore, this Treasury decision establishes the southern boundary of Los Carneros as the Southern Pacific Railroad tracks, the township line T.4N./T.5N., and the Northwestern Pacific Railroad tracks.

The western boundary. At the hearing and in written comments, most growers in the Napa County portion of Los Carneros raised no serious objections to the extension of Los Carneros into Sonoma County. But they left the task of determining the limits of such an extension largely to the Sonoma County growers. For this purpose, those growers formed the Southern Sonoma Valley Ad Hoc Committee, with Mr. Jim Carter of

Sebastiani Vineyards as chairman. This committee rejected the western boundary proposed in Notice No. 412 (Sonoma Creek), and instead proposed that the western boundary be extended as far as the western boundary of the Sonoma Valley viticultural area. This western boundary includes part of a mountainous area that differs in topography and elevation from the rest of Los Carneros. Nevertheless, there are pockets of land there with relatively level topography—as in the rest of Los Carneros—and the climate is influenced by the proximity of the very cool Petaluma Valley to the west. According to evidence submitted by a vineyardist in the mountainous area, it has the cool climate that is characteristic of Los Carneros, despite the slightly higher elevation, due to cool breezes from Petaluma Valley that penetrate gaps in the mountains. Therefore, this Treasury decision establishes the western boundary of Los Carneros to coincide with the western boundary of Sonoma Valley.

The northwestern boundary. The northwestern boundary proposed by the Southern Sonoma Valley Ad Hoc Committee is located along Lewis Creek, Felder Creek, Leveroni Road, and Napa Road. This was determined by the committee to be the northern limit of the strong climatic influence of San Pablo Bay. This boundary had the persuasive support of may commenters from Sonoma County, including some, such as Gundlach-Bundschu Winery, with vineyards located just on the outside of the proposed boundary. Since there are few hills in this area to block penetration of sea breezes, it is evident that decreasing maritime influence must occur gradually. Nevertheless, ATF must establish a precise boundary. Napa Road, Leveroni Road, Lewis Creek, and Felder Creek form an easily recognizable boundary, and evidence show that harvest dates north of this boundary are noticeably earlier than harvest dates for the same varieties south of it. In view of the widespread support for the boundary proposed by the Southern Sonoma Valley Ad Hoc Committee, the evidence supporting it, and the absence of significant evidence opposing it, this Treasury decision adopts the northwestern boundary so proposed.

The northeastern boundary. The northeastern boundary proposed by the Beaulieu petition was the township line T.6N./T.5N, Browns Valley Creek, and Napa Creek. At the hearing, this boundary was not the subject of as much discussion as some of the other boundaries, but there was a general consensus among most of those who mentioned it that this boundary was too far north.

The petitioner explained that in the 1880's there was a subdivision of the Napa Winegrowers Association that subsequently became associated with the area known as Los Carneros. The northern boundary of this subdivision was Browns Valley Creek.

Since Browns Valley Creek generally runs on the south side of Browns Valley, the petitioner's explanation is consistent with ATF's conclusion that Browns Valley is not in Los Carneros, but that Congress Valley to the south of it is within the area. Although there was some evidence that Congress Valley should be excluded, there was also evidence for its inclusion. ATF's conclusion is that it should be included.

The line of hills separating Browns Valley and Congress Valley undoubtedly diminish the maritime influence in Browns Valley. Therefore, this Treasury decision utilizes that line of hills to form part of the boundary of Los Carneros.

The boundary established by this Treasury decision also excludes a highly urbanized portion of downtown Napa city. According to the evidence, Los Carneros lies "south" of the city of Napa. This indicates that the urban part of the city itself has historically not been considered part of Los Carneros.

The highly mountainous extension of the Mayacamas Range west of Napa city is also excluded, because (1) It is topographically distinguishable from Los Carneros (2) it has different soils, and (3) it has a different microclimate. The Lovall Valley is the only major area in that mountainous extension where the topography and soil are comparable to Los Carneros, but other evidence indicates that temperatures in Lovall Valley are markedly higher than in Los Carneros and are more like the temperatures in central or northern Napa Valley. This is undoubtedly due to the elevation of the Lovall Valley and to the effectiveness of its surrounding mountains in blocking penetration of cool air from San Pablo Bay.

On the other hand, the evidence establishes that most of Carneros Valley should be included within the boundaries established by this Treasury decision. A Napa County Agriculture Department employee told ATF that the valley is cooled by fog and wind blowing in from San Pablo Bay, and is similar in other viticultural features to the rest of Los Carneros. The 400-ft. contour line generally marks the boundary between Carneros Valley and the Mayacamas Mountains.

Accordingly, this Treasury decision provides that the boundary of Los Carneros in the vicinity of Carneros Valley shall be the 400-ft. contour line.

Overlapping Viticultural Areas—Labeling Issues

A number of grape growers from the Napa Valley side of the Carneros area expressed concern over the possibility that wineries might not be permitted to use both "Napa Valley" and "Los Carneros" on their labels if the Carneros area were held to extend into Sonoma Valley. This is a concern because some wineries have been using labels with these two names in conjunction for as long as 10 years. As one commenter said, "We cannot support an interpretation that would divorce us from Napa Valley."

Many of these Napa Valley commenters proposed as a solution that two separate Carneros viticultural areas be approved: one in Napa Valley and one in Sonoma Valley. ATF does not believe that there should be two separate Carneros viticultural areas. Strong evidence points to a single Carneros area—not to two separate Carneros areas. Although there are undoubtedly some differences from place to place within the Carneros area, ATF does not believe that these are significant enough to warrant establishment of two Carneros areas. The existence of these differences was implicitly recognized in the establishment of Napa Valley and Sonoma Valley as separate areas. Now the establishment of a single Carneros area will recognize the underlying similarity that exists at the southern end of both Napa and Sonoma Valleys, due to the proximity of San Pablo Bay, and to other factors.

The issue of multiple viticultural area names on a wine label is being addressed in a separate notice of proposed rulemaking which will be published in the near future. Until that rulemaking process is completed, ATF will permit combinations of viticultural area names currently in use (such as Napa Valley and Los Carneros), to continue in use, if at least 85% of the volume of the wine is derived from grapes grown in an area where the named viticultural areas overlap.

Miscellaneous

ATF does not wish to give the impression that, by approving "Los Carneros" as a viticultural area, it is approving the quality of the wine from that area or endorsing the wine. ATF is merely approving the area as being distinct from surrounding areas. By

approving "Los Carneros," wine producers are allowed to claim a distinction on labels and advertisements as to the origin of the grapes. ATF will not allow statements or claims that these wines are better because they originated from an approved viticultural area. Any commercial advantage gained can only be substantiated by the consumer acceptance of "Los Carneros."

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule, because no requirement to collect information is imposed.

Compliance With Executive Order 12291

It has been determined that this final rule is not a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (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, of 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.

Regulatory Flexibility Act

The notice of proposed rulemaking which resulted in this final rule contained a certification under section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that, if promulgated as a final rule, it would not have a significant impact on a substantial number of small entities. The requirements in 5 U.S.C. 603 and 604 for a final regulatory flexibility analysis, therefore, do not apply to this final rule.

List of Subjects in 27 CFR Part 9

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

Drafting Information

The principal author of this final rule is Steve Simon, FAA Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

This Treasury decision (final rule) is issued under the authority contained in 27 U.S.C. 205 (49 Stat. 981, as amended).

PART 9—AMERICAN VITICULTURAL AREAS

Accordingly, 27 CFR Part 9 is amended as follows:

1. The table of sections in 27 CFR Part 9, Subpart C, is amended by adding the title of § 9.32 as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.32 Los Carneros.

* * * * *

Subpart C—Approved American Viticultural Areas

2. Subpart C is amended by adding § 9.32 to read as follow:

§ 9.32 Los Carneros.

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

(b) *Approved maps.* The approved maps for the Carneros viticultural area are the following U.S.G.S. maps:

(1) "Sonoma Quadrangle, California," 7.5 minute series (topographic), 1951 (photorevised 1968).

(2) "Napa Quadrangle, California—Napa Co.," 7.5 minute series (topographic), 1951 (photorevised 1968 and 1973).

(3) "Cuttings Wharf Quadrangle, California," 7.5 minute series (topographic), 1949 (photorevised 1968; photoinspected 1973).

(4) "Sears Point Quadrangle, California," 7.5 minute series (topographic), 1951 (photorevised 1968).

(5) "Petaluma River Quadrangle,California—Sonoma Co.," 7.5 minute series (topographic), 1954 (photorevised 1980).

(6) "Glen Ellen Quadrangle, California—Sonoma Co.," 7.5 minute series (topographic), 1954 (photorevised 1980).

(c) *Boundaries.* The boundaries of the Carneros viticultural area are located in Napa and Sonoma Counties, California, and are as follows:

(1) The point of beginning is the intersection of highway 12/121 and the Napa County-Sonoma County line, near the extreme southeast corner of the Sonoma Quadrangle map.

(2) From there, following the Napa County-Sonoma County line generally northwestward for about 1.6 miles to the summit of an unnamed hill with a marked elevation of 685 ft.

(3) From there in a straight line northeastward to the summit of Milliken Peak (743 ft.), located on the Napa Quadrangle map.

(4) From there due eastward to the 400 ft. contour line.

(5) Then following that contour line generally northwestward to Carneros Creek.

(6) Then following the same contour line generally southeastward to the range line R. 5 W./R. 4 W.

(7) Then continuing to follow the same contour line generally northward for about one mile, till reaching a point due west of the summit of an unnamed hill having a marked elevation of 446 ft. (That hill is about .8 mile southwest of Browns Valley School.)

(8) From that point due eastward to the summit of that hill.

(9) From there in a straight line northeastward across Buhman Avenue to the summit of an unnamed hill having a marked elevation of 343 ft.

(10) From there due eastward to the Napa-Entre Napa land grant boundary.

(11) Then northeastward along that land grant boundary to Browns Valley Road.

(12) Then eastward along Browns Valley Road to Highway 29.

(13) Then southward along Highway 29 to Imola Avenue.

(14) Then eastward along Imola Avenue to the Napa River.

(15) Then generally southward along the west bank of the Napa River to the Southern Pacific Railroad tracks

(16) Then generally westward and northwestward along the Southern Pacific Railroad tracks to their intersection with the township line T. 5 N./T. 4 N. (on the Sears Point Quadrangle map).

(17) From there due westward to the Northwestern Pacific Railroad tracks.

(18) Then generally southward along the Northwestern Pacific Railroad tracks to Highway 37.

(19) The westward along Highway 37 to its intersection with Highway 121.

(20) From there northwestward in a straight line to the summit of Wildcat Mountain (682 ft.).

(21) From there northwestward, following a straight line toward the summit of Sonoma Mountain (2295 ft.—on the Glenn Ellen Quadrangle map) till reaching a point due west of the intersection of Lewis Creek with the 400-ft. contour line. (That point is about 4⅓ miles southeast of Sonoma Mountain.)

(22) From that point due eastward to Lewis Creek.

(23) Then generally southeastward along Lewis Creek to Felder Creek.

(24) Then generally eastward along Felder Creek to Leveroni Road (on the Sonoma Quadrangle map).

(25) Then generally eastward along Leveroni Road to Napa Road.

(26) Then eastward and southeastward along Napa Road to Highway 12/121.

(27) Then eastward along Highway 12/121 to the starting point.

Signed: July 14, 1983.

Stephen E. Higgins,

Director.

Approved: August 8, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-22615 Filed 8-17-83; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[T.D. ATF-139; Ref: Notice No. 461]

Anderson Valley Viticultural Area

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

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in Mendocino County, California, to be known as "Anderson Valley." This final rule is the result of a petition from the Anderson Valley Appellation Committee which is made up of various industry members in the area. The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will allow wineries to better designate the specific grape-growing area where their wines come from and will enable consumers to better identify wines they purchase.

EFFECTIVE DATE: September 19, 1983.

FOR FURTHER INFORMATION CONTACT: Ed Reisman, FAA, Wine and Beer Branch; Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, D.C. 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. These regulations allow the establishment of definite viticultural areas. The regulations allow the name of an approved viticultural area to be used as appellation of origin on wine labels and in wine advertisements.

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 American viticultural areas.

Section 4.25a(e)(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.

AFT was petitioned by the Anderson Valley Appellation Committee, to establish a viticultural area in Mendocino County, California, to be known as "Anderson Valley." This viticultural area is a valley located in the western part of the county lying generally along the watershed of the Navarro River. The total area of this viticultural area is 57,600 acres with 600 acres of vineyards widely dispersed within its boundaries.

In response to this petition, ATF published in the **Federal Register** on April 4, 1983, a notice of proposed rulemaking (Notice No. 461, 48 FR 14394) proposing the establishment of the Anderson Valley viticultural area and solicited written comments from the public.

No Comments Received

The notice of proposed rulemaking, Notice No. 461, contained a 30 day comment period. No comments were received during this comment period. Based on the information contained in the petition, the Anderson Valley viticultural area is established as proposed.

The exact boundaries of the Anderson Valley viticultural area are described in the regulatory text of § 9.86, and are unchanged from those proposed by the petitioner. However, the notice of proposed rulemaking (Notice No. 461, 48 FR 14394) that was published in the **Federal Register** on April 4, 1983, incorrectly stated the boundary information found in § 9.86(c)(1). That information has been corrected and appears in this final rule.

Supporting Evidence

Viticultural Area Name. This viticultural area has been known as Anderson Valley since shortly after it was first settled in 1852 by Walter Anderson. This area includes only the territory historically known as Anderson Valley and the surrounding slopes.

Geographical/Viticultural Features. In accordance with 27 CFR 4.25a(e)(2), a viticultural area should possess geographical features which distinguish the viticultural features of the area from surrounding areas. The petition and attached documents were supported by the following evidence:

(a) The climate of the Anderson Valley viticultural area has been described as "Coastal" by the Mendocino County Farm Advisor's Office, in their booklet, *The Climate of Mendocino County*. In comparision, the climate in much of the other areas of Mendocino County is classified as "Transitional" due to the fact that either the coastal or the interior climates can dominate the Mendocino County climate for either short or long periods of time.

(b) The climate of the Anderson Valley viticultural area includes both Region I and Region II as classified by the University of California at Davis' system of heat summation by degree-days. A table of cumulative degree-days, published by the University of California Agricultural Extension Service Office in Lake, Mendocino, and Sonoma Counties, shows that the area around Philo is relatively cool and consequently is classified as Region I, whereas the area around Boonville is warmer and consequently is classified as Region II. In comparison the Ukiah area, which lies approximately 15 miles to the northeast of Anderson Valley, is warmer and consequently is classified as a Region II and Region III area, depending on the particular location of the reporting station.

(c) In a publication entitled *Connoisseur's Guide to California Wine*, Alameda, California, 1978, Volume three, Issue six, page 109, the author states that "one of the most important of these (Mendocino County microclimates) will be Anderson Valley. This area is tucked into the mountains between Ukiah and the coast. The environment varies from a maritime climate, unsuitable for grape growing to a cool Region II climate on the University of California at Davis I-V heat accumulation scale. The portion of the valley shared by Edmeades and Husch, near Philo, is one of the coolest grape growing areas in California. The Boonville area, six miles up Anderson Valley, edges into Region II heat accumulation."

(d) The average rainfall of the Anderson Valley viticultural area, as recorded by the Boonville Department of Highway Maintenance and published in *The Climate of Mendocino County*, a booklet compiled by the Mendocino Farm Advisor's Office, is 40.68 inches annually.

Most of the rainfall comes in the period from November through March. In comparison, the average rainfall per year for the Ukiah area to the northeast and the Hopland (U.C.) area to the southeast is 35.94 inches and 37.00 inches respectively.

(e) According to Reberto A. de Grassi, Agricultural Commissioner for Mendocino County, Anderson Valley was surveyed and studied some years ago by grape-growing specialists from the University of California at Davis. These specialists found that Anderson Valley had an excellent environment and potential for growing premium quality varietal wine grapes by virtue of its coastal climatical condition in addition to the favorable grape soil types. Since this initial survey and finding, extensive vineyards have been, and are being, planted in this region. Mr. de Grassi further states that the budding local wineries in Anderson Valley are producing a distinctive characteristic wine typical of Region I and II, thereby substantiating the validity of the evaluation made by early researchers.

Historical Background. Anderson Valley lies generally along the watershed area of the Navarro River, in the western part of Mendocino County. Cultivation of the soil began with the first settlement in 1852. Grapes were planted in the area shortly afterward. There is documentation that some of the oldest, continuously producing vineyards date from 1922. Along Greenwood Ridge, numerous small vineyards dotted the area. One of these historic entities remains today, the DuPratt Vineyard.

Boundaries. The boundaries proposed by the petitioner are adopted. ATF believes that these boundaries delineate an area with distinguishable physical and climatic features.

General Information. Today, wines from Anderson Valley are often favorably mentioned in many respected wine publications. The four major varieties of grapes being grown in this area are Chardonnay (151 acres), Gewurztraminer (103 acres), Riesling (111 acres), and Pinot Noir (47 acres). This acreage information was obtained from the publication, *1981 Mendocino County Grape Acreage*, published by the Mendocino County Farm Advisor's Office.

Currently, there are approximately 600 acres of grapes located within the viticultural area with major concentrations around the Boonville, Philo, and Navarro areas. Although the number of acres of grapes under cultivation is small compared to the total size of the viticultural area, the scattered location of the grapes makes it necessary to include the whole area. Also, according to Mr. Bruce E. Bearden, Farm Advisor for Mendocino County, the grape acreage within the Anderson Valley viticultural area is expanding and will likely double within the next few years and the number of wineries will likely increase from six to eight or nine.

After evaluating the petition and receiving no comments, ATF has determined that due to the topographic and climatic features of Anderson Valley, it is distinguishable from the surrounding areas.

Miscellaneous

ATF does not wish to give the impression that, by approving "Anderson Valley" as a viticultural area, it is approving the quality of the wine from that area or endorsing the wine. ATF is approving the area as being distinct from surrounding areas but not better than other viticultural areas. By approving "Anderson Valley," wine producers are allowed to claim a distinction on labels and advertisements as to the origin of the grapes. Any commercial advantage gained can only be substantiated by consumer acceptance of "Anderson Valley " wine.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

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 final rule because it will not have a significant economic impact on a substantial number of small entities. This rule will allow the petitioner and other persons to use an appellation of origin, "Anderson Valley," on wine labels and in wine advertising. This final rule 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 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.

Compliance With 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 appropriate maps with boundaries marked are available for inspection during normal business at the following location: ATF Reading Room, Room 4407, Office of Public Affairs and Disclosure, 12th and Pennsylvania Avenue, NW., Washington, DC 20226.

Drafting Information

The principal author of this document is Ed Reisman, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

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

Authority

Accordingly, under the authority contained in 27 U.S.C. 205, the Director is amending 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 9.86. As amended, the table of sections reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.86 Anderson Valley.

Par. 2. Subpart C is amended by adding § 9.86 to read as follows:

Subpart C—Approved American Viticultural areas

* * * * *

§ 9.86 Anderson Valley.

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

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Anderson Valley viticultural area are three U.S.G.S. maps. They are titled:

(1) "Navarro Quadrangle, California—Mendocino Co.," 15 minute series (1961);

(2) "Boonville Quadrangle, California—Mendocino Co.," 15 minute series (1959); and

(3) "Ornbaun Valley Quadrangle, California," 15 minute series (1960).

(c) *Boundaries.* The Anderson Valley viticultural area is located in the western part of Mendocino County, California. The beginning point is at the junction of Bailey Gulch and the South Branch North Fork Navarro River in Section 8, Township 15 North (T.15N.), Range 15 West (R.15W.), located in the northeast portion of U.S.G.S. map "Navarro Quadrangle."

(1) From the beginning point, the boundary runs southeasterly in a straight line to an unnamed hilltop (elevation 2015 feet) in the northeast corner of Section 9, T.13N., R.13W., located in the southeast portion of U.S.G.S. map "Boonville Quadrangle";

(2) Then southwesterly in a straight line to Benchmark (BM) 680 in Section 30, T.13N., R.13W., located in the northeast portion of U.S.G.S. map "Ornbaun Valley Quadrangle";

(3) Then northwesterly in a straight line to the intersection of an unnamed creek and the south section line of Section 14, T.14N., R.15W., located in the southwest portion of U.S.G.S. map "Boonville Quadrangle";

(4) Then in a westerly direction along the south section lines of Sections 14, 15, and 16, T.14N., R.15W., to the intersection of the south section line of Section 16 with Greenwood Creek, approximately .2 miles west of Cold Springs Road which is located in the southeast portion of U.S.G.S. map "Navarro Quadrangle";

(5) Then in a southwesterly and then a northwesterly direction along Greenwood Creek to a point in Section 33 directly south (approximately 1.4 miles) of Benchmark (BM) 1057 in Section 28, T.15N., R.16W.;

(6) Then directly north in a straight line to Benchmark (BM) 1057 in Section 28, T.15N., R.16W.;

(7) Then in a northeasterly direction in a straight line to the beginning point.

Signed: August 3, 1983.

Stephen E. Higgins,

Director

Approved: August 9, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-22586 Filed 8-17-83; 8:45 am]

BILLING CODE 4810-31-M

27 CFR Part 9

[T.D. ATF-136; Ref: Notice No. 440]

Establishment of the Hermann Viticultural Area

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

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in central Missouri known as "Hermann." The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers better identify wines they purchase. The use of this viticultural area as an appellation of origin will also help winemakers distinguish their products from wines made in other areas.

EFFECTIVE DATE: September 19, 1983.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, FAA, Wine and Beer 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. These regulations allow the establishment of definitive viticultural areas. The regulations 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 AFT-60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(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.

Mr. Jim Held, President of Stone Hill Wine Company and Mr. Jim Bias, President of Bias Vineyards and Winery, Inc. petitioned ATF for the establishment of a viticultural area in central Missouri, along the Missouri River, to be known as "Hermann." In response to this petition, ATF published a notice of proposed rulemaking (Notice No. 440) in the **Federal Register** on December 14, 1982 (47 FR 55957), proposing the establishment of the Hermann viticultural area.

General Description

The Hermann viticultural area consists of approximately 51,200 acres with 102 acres of wine grapes, and three bonded wineries. Grape-growing and wine production around the Hermann area date back as far as 1843. In 1904, the Hermann area furnished 97 percent (2.9 million gallons) of the wine produced in Missouri. Mr. Jim Held, of Stone Hill Wine Company, states that his vineyard still contains plantings of Norton grapes from 1867.

Evidence of the Name

A U.S.G.S. topographical map in the 7.5 minute series, entitled "Hermann," was submitted by the petitioner.

The Hermann winery was founded in 1852 by George Husmann.

In addition, the city of "Hermann" is located within the viticultural area.

Boundaries and Geographical Evidence

The northern boundary, the Missouri Pacific Railroad, identifies the bluff line which separates the hills from the bottom land along the Missouri River.

The western boundary, the Basconade River and First Creek, and the eastern boundary, Big Berger Creek, provide natural boundaries which afford ideal air drainage patterns created by the difference in elevation. This results in temperature variances of as much as 25 degrees F. in early spring and winter outside of the Hermann viticultural area.

The southern boundary identifies a definite soil structure change, from Menfro, Crider and Minnith series (within the Hermann viticultural area), to Union, Marion and Bucklick series (outside the Hermann area). Menfro, Crider and Minnith soils are well-drained, have a high water capacity and are deep enough to provide good root development. Union, Marion and Bucklick soils are moderate to poorly drained which restrain root development.

Public Comment

In response to Notice No. 440, eleven comments were received, all in support of the proposed viticultural area.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no

requirement to collect information is imposed.

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.

Compliance With Executive Order 12291

In compliance with Executive Order 12291, the Bureau has determined that this regulation 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.

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, D.C.

List of Subjects in 27 CFR Part 9

Administrative Practice and Procedure, Consumer Protection, Vuticultural Areas, Wine.

Drafting Information

The principal author of this document is James P. Ficaretta, Specialist, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

This regulation is issued under the authority in 27 U.S.C. 205. Accordingly, 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Par. 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the heading of § 9.71 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.71 Hermann.

Par. 2. Subpart C is amended by adding § 9.71 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.71 Hermann.

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

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Hermann viticultural area are six U.S.G.S. Missouri Quadrangle maps, 7.5 minute series. They are entitled:

(1) Hermann (1974).

(2) Berger (1974).

(3) Gasconade (1974).

(4) Pershing (1974).

(5) Swiss (1973).

(6) Dissen (1973).

(c) *Boundaries.* The Hermann viticultural area includes approximately 51,200 acres, located in central Missouri along and south of the Missouri River, in the northern portions of Gasconade and Franklin Counties. The boundaries of the Hermann viticultural area, using landmarks and points of reference found on the appropriate U.S.G.S. maps, are as follows:

Starting at the intersection of the Gasconade River with the Missouri River; east and northeast approximately 16.5 miles along the Missouri Pacific Railroad, as it parallels the Missouri River, to the Gasconade/Franklin County line; continuing along the Missouri Pacific Railroad southeast approximately 8.5 miles to the intersection of Big Berger Creek; southwest along the winding course of Big Berger Creek for approximately 20 miles (eight miles due southwest) to Township line T.44/45N.; west along the T.44/45N. line approximately 15.5 miles to the intersection of First Creek; north and northwest along the course of First Creek approximately 13.7 miles (6.5 miles straight northwest) to the intersection of the Gasconade River; northeast along the course of the Gasconade River approximately 3.8 miles to the beginning point.

Signed: July 20, 1983.

Stephen E. Higgins,

Director.

Approved: August 9, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-22587 Filed 8-17-83; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[T.D. ATF-140; Ref: Notice No. 430]

Linganore Viticultural Area

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

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in parts of Frederick and Carroll Counties in north central Maryland to be known as "Linganore." This final rule is the result of a petition submitted by Mr. John (Jack) T. Aellen, Jr., proprietor of a bonded winery known as Berrywine Plantations, Inc., located in the viticultural area. The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of this viticultural area and the subsequent use of the name Linganore as an appellation of origin on labels and in advertisements will allow wineries to better designate the derivation of their wines and will enable consumers to better identify and differentiate the wines they may purchase.

EFFECTIVE DATE: September 19, 1983.

FOR FURTHER INFORMATION CONTACT: Ed Reisman, Specialist; Regulations and Procedures Division; 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 Part 4, Title 27, CFR. These regulations provide for the establishment of definite viticultural areas. They also allow the name of an approved viticultural area to be used as an appellation of origin on wine label 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 American viticultural areas approved for use as appellations of origin.

An American viticultural area is defined in §§ 4.25a(e)(1) and 9.11 as a delimited grape-growing region distinguishable by geographical features. Any interested person may petition ATF to establish a grape-growing region as an American viticultural area. Under the procedures for proposing a viticultural area outlined in §§ 4.25a(e)(2) and 9.3(b), a petition must contain evidence that the proposed area is—

(a) Locally and/or nationally known by the name specified;

(b) Encompassed by boundaries supported by historical or current evidence and

(c) Possesses geographical features (climate, soil, elevation, physical features, etc.) which distinguish its viticultural features from surrounding areas.

ATF was petitioned by Mr. John (Jack) T. Aellen, Jr., proprietor of a bonded winery known as Berrywine Plantations, Inc., to establish a viticultural area in north central Maryland to be known as "Linganore." In response to the petition, ATF published in the **Federal Register** on November 3, 1982, a notice of proposed rulemaking (Notice No. 430, 47 FR 49863) concerning the establishing of the Linganore viticultural area and solicited written comments from the public.

Comments

No comments were received during the comment period. ATF has received no information from any source indicating opposition to the establishment of the Linganore viticultural area.

Linganore Viticultural Area

General description. The viticultural area lies east of the town of Frederick in north central Maryland. It encompasses an area in parts of Frederick and Carroll Counties of approximately 90 square miles or 57,600 acres. There are approximately 52 acres planted to grapes for commercial purposes. The acreage devoted to grape-growing is widely dispersed. In 1980, approximately 19.5% of the total commercial grape acreage of Maryland was planted in the viticultural area. In addition, scattered throughout are many small vineyards, generally under an acre, which are used by the owners for private purposes. There is one bonded winery, operated by the petitioner, with a 38 acre vineyard. The following evidence supports the establishment of the Linganore viticultural area based on the regulatory criteria.

(a) *Name.* The name of the viticultural area was well documented by the petitioner. Since the 1700's the name Linganore, which is of Indian origin, has been applied to many natural features and man-made structures in the area, e.g., Linganore Creek, Lake Linganore, Linganore High School, the Village of Linganore, Linganore-Manor Soil, etc. This was documented by excerpts from various publications. After evaluating the petition, ATF believes "Linganore" is the name generally associated with the unique historical identity of the area and the most appropriate name for the viticultural area.

(b) *Boundaries.* The boundaries proposed by the petitioner, which closely correspond to the watershed of the area as recognized by the United States Soil Conservation Service, are adopted. ATF believes the boundaries of the viticultural area delineate a grape-growing region distinguishable by geographical features.

(c) Geographical Features. This viticultural area is distinguished from the surrounding areas by various specific geographical features. It is located on a piedmont plateau area, i.e., a plateau area lying along or near the foot of a mountain range. The area is enclosed by a ridge line to the east, north and west. Outside the western boundary the land slopes gently and does not have the sharply rolling character of the terrain contained inside the viticultural area. Outside the eastern boundary near Parrs Ridge, the terrain is described as coastal plain. There is a break in the western ridge allowing the major waterway known as Linganore Creek and its tributaries to flow through and drain into the viticultural area and surrounding lowlands. This waterway and drainage area closely corresponds to the watershed of the area as recognized by the U.S. Soil Conservation Service. The Linganore Basin is also recognized by the Frederick County Engineer's Office as a unique drainage area.

Another geographical difference between Linganore and the surrounding areas is evidenced by soil types. The soil found here in this piedmont plateau area is predominatly of the Manor series with a large portion of it being associations of Manor-Linganore-Urbana, Manor-Gleneleg and Manor-Linganore-Montalto. Manor soil is 2 to 8 feet deep excessively drained gravelly loam containing much silt and small specks of mica. The topsoil is underlain with shale bedrock which tends to have a high water table. These soil associations are found nowhere else in Frederick County, except for small outcroppings that stretch across ridge lines. The areas outside of the viticultural area are composed of a variety of soil types. These soils vary from shallow red shale and sandstone of the Penn-Readington-Croton association to limestone of the Duffield-Hagerstown association to soils of Mt. Airy-Glenelg association. They are well drained medium textured soils.

The viticultural area possesses distinct growing conditions. It is generally warmer, wetter and has a longer growing season than the area to the west. It is slightly cooler, dryer and has a shorter growing season than the area to the east.

After evaluating the petition, ATF believes these geographic features, singly and in combination, serve to distinguish the viticultural area from surrounding areas.

Miscellaneous

ATF is approving this area as being distinct from surrounding areas. By approving the area, wine producers are allowed to claim a distinction on labels and in advertisements as to the origin of the grapes. Any commercial advantage gained can only be substantiated by consumer acceptance of Linganore wines.

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 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

In compliance with Executive Order 12291, ATF has determined that this final rule is not a "major rule" within the meaning of Executive Order 12291 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.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Disclosure

A copy of the petition and appropriate maps with the boundaries of the viticultural area marked are available for public inspection during normal business hours at the following location: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4407, Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC.

Drafting Information

The author of this document is Jim Whitley, Specialist; Regulations and Procedures Division; Bureau of Alcohol, Tobacco and Firemans.

List of Subjects in 27 CFR Part 9

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

Authority

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 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 by adding the title of § 9.63, reading as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.63 Linganore.

Paragraph 2. Subpart C is amended by adding § 9.63., reading as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.63 Linganore.

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

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Linganor viticultural area are five U.S.G.S topographic maps. They are—

(1) "Walkersville Quadrangle, Maryland—Frederick Co.", 7.5 minute series, 1953 (Photorevised 1979);

(2) "Libertytown Quadrangle, Maryland", 7.5 minute series, 1944 (Photorevised 1971);

(3) "Damascus Quadrangle, Maryland", 7.5 minute series, 1944 (Photorevised 1979);

(4) "Winfield Quadrangle, Maryland", 7.5 minute series, 1950 (Photorevised 1979); and

(5) "Union Bridge Quadrangle, Maryland," 7.5 minute series, 1953 (Photorevised 1971).

(c) *Boundaries.* The Linganore viticultural area is located in north central Maryland and encompasses parts of Frederick and Carroll Counties. From the beginning point lying at the confluence of Linganore Creek and the Monocacy River, on the Walkersville Quadrangle map, the boundary runs—

(1) South-southeasterly 5,000 feet in a straight line to the point lying approximately 1,000 feet south of Interstate Highway 70 at the intersection of two unnamed light duty roads in the town of Bartonsville;

(2) Then east-southeasterly 15,500 feet in a straight line to the point lying at the intersection of Mussetter Road and latitude line 39 degrees 22 minutes 30 seconds;

(3) Then east-northeasterly 8,125 feet in a straight line to the point lying at the intersection of Mill Road and State Highway 144;

(4) Then easterly along State Highway 144 on the Walkersville Quadrangle, Libertytown Quadrangle, and Damascus Quadrangle maps to the point of intersection with State Highway 27, approximately midway between the towns of Ridgeville and Parrsville, on the Damascus Quadrangle map;

(5) Then northeasterly along State Highway 27 on the Damascus Quadrangle, Libertytown Quadrangle, and Winfield Quadrangle maps to the point of intersection with State Highway 26 in the town of Taylorsville on the Winfield Quadrangle map;

(6) Then northerly 2,750 feet in a straight line to the point on a hill identified as having an elevation of 850 feet;

(7) Then northwesterly 21,000 feet in a straight line to the point lying at the intersection of State Highway 31 and latitude line 39 degrees 30 minutes on the Libertytown Quadrangle and Union Bridge Quadrangle maps;

(8) Then westerly 15,625 feet along latitude line 39 degrees 30 minutes to the point of intersection with Copper Mine Road;

(9) Then northwesterly along Copper Mine Road on the Union Bridge Quadrangle map to the point of intersection with longitude line 77 degrees 15 minutes;

(10) Then southerly 5,250 feet along longitude line 77 degrees 15 minutes to the point of intersection with latitude line 39 degrees 30 minutes on the Union Bridge Quadrangle and Walkersville Quadrangle maps;

(11) Then southwesterly 46,750 feet in a straight line on the Walkersville Quadrangle map to the point of beginning.

Signed: August 1, 1983.

Stephen E. Higgins,

Director.

Approved: August 9, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-22585 Filed 8-17-83; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[T.D. ATF-141; Ref: Notice No. 446]

Willow Creek Viticultural Area

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

ACTION: Treasury decision, final rule.

SUMMARY: This final rule establishes a viticultural area in portions of Humboldt and Trinity Counties, California, to be known as "Willow Creek." This action results from a petition submitted by the Willow Creek Viticulture Area Committee under the signature of Mr. Dean Williams of Willow Creek Winery and the resulting notice of proposed rulemaking.

AFT 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.

EFFECTIVE DATE: September 19, 1983.

FOR FURTHER INFORMATION CONTACT: Roger L. Bowling, FAA, Wine and Beer 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 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 Geological Survey (U.S.G.S.) maps of the largest applicable scale.

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

General Information

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.

Rulemaking Process for Willow Creek

ATF is issuing this Treasury decision establishing the Willow Creek viticultural area even though no comments were received in response to the notice proposing Willow Creek. Under the Administrative Procedure Act, ATF must consider any comments received. However, there is no provision which prohibits action if no comments are received.

ATF has evaluated the evidence submitted with the petition and has concluded that sufficient evidence is at hand to establish a viticultural area. There is evidence supporting the name of the area. Further evidence supports the area as a grape-growing area which is a small natural valley geographically distinguishable from the surrounding mountainous areas in all directions. However, ATF is amending the boundaries to remove mountainous area originally included within the 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 miners and pack train drivers.

Presently, there is a town named "Willow Creek" located within the boundaries of the viticultural area. Further, the U.S.G.S. map on which the boundaries are marked is entitled "Willow Creek Quadrangle."

ATF believes this evidence establishes "Willow Creek" as the name of the viticultural area. Therefore, the proposed name is adopted.

Geographical Characteristics

The Willow Creek viticultural area is influenced primarily by two major climatic forces: the proximity to the Pacific Ocean, 31 miles to the west, 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. The area to the east of Willow Creek experiences colder temperatures in winter, but hotter temperatures in summer. To the west of the Willow Creek area the winters are milder, but the summer temperatures are cooler due to Pacific Ocean maritime influence.

The heat degree days of the area 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. Although the average rainfall in the areas east and west of the Willow Creek area are comparable, the area to the west does receive slightly less rain. Further, this area receives its rainfall in the summer months, whereas the Willow Creek area receives most of its rainfall in the winter months.

The soil composition of the Willow Creek viticultural area is primarily Quarternary terrace gravels, which provide excellent drainage for the vineyards.

Generaly, the 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 Willow Creek viticultural area is mountainous, at times rising sharply to high elevations. The area encompasses approximately 6,000 acres.

ATF has evaluated this evidence and has concluded that the natural valley comprising the Willow Creek viticultural area is geographically distinguishable from the surrounding mountainous areas based on the climatic differences in temperatures and the seasonal fluctuations in rainfall.

Boundaries

The boundaries of the Willow Creek viticultural area are found on a 15 minute series U.S.G.S. map entitled "Willow Creek Quadrangle." However, to better define a distinguishable grape-growing area, ATF is amending the boundaries as originally proposed. The boundaries, as amended by ATF, were concurred with by the Willow Creek Viticultural Area Committee. ATF believes that the amended boundaries more closely identify the natural valley and remove mountainous areas originally included within the proposed area. The amended boundaries are based primarily on the 1,000-foot contour line. The 1,000-foot contour line more closely identifies the natural valley floor of the Willow Creek area.

Disclosure

Copies of the petition, the map, the notice of proposed rulemaking, and this Treasury decision 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 final rule is not 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 final rule since it will not have a significant economic impact on a substantial number of small entities. The final regulations are 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.

It was certified under the provisions of 5 U.S.C. 604(b) of the Regulatory Flexibility Act that notice of proposed rulemaking leading to this final rule would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Drafting Information

The principal author of this document is Roger L. Bowling, FAA, Wine and Beer Branch.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural area and 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 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Par. 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 Quadrangle," 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 the 1,000-foot contour line intersects Kirkham Creek (directly north of section 19, T.7 N./R.5E.), beginning in a southerly direction, the boundary line the 1,000-foot contour line to:

(1) The point of intersection between the 1,000-foot contour line and the north section line of section 27, T.6N./R.5E.;

(2) Then in a straight, north easterly line to the point of intersection between the 1,000-foot contour line and the east section line of section 13, T.6N./R.5E.;

(3) Then in a straight, northwesterly line to the point of intersection between the 1,000-foot contour line and the north section line of section 11, T.6N./R.5E.;

(4) Then in a straight, south-southwesterly line to the point of intersection between the 1,000-foot contour line and the east section line of section 15, T.6N./R.5E.;

(5) Then following the 1,000-foot contour line, beginning in a westerly direction, to the point of intersection between the 1,000-foot contour line and Coons Creek;

(6) Then in a straight, westerly line to the point of beginning.

Signed: August 3, 1983.

Stephen E. Higgins,

Director.

Approved: August 9, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-22584 Filed 8-17-83; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF JUSTICE

28 CFR Part 60

[Order No. 1026-83]

Authorization of Federal Law Enforcement Officers To Request the Issuance of a Search Warrant

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Rule 41(h) of the Federal Rules of Criminal Procedure authorizes the Attorney General to designate categories of federal law enforcement officers who may request issuance of search warrants. Previous authorizations were made by Order No. 510-73 (38 FR 7244, March 19, 1973) as amended by Order No. 521-73 (38 FR 18389, July 10, 1973), Order No. 826-79 (44 FR 21785, April 12, 1979), Order No. 844-79 (44 FR 46459, August 8, 1979), and Order No. 960-81 (46 FR 52360, October 27, 1981). This Order amends 28 CFR Part 60 by adding military agents of the Department of Defense authorized to enforce the Uniform Code of Military Justice to the list of federal law enforcement officers who are authorized to request the issuance of search warrants under Rule 41, Federal Rules of Criminal Procedure. The Order requires military agents to obtain the concurrence of the appropriate United States Attorney's Office in all cases, including emergent cases, before requesting issuance of a search warrant under this provision.

EFFECTIVE DATE: August 6, 1983.

FOR FURTHER INFORMATION CONTACT: Mark M. Richard, Deputy Assistant Attorney General, Criminal Division, Department of Justice, Washington, D.C. 20530 (202-633-2333).

SUPPLEMENTARY INFORMATION: This Order revises Section 60.1 of 28 CFR Part 60 and adds a new § 60.2(h). Because the material contained herein is a matter of Department of Justice

practice and procedure, the provision of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date is inapplicable.

The Department of Justice has determined that this Order is not a major rule for purposes of either Executive Order 12291, or the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

List of Subjects in 28 CFR Part 60

Law enforcement officers, Search warrants.

By virtue of the authority vested in me by Rule 41(h) of the Federal Rules of Criminal Procedure, Part 60 of Chapter I of Title 28, Code of Federal Regulations, is hereby amended as follows:

1. An additional sentence is added at the end of § 60.1 to read as follows:

§ 60.1 Purpose.

* * * Further, in all instances, military agents of the Department of Defense must obtain the concurrence of the appropriate United States Attorney's Office before seeking a search warrant.

2. A new paragraph (h) is added to § 60.2 as follows:

§ 60.2 Authorized categories.

* * * * *

(h) Any military agent of the Department of Defense who is authorized to enforce the Uniform Code of Military Justice.

Dated: August 6, 1983.

William French Smith,

Attorney General.

[FR Doc. 83-22406 Filed 8-17-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Bureau of Mines

30 CFR Parts 641, 642, 880 and 881

Abandoned Mine Land Reclamation; Mine Fire Control and Subsidence and Strip Mine Rehabilitation in Appalachia

AGENCY: Office of Surface Mining Reclamation and Enforcement and the Bureau of Mines, Interior.

ACTION: Final rule.

SUMMARY: The Secretary of the Interior has reorganized the Department and has moved the functions and responsibilities of the Branch of Applied Technology and Demonstration of the Division of Minerals Environmental Technology of the Bureau of Mines (BOM) to the Office of Surface Mining. The rules previously administered by the BOM Branch of Applied Technology and Demonstration, which dealt with mine fire control and subsidence and strip mine rehabilitation in Appalachia, are amended in this rulemaking to reflect this reorganization.

EFFECTIVE DATE: September 19, 1983.

FOR INFORMATION CONTACT:
Bob Tittle, Office of Surface Mining, Division of Federal Reclamation Programs, 1951 Constitution Ave., NW., Washington, D.C. 20240, 202/343-3363.

SUPPLEMENTARY INFORMATION:

I. Background

By Secretarial order effective February 1, 1982, certain mined land demonstration and reclamation project functions were transferred from the Bureau of Mines to the Office of Surface Mining. This order was issued in accordance with the authority provided in Section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262) and Title IV of the Surface Mining Control and Reclamation Act of 1977 (91 Stat. 456). Transferred by this order was the authority for the administration of those research demonstration and reclamation projects previously conducted by the Bureau of Mines under Title IV of SMCRA and authority for administration of various projects conducted under the Bureau of Mines Organic Act; the Underground and Outcrop Fire Control Act, Pub. L. 83-738; the Anthracite Mine Water Control Act, Pub. L. 84-162; the Anthracite Mine Sealing and Filling Act, Pub. L. 87-818; the Appalachian Regional Development Act, Pub. L. 89-4; and various mining and reclamation projects for which the Bureau of Mines has received annual appropriations.

The rules previously administered by the BOM Branch of Applied Technology and Demonstration dealing with mine fire control and subsidence and strip mine rehabilitation in Appalachia are amended and transferred to 30 CFR Subchapter R to reflect this reorganization.

II. Discussion of Final Rules Adopted

The following editorial changes are made to these final rules to make them consistent with other OSM rules and applicable under OSM jurisdiction. These revisions are not meant to change the meaning of the rules, but rather to make OSM the authority in implementing them.

First, the Bureau of Mines rules 30 CFR Parts 641 and 642 are redesignated as 30 CFR Parts 880 and 881, respectively. Thus, the text of §§ 641.1-641.8 and §§ 642.1-642.12 is transferred to OSM's rules in Chapter VII §§ 880.1-880.8 and §§ 881.1-881.12, respectively. The indexes at the beginning of each new part and the section headings have been changed accordingly.

New §§ 880.1, 880.3, 880.8, 881.1, 881.8, 881.9, 881.11 and 881.12 will read the same as the previous BOM rules with no text or terminology changes. In the other sections two terms have been changed throughout the text. The term "contribution contract" has been changed in both new parts to read "cooperative agreement" and the term "the Bureau" or "United States Bureau of Mines" has been changed to read "OSM." This term is defined in 30 CFR 870.5.

The definitions of "Secretary" and "Director" in previous §§ 641.2 and 642.2 are not included in new §§ 880.1 and 881.2 because they duplicate the definitions in 30 CFR 700.5, which cover all of Chapter VII. Also the definition of "Bureau" is removed. The lettering of paragraphs in new §§ 880.2 and 881.2 has been appropriately redesignated in consideration of these exclusions.

The term "contract" in previous §§ 641.4(a) and 642.5(a) is replaced in new §§ 880.4(a) and 881.5(a) with the term "agreement" to further reflect the change of terms "contribution contract" to "cooperative agreement."

A typographical error in previous § 641.4(b) is corrected by lowercasing the word "[a]dministration."

The term "project contract" in the phrase "* * * the estimated cost of the work under the proposed or existing project contract * * *." in previous §641.5(d) is corrected to read "cooperative agreement" in new § 880.5(d). This was done to correct an error in the original rule. The estimated cost of work is set in the cooperative agreement, not the project contract.

A similar error in previous § 642.6(b) is corrected in new § 881.6(b) by replacing the phrase "covered by the project contract" with "establish in the cooperative agreement."

The beginning of new § 880.8 differs from previous § 641.8 in that the first word "A" has been deleted to clarify that all State and local authorities must comply with the Civil Rights Act of 1964.

Because the term "Government" is defined in new § 881.2 as meaning the United States of America, the phrase "United States of America" in previous § 642.(f)(1) if replaced in new § 881.6 with the term "Government."

The reference "this (c)" in previous § 642.6(f)(4)(i)(c) is changed in format in

the final rule to properly read "Paragraph (f)(4)(i)(C)."

Further revisions in these rules may be needed, and OSM will be studying the rules for their applicability to OSM program objectives and their consistency with the appropriate statutes, some of which have been amended since the BOM rules were promulgated.

The Department has determined that it is unnecessary, under the Administrative Procedure Act, 5 U.S.C. 553(b)(B), to require public comments on these changes through publication of a notice of proposed rulemaking. The substantive provisions of the rules are unaffected by these revisions of organization titles and terms and redesignation of CFR Parts. Therefore, because this is a procedural change only, proposed rulemaking is unnecessary.

III. Procedural Matters

Executive Order 12291

OSM has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291 because the rule is procedural and has no economic effect on the public.

Regulatory Flexibility Act

The Department has also determined that this document will not have a significant economic effect on a substantial number of small entities and does not require a flexibility analysis under the Regulatory Flexibility Act.

National Environmental Policy Act

This rulemaking action qualifies as a Categorical Exemption under Appendix 1, Chapter 2, Part 516 of the Departmental Manual; thus no environmental assessment has been conducted under the National Environmental Policy Act.

Paperwork Reduction Act

It has been determined that the information collection requirements in new 30 CFR Part 880 and 881 have fewer than 10 respondents per year, and therefore are exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and do not require clearance by OMB.

Lists of Subjects

30 CFR Part 880

Appalachia, Fire prevention, Government contracts, Grant programs, Mine safety and health, and Natural resources.

30 CFR Part 881

Appalachia, Grant programs, Mines, Natural resources, Reporting requirements, and Surface mining.

Accordingly, 30 CFR Parts 641, 642, 880 and 881 are amended as set forth herein.

Dated: August 12, 1983.

W. L. Dare,

Acting Deputy Assistant Secretary for Energy and Minerals.

1. Parts 641 and 642 of Chapter VI are redesignated as Parts 880 and 881, respectively, of Chapter VII and revised to read as follows:

PART 880—MINE FIRE CONTROL, APPALACHIA

Sec.

Authority: Sec. 7, 68 Stat. 1011, Sec. 205, 79 Stat. 13; 30 U.S.C. 557, 40 U.S.C. App. 205 and Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*

§ 880.1 Scope.

Projects for the control or extinguishment of outcrop or underground fires in coal formations under the authority of the Act of August 31, 1954 (30 U.S.C. 551-558) and pursuant to subsection (a)(2) of Section 205 of the Appalachian Regional Development Act of 1965 (Pub. L. 89-4, 79 Stat. 5), shall be instituted and conducted in accordance with the regulations in this part.

§ 880.2 Definitions.

As used in the regulations in this part and in cooperative agreements, entered into pursuant to the regulations in this part:

(a) "Government" means the United States of America;

(b) "Commission" means the Appalachian Regional Development Commission established by Section 101 of the Appalachian Regional Development Act of 1965;

(c) "State" means any one of the States listed in Section 403 of the Appalachian Regional Development Act of 1965; and

(d) "Local authorities" means a county, city, township, town, or borough, and other local governmental bodies organized and existing under authority of State laws.

§ 880.3 Qualifications of projects.

A project in a State for the control of fires in coal formations will be undertaken in cooperation with a State and local authorities if, in the Secretary's judgment, the project will prevent injury and loss of life, protect public health, conserve natural resources, or protect public and private property. Projects must be submitted by a State to the Commission and receive the approval of that body.

§ 880.4 Cooperative agreements.

(a) Each project shall be covered by a cooperative agreement among the Government, as represented by the Director, the State and the local authorities. The agreement shall establish the total estimated cost of the project and, if the project is to be accomplished in phases, the estimated cost of each phase. The maximum obligations of the parties to share the cost of the project shall be stated in terms of the total estimated cost of the project. Other responsibilities of the parties shall also be described in the agreement, as may be agreed and in conformity with the regulations in this part, to meet the needs and requirements of a particular project.

(b) Total project costs shall include the costs of the work performed pursuant to a project contract or a series of project contracts, and the costs to OSM of administration, engineering, planning, direction of the project work, and routine maintenance and inspection following completion of the work performed to control or extinguish the fire.

(c) The Government's obligation to contribute funds may be less than but shall not exceed 75 percent of the total estimated cost of the project. The obligation of the State (and, if appropriate, the local authorities) to contribute funds may be more but shall not be less than 25 percent of the total estimated cost of the project.

(d) None of the funds contributed by the Government or the State or the local authorities shall be used for the purchase of sand, clay, stone, or other such kinds of noncombustible materials used to control or extinguish the fire.

§ 880.5 Project contracts.

(a) OSM will design, plan, and engineer a method of operation for control or extinguishment of the outcrop or underground mine fire, and will execute the project through a project contract, or, if the work is to be done in phases, a series of project contracts.

(b) A State or local authority must pay the financial contribution required under the cooperative agreement to OSM after the bids on a proposed project contract have been opened but before the

contract is awarded. The State will be advised of the time and place of the opening of bids on a proposed project contract and may have a representative present and, when requested, shall advise OSM with respect to the qualifications of bidders. OSM will recognize the contribution and cooperation of State and local authorities in advertisements for bids for the work.

(c) If the bids on work to be done under a proposed project contract exceed the estimated cost of that work, OSM shall not enter into a project contract until the cooperative agreement has been amended to provide for an increase in contributions sufficient to meet the increase in costs. Similarly, no amendment shall be made to, and no change order shall be issued under, a project contract, if the amendment or change order would result in an expenditure under the contract in excess of the estimated cost of the work until the cooperative agreement has been amended to provide for an increase in contributions sufficient to meet the increase in costs.

(d) The Director is authorized to execute an amendment to a cooperative agreement, without prior approval of the Secretary, to meet an increase in costs under a proposed or existing project contract if the increase is not in excess of 20 percent of the estimated cost of the work under the proposed or existing cooperative agreement.

§ 880.6 Administration of contributions.

Financial contributions made by a State or local authorities will be deposited in trust in the Treasury of the United States for withdrawal and expenditure by OSM pursuant to the cooperative agreement and as necessary in performance of the project work. Withdrawals and expenditures from the trust fund will be made only for costs connected with the project. Any part of the money contributed by a State or local authority for an individual project which remains unexpended at the completion or termination of project will be returned to the State or local authority.

§ 880.7 Assistance by States and local authorities.

Either the State or local authorities, as may be appropriate in each particular project, and without cost or charge to project costs shall:

(a) Provide such assistance in planning and engineering the project as may be requested by OSM;

(b) Furnish accurate information, data, and accurate maps on the location of the project and the location of water, sewer, and power lines within the project area, and maps or plats showing properties and lands on which releases, consents, or rights or interests in lands have been obtained;

(c) Obtain and deliver to OSM releases, proper consent or the necessary rights or interests in lands, and other documents required by OSM for approval of the project, and in form and substance satisfactory to OSM;

(d) Furnish a certification in form and substance satisfactory to OSM that the releases, consents, or the necessary rights or interests in lands, are from all the legal property owners within the project area;

(e) Agree to indemnify and hold the Government harmless should any property owner within the project area make any claim for damage resulting from the work within the project area if releases, consents or rights or interests were not obtained from such property owner by the State or local authorities;

(f) Grant to the Government the right to enter upon streets, roads, and other land owned or controlled by the State or the local authorities overlying or adjacent to the project fire area, and to conduct thereon the operations referred to in the cooperative agreement and project contract, and agree to hold the Government harmless from any claim for damage arising out of the project operations to property owned, possessed or controlled by the State or local authorities in the vicinity of the project area;

(g) Furnish sand, clay, stone, or other such kinds of noncombustible materials, used in the flushing of voids, installation of fire barriers, plugs, trenches, fills, or other means or methods used to control or extinguish the fire;

(h) Maintain and perform maintenance work on the project as may be provided in the cooperative agreement;

(i) Agree not to mine or permit mining of coal or other minerals on property owned or controlled by the State or local authorities, if required by OSM, to assure the success of, or protection to, the project work and the control or extinguishment of the fire, and for such period of time as may be required by OSM; and

(j) If necessary, procure the enactment of State or local laws providing for the control and extinguishment of outcrop and underground fires in coal formations on State or privately owned lands and the cooperation of the State or local authorities in the work and the requisite authority to permit the States or local authorities to meet the obligations imposed by the regulations in this part of a cooperative agreement.

§ 880.8 Civil rights.

State and local authorities shall comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88–352) and all requirements imposed by or pursuant to the regulations of the Department of the Interior entitled "Nondiscrimination in Federally-assisted Programs of the Department of the Interior–Effectuation of Title VI of the Civil Rights Act of 1964" (43 CFR Part 17) and shall give assurances of compliance in such form as may be required by the Director.

PART 881—SUBSIDENCE AND STRIP MINE REHABILITATION, APPALACHIA

Sec.

Authority: Sec. 205, 79 Stat. 13 (40 U.S.C. App. 205), and Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*

§ 881.1 Purpose and scope.

The regulations in this part provide for contributions by the Secretary with respect to projects in the Appalachian Region for the sealing and filling of voids in abandoned coal mines or for the reclamation and rehabilitation of existing strip and surface mine areas under the authority of subsection (a)(1) of Section 205 of the Appalachian Region Development Act of 1965 (Pub. L. 89–4, 79 Stat. 5)

§ 881.2 Definitions.

As used in the regulations in this part and in cooperative agreements entered into pursuant to the regulations in this part:

(a) "Government" means the United States of America;

(b) "Commission" means the Appalachian Regional Development Commission established by Section 101 of the Appalachian Regional Development Act of 1965;

(c) "State" means any one of the States listed in Section 403 of the Appalachian Regional Development Act of 1965; and

(d) "Local authorities" or "local bodies of government" means a county, city, township, town, or borough, and other local governmental bodies organized and existing under authority or State laws.

§ 881.3 Qualification of projects.

(a) Projects for the reclamation and rehabilitation of strip-mined areas will be considered only if all of the lands embraced within the project are lands owned by the Federal Government, a State, or local bodies of government.

(b) Projects must be submitted by a State to the Commission and receive the approval of that body.

§ 881.4 Application of contribution.

(a) A State in its application for contribution to a project shall fully describe the conditions existing in the project area and give a full justification for the project in terms of the relationship of the potential benefits that will result from the project to the estimated costs of the project and in terms of the improvement, on a continuing basis, to the economic potential of the State or area which the project will bring about. If the project entails the reclamation and rehabilitation of strip and surface mined areas, the application shall state the uses to which the lands will be put.

(b) Before submitting a project to the Secretary for approval, the Director shall obtain from the State the following:

(1) Copies of inspection procedures, designs, plans and methods of engineering proposed for the construction, installation, services or work to be performed to accomplish the objectives of the project;

(2) Accurate information, data, and maps of the location of the project, the area involved, and, if the project consists of work designed to prevent or alleviate subsidence, information, data, and maps (if available) of the seams of coal to be filled or flushed;

(3) The proposed advertisement for bids for each project contract, which advertisement shall include suitable references concerning the fact that the project is one to the cost of which the Government will contribute under the Appalachian Regional Development Act of 1965, and that the State's acceptance of liability arising out of any bid shall be subject to contribution by the Government under the provisions of a cooperative agreement with the Government for that purpose;

(4) The proposed project contract, together with specifications and drawings pertaining to the equipment, materials, labor and work to be performed by the project contractor;

(5) Releases, proper consent or the necessary rights or interests in lands and coal formations, for gaining access to and carrying out work in or on the project, and other documents required by OSM for approval of the project, and in form and substance satisfactory to OSM;

(6) Certifications or documents, as may be required by OSM, indicating public ownership or control of subsurface coal or mineral rights accompanied by appropriate resolutions from the State or local authorities to indemnify and hold the Government harmless should any property owner within the project area make any claim for damage resulting from the work within the project area if releases, consents or rights or interests were not obtained from such property owner by the State or local authorities, and not to mine or permit mining of coals or other minerals in property owned or controlled by the State or local authorities.

(7) If the project is for the rehabilitation or reclamation of a strip mine area, evidence satisfactory to the Secretary that the State or local authority owns the lands upon which the project is proposed to be carried out, and that effective installation, operation, and maintenance safeguards will be enforced;

(8) The estimated total cost of the proposed project and, if the work is proposed to be performed in phases, the estimated cost of each phase.

(c) If the Secretary approves the project, the Director will submit to the State a coopertive agreement establishing the estimated cost of the project in the amount approved by the Secretary.

§ 881.5 Cooperative agreements.

(a) Each project shall be covered by a cooperative agreement between the Government, as represented by the Director, and the State. The agreement shall establish the total estimated cost of the project and, if the project is to be accomplished in phases, the estimated cost of each phase. The maximum obligations of the parties to share the cost of the project shall be stated in terms of the total estimated cost of the project and, if project is to be accomplished in phases, in terms of the estimated cost of each phase. Other responsibilities of the parties shall also be described in the agreement, as may be agreed upon and as may be in conformity with these regulations, to meet the needs and requirements of a particular project.

(b) The Government's obligation to contribute funds may be less than but shall not exceed 75 percent of the total estimated cost of the project. The obligation of the State (and, if appropriate, the local authorities) to contribute funds may be more but shall not be less than 25 percent of the total estimated cost of the project.

(c) None of the funds contributed by the Government or by the State shall be used for operating or maintaining the project or for the purchase of culm, rock, spoil, or other filling or flushing material.

(d) The Director may, without approval by the Secretary execute amendments to a cooperative agreement which will cover (1) acceptance of a bid on a proposed project contract that does not exceed by more than 20 percent the estimated cost, initially established in the cooperative agreement, of the work covered by the proposed project contract, and (2) the estimated costs of additional work under a project contract, if the estimated cost, initially established in the cooperative agreement, of the work covered by the project contract will not be increased by more than 20 percent.

§ 881.6 Project contract.

(a) Upon approval of the project by the Secretary, execution of the cooperative agreement, and receipt of an acceptable bid, the State shall carry out and execute the project through a project contract, or, if the work is to be done in phases, a series of project contracts, entered into by the State and its contractors or suppliers for the construction, installation, services or work to be performed.

(b) Project contracts shall be entered into only with the lowest responsible bidder pursuant to suitable procedures for advertising and competitive bidding. The Government's obligation to contribute to the cost of a project, or a phase of a project, is limited to the estimated costs established in the cooperative agreement. If the bids on work to be done under a proposed project contract exceed the estimated cost of the work established in the cooperative agreement, the State should not enter into the project contract unless the cooperative agreement has been amended to provide for an increase in contributions sufficient to meet the increase in costs, or unless the State wishes to assume the excess cost of the project.

(c) OSM shall be advised of the time and place of the opening of bids on a proposed project contract and may have a representative present.

(d) If the State amends a project contract, or issues a change order thereunder, and the amendment or change order results in an expenditure under the project contract in excess of the estimated cost of the work established in the cooperative

agreement, the Government shall be under no obligation to contribute to such excess costs unless the cooperative agreement has been amended to provide for an increase in contributions by the parties sufficient to meet such excess costs.

(e) The State shall furnish the Director, in duplicate, a certified true executed copy of each project contract with related plans, specifications, and drawings annexed thereto, promptly upon its execution.

(f) The State shall include in each project contract provisions to the effect that—

(1) Regardless of any agreement between the State and the Government respecting contributions by the Government to the cost of the contract under the provisions of Section 205(a)(1) of the Appalachian Regional Development Act of 1965 (Pub. L. 89-4, 79 Stat. 5), the Government shall not be considered to be a party to the contract or in any manner liable thereunder. Neither the Government nor any of its officers, agents, or employees shall be responsible for any loss, expense, damages to property, or injuries to persons, which may arise from or be incident to the use and occupation of any property affected by the operations contemplated under the project, or for damages to the property of the contractor, or for injuries to the person of the contractor, or for damages to the property, or injuries to the contractor's officers, agents, servants, or employees, or others who may be on said premises at their invitation or the invitation of any of them, and the State and the project contractor shall hold the Government and any of its officers, agents, or employees, harmless from all such claims.

(2) The Secretary of the Interior or the Director of OSM or their authorized representative may enter upon and inspect the project at any reasonable time and may confer with the contractor and the State regarding the conduct of project operations.

(3) All laborers and mechanics employed by the contractor or subcontractors on the project shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have with respect to such labor standards, the authority and functions set forth in Reorganization Plan Number 14 of 1950 (15 FR 3176, 64 Stat. 1267, 5 U.S.C. 133–133z–15), and Section 2 of the Act of June 13, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

(4) To assure the use of local labor to the maximum extent practicable in the implementation of a project:

(i) Every contractor or subcontractor undertaking to do work on the project which is or reasonably may be done as onsite work, in carrying out such contract work shall give preference to qualified persons who regularly reside in the labor area as designated by the U.S. Department of Labor wherein such project is situated, or the subregion, or the Appalachian counties of the State wherein such project is situated, except:

(A) To the extent that qualified persons regularly residing in the area are not available;

(B) For the reasonable needs of any such contractor or subcontractor, to employ supervisory or specially experienced individuals necessary to assure an efficient execution of the contract;

(C) For the obligation of any such contractor or subcontractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that in no event shall the number of nonresident persons employed under Paragraph (f)(4)(i)(C) exceed 20 percent of the total number of employees employed by such contractor and his subcontractors on such project.

(ii) Every such contractor and subcontractor shall furnish the appropriate U.S. Employment Service offices with a list of all positions for which laborers, mechanics, and other employees may be required.

(iii) Every such contractor and subcontractor shall furnish periodic reports to the contracting agency on the extent to which local labor has been used in carrying out the contract work.

§ 881.7 Administration of contributions.

(a) The Government's contribution to a State will be made only pursuant to a cooperative agreement and only upon the basis of payments made, or that are then due and payable, by the State under a project contract between the State and its contractor for the construction, installation, services or work performed on individual projects and shall not exceed 75 percent of such amounts.

(b) The State shall submit to the Director, not more often than once a month and for each cooperative agreement, a separate voucher which describes each payment made or that is due and payable by the State under a project contract. The amounts claimed under each voucher shall be certified by the State as proper charges under the project contract, and the State shall also certify that the amounts have either been paid or are due and payable thereunder. Insofar as the Government's contribution payments related to amounts due and payable rather than amounts already paid, the State shall disburse such funds together with the funds contributed by the State, promptly upon receipt from the Government.

(c) The State shall maintain suitable records and accounts of its transactions with and payments to project contractors, and the Government may inspect and audit such accounts and records during normal business hours and as it may deem necessary.

§ 881.8 Withholding of payments.

Whenever the Secretary, after reasonable notice and opportunity for hearing, finds that there is a failure by the State to expend funds in accordance with the terms and conditions governing the Government's contribution for an approved project, he shall notify the State that further payments will not be made to the State from available appropriations until he is satisfied that there will no longer be any such failure. Until the Secretary is so satisfied, payment of any financial contribution to the State shall be withheld.

§ 881.9 Reports.

At such times and in such detail as the Secretary shall require, the State shall furnish to the Secretary a statement with respect to each project showing the work done, the status of the project, expenditures, and amounts obligated, and such other information as may be required.

§ 881.10 Obligations of States or local authorities.

(a) The State shall have full responsibility for installing, operating, and maintaining projects constructed pursuant to the regulations in this part.

(b) The State shall give evidence, satisfactory to the Secretary, that it will enforce effective safeguards with respect to installation, operation, and maintenance.

(c) The State shall agree that neither the Government nor any of its officers, agents, or employees shall be responsible for any loss, expense, damages to property, or injuries to persons, which may arise from or be incident to work upon, or to the use and occupation of any property affected by operations under, the project, and the State shall agree to hold the Government and its officers, agents, or employees harmless from all such claims.

(d) In order to assure effective safeguards with respect to installation,

operation, and maintenance, the State or local authority will be required to own (or control), the land, subsurface, or coal seams in instances such as the following:

(1) If the objective of the project is to prevent or alleviate subsidence, the State or local authority shall have or acquire such subsurface and underground rights or interests in such coal seams or coal measures as may be required to assure the stability and continued existence of the project and to such an extent as will give reasonable assurance that the work will not be disturbed in the future.

(2) If the objective of the project is to rehabilitate or reclaim strip-mined areas, the land shall be owned by the Federal, State, or local body of government. Such ownership shall comprise such mineral, subsurface and underground rights and interests as will assure that no further mining operations will be conducted upon or under the land in the future.

(3) If the objective of the project is to seal abandoned open shafts, slopes, air holes and other mine openings to underground workings where public safety hazards exist, or to control or prevent erosion, water pollution, or discharge of harmful mine waters, the State shall have or acquire such right, title or interest in the lands as will assure the stability and continued existence of the project work.

(4) The extent of ownership or control necessary shall be determined with respect to each individual project.

(e) The State or local authorities, shall agree not to mine or permit the mining of coal or other minerals in the land or property owned or controlled by the State or local authorities, if required by OSM to assure the success or protection of the project work for such period of time as may be required by OSM.

(f) Upon request of OSM, the State or local authority shall furnish and disclose the nature and extent of its right, title, or interest in lands within, or which may be affected by, the project and submit an analysis, in writing, of the title situation, the effectiveness, extent and strength of the title which has been acquired, and an opinion as to the protection which the documents conveying the various rights, titles, and interests in the land afford the project work and as to any defects in the title.

(g) If necessary, State and local authorities shall procure the enactment of State or local laws or ordinances providing authority to participate in the work and projects conducted pursuant to the regulations in this part on lands owned by the State, the local authorities, or private persons, and the requisite authority to permit the State or local authorities to meet the obligations imposed by the regulations in this part or a cooperative agreement and to enter into project contracts of the kind and nature contemplated for the work to be performed.

§ 881.11 Nondiscrimination.

The State shall comply with the provisions of Section 301 of Executive Order 11246 (Sept. 24, 1965; 30 FR 12319, 12935) and shall incorporate the provisions prescribed by Section 202 of Executive Order 11246 in each project contract, and shall undertake and agree to assist and cooperate with the Director and the Secretary of Labor, obtain and furnish information, carry out sanctions and penalties, and refrain from dealing with debarred contractors, all as provided in said Section 301.

§ 881.12 Civil rights.

State or local authorities shall comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88–352) and all requirements imposed by or pursuant to the regulations of the Department of the Interior entitled "Nondiscrimination in Federally-assisted Programs of the Department of the Interior—Effectuation of Title VI of the Civil Rights Act of 1964" (43 CFR Part 17) and shall give assurances of compliance in such forms as may be required by the Director.

[FR Doc. 83-22763 Filed 8-17-83; 8:45 am]
BILLING CODE 4310-05-M

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30 CFR Part 926

Montana Abandoned Mine Land Reclamation Plan Amendment

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

ACTION: Final rule.

SUMMARY: On April 20, 1983, the State of Montana submitted to OSM a proposed amendment to its Abandoned Mine Land Reclamation (AMLR) Plan. On June 15, 1983, the State submitted revisions to its proposed amendment. After opportunity for public comment and review of the amendment, the Assistant Secretary for Energy and Minerals of the Department of the Interior has determined that the Montana amendment meets the requirements of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and the Secretary's regulations (30 CFR Chapter VII, Subchapter R, 47 FR 28574–28604, June 30, 1982). Accordingly, the Assistant Secretary has approved the Montana Amendment.

EFFECTIVE DATE: The rule is effective September 19, 1983.

ADDRESSES: Copies of the full text of the proposed amendment are available for review during regular business hours at the following locations:

State of Montana, Department of State Lands, Reclamation Division, 1625 Eleventh Avenue, Helena, Montana 59620

Office of Surface Mining Reclamation and Enforcement, P.O. Box 1420, 935 Pendell Blvd., Mills, Wyoming 82644

Office of Surface Mining Reclamation and Enforcement, Administrative Record—Rm. 5315, 1100 "L" Street, NW., Washington, D.C. 20240

FOR FURTHER INFORMATION CONTACT: William Thomas, Field Office Director, Office of Surface Mining Reclamation and Enforcement, P.O. Box 1420, 935 Pendell Blvd., Mills, Wyoming 82644, Telephone: (307) 261–5776.

SUPPLEMENTARY INFORMATION: Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Public Law 95–87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law. Title IV provides that a State with an approved AMLR program has the responsibility and primary authority to implement an abandoned mine land reclamation program.

The Montana AMLR Plan was approved on October 24, 1980. On April 20, 1983, Montana submitted a proposed amendment to the Plan. An approved State AMLR Plan can be amended under the provisions of 30 CFR 884.15. Under these provisions, if the amendment or revision changes the objectives, scope, or major policies followed by the State in the conduct of its reclamation program, the Director of the Office of Surface Mining should follow the procedures set out in 30 CFR 884.14 in approving an amendment or revision of a State reclamation plan. The Director has followed these procedures and recommended to the Assistant Secretary

on July 26, 1983, that the Montana Amendment be approved.

OSM published a notice of proposed rulemaking on the Montana amendment and requested public comment on May 26, 1983 (48 FR 23662). No public comments were received. The State of Montana held public hearings on the proposed amendment as required by State law on April 12, 1983 in Helena, on April 15, 1983 in Red Lodge, and on April 20, 1983 in Chinook, Montana. No substantive comments were received. On June 15, 1983, the State of Montana submitted revisions to the proposed amendment. These revisions are contained in a letter from Ben Mundie, Abandoned Mine Reclamation Bureau, State of Montana to William R. Thomas, Casper Field Office Director, Office of Surface Mining. OSM has determined that these revisions are insignificant in nature and, accordingly, require no further public comment. All of the documents mentioned above are available for public inspection at the offices of OSM and at the Montana Reclamation Division listed above under "Addresses".

To codify information applicable to individual States under SMCRA, including decisions on State reclamation plans and amendments, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T consists of Parts 900 through 953. Provisions relating to North Dakota are found in 30 CFR Part 926.

Contents of the Montana Amendment are:

1. Liens on noncoal projects;
2. Addition of one hundred noncoal sites to the Montana Abandoned Mine Land Inventory;
3. Provisions to conduct an emergency reclamation program;
4. Revised Department of State Lands structural organization.

Assistant Secretary's Findings

In accordance with Section 405 of SMCRA, the Assistant Secretary finds that Montana has submitted an amendment to its Abandoned Mine Land Reclamation Plan and has determined, pursuant to 30 CFR 884.15, that:

1. The public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.
2. Views of other Federal agencies have been solicited and considered.
3. The State has the legal authority, policies and administrative structure to carry out the amendment.
4. The amendment meets all requirements of the OSM, AMLR Program provisions.
5. The State has an approved Surface Mining Regulatory Program.
6. The amendment is in compliance with all applicable State and Federal laws and regulations.

Disposition of Comments

The following comments received on the Montana AMLR Amendment during the other Federal agency comment period were considered in the Assistant Secretary's evaluation of the Montana Amendment as indicated below.

1. The Western Field Operations Center of the U.S. Bureau of Mines (BOM) suggested that prior to filling or destroying any mine excavations or surface disturbances, records should be made of each, including detailed mapping and sampling. For the BOM, failure to acquire all available geologic and mineral resources information before making these geologic materials unavailable might be an unnecessary waste. The BOM further suggested that all acquired data should be deposited with a minerals and mining related agency such as the State's Bureau of Mines and Geology or the US/BOM for possible future public use. OSM agrees and has brought the BOM suggested to the attention of the State of Montana.

2. The Montana Historic Preservation Office commented that measures for complying with State and Federal preservation regulations should be outlined in the amendment to allow for a better understanding of how historic and prehistoric values will be considered in the event of a request to undertake emergency reclamation work.

OMS's response is that it has raised this issue with the State and the State has agreed to notify the Montana Historic Preservation Office of a proposed project to allow proper mitigation measures to be completed. This assurance is contained in a letter of June 15, 1983 from Ben Mundie, Montana Abandoned Mine Reclamation Bureau, to William Thomas, Director, Casper Field Office, Office of Surface Mining. The letter is available for public inspection at the offices of OSM and at the Montana Reclamation Division listed above under "Addresses".

3. The Omaha District of the Corps of Engineers outlined the requirements for complying with Section 404 of the Clean Water Act on State abandoned mine land reclamation projects. OSM has sent the Corps' letter to the State of Montana for guidance in complying with Section 404 of the Clean Water Act in their AMLR program.

Additional Findings

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

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

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

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

Further, the Office of Surface Mining has determined that the Montana amendment does not have a significant effect on the quality of the human environment because the decision relates only to the policies, procedures and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of the Interior Manual DM 5162.3(A)(1), the Assistant Secretary's decision on the Montana amendment is categorically excluded from the National Environmental Policy Act requirements.

As a result, no environmental assessment (EA) nor environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Moreover, an EA or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

List of Subjects in 30 CFR Part 934

Coal mining, Intergovernmental regulations, Surface mining, Underground mining.

Dated: July 26, 1983.

J. R. Harris,

Director, Office of Surface Mining.

Dated: August 12, 1983.

W. L. Dare,

Acting Deputy Assistant Secretary for Energy and Minerals.

PART 926—MONTANA

Therefore, § 926.20 is revised to read as follows:

§ 926.20 Approval of Montana Abandoned Mine Land Reclamation Plan.

The Montana Abandoned Mine Land Reclamation Plan, as submitted on October 24, 1980, is approved. Amendments to this Plan, as submitted on April 20, 1983 are also approved. Copies of the approved program, as amended, are available at:

State of Montana, Department of State Lands, Reclamation Division, 1625 Eleventh Avenue, Helena, Montana 59620

Office of Surface Mining Reclamation and Enforcement, P.O. Box 1420, 935 Pendell Blvd., Mills, Wyoming 82644

Office of Surface Mining Reclamation and Enforcement, Administrative Record—Rm. 5315, 1100 "L" Street, NW., Washington, D.C. 20240

(Pub. L. 95–87, 340 U.S.C. 1201, et seq.)

[FR Doc. 83-22762 Filed 8-17-83; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 865

Air Force Discharge Review Board

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: This rule is being revised to incorporate changes in procedures and standards for the review of discharges and dismissals from the Air Force. These changes were necessitated by revision of Department of Defense Directive 1332.28, August 11, 1982 (32 CFR Part 70, 47 FR 37770, August 26, 1982), which this rule implements. The intended effect is to provide current information on Air Force policy and procedures to former Air Force members desiring amendment to their military records.

EFFECTIVE DATE: November 27, 1982.

FOR FURTHER INFORMATION CONTACT: Charles F. Hicks, Colonel, USAF, Principal Advisor for Discharge Review Matters, Office of the Secretary of the Air Force (Personnel Council), Crystal Square 4, 1745 Jeff Davis Highway, Suite 200, Arlington, VA 22202. Telephone 202–692–4751.

SUPPLEMENTARY INFORMATION: Because this subpart implements a higher directive, it was not published as proposed for public comment. It is published as a final rule for information purposes. The Department of the Air Force has determined that this regulation is not a major rule as defined by Executive Order 12291; is not subject to the relevant provisions of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354); and does not contain reporting or recordkeeping requirements under the criteria of the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Subpart B of Part 865 is derived from Air Force Regulation (AFR) 20–10, Air Force Discharge Review Board, 27 November 1982. This revision incorporates uniform procedures and standards for the submission and presentation of and responses to issues pertaining to the review of discharges; establishes an effective date for use of these procedures and accompanying revised forms; outlines expanded requirements for the preparation of decisional documents; provides for special review of applications from former members who are determined to be category W; includes review of standards; reinstates the 15 year statute of limitations; and redefines terms and types of discharge reviews.

List of Subjects in 32 CFR Part 865

Administrative practice and procedure, Military personnel, Records.

Accordingly, 32 CFR Part 865, is amended by revising Subpart B as follows:

PART 865—PERSONNEL REVIEW BOARDS

* * * * *

Subpart B—Air Force Discharge Review Board

Sec.

* * * * *

Authority: Sec. 8012, 70A Stat. 488 Sec. 1553, 72 Stat. 1267, 10 U.S.C. 8012, 1553.

Subpart B—Air Force Discharge Review Board

§ 865.100 Purpose.

This subpart establishes policies for the review of discharges and dismissals under 32 CFR Part 70, "Discharge Review Boards Procedures and Standards," 47 FR 37770, August 26, 1982, and explains the jurisdiction, authority, and actions of the Air Force Discharge Review Board. It applies to all Air Force activities. This subpart is affected by the Privacy Act of 1974. The system of records cited in this subpart is authorized by 10 U.S.C. 1553 and 8012. Each data gathering form or format which is required by this subpart contains a Privacy Act Statement, either incorporated in the body of the document or in a separate statement accompanying each such document.

§ 865.101 References.

(a) Title 10, United States Code, Section 1553

(b) Title 38, United States Code, Sections 101 and 3103, as amended by Pub. L. 95–126, October 8, 1977

(c) DOD Directive 5000.19, "Policies for the Management and Control of Information Requirements," March 12, 1976

(d) DOD Directive 5000.11, "Data Elements and Data Codes Standardization Program," December 7, 1964

(e) DOD Directive 5000.12–M "DOD Manual for Standard Data Elements," December 1981

(f) DOD Directive 1332.14, "Enlisted Administrative Separations," January 28, 1982

(g) DOD Directive 5400.7, "DOD Freedom of Information Act Program," March 24, 1980; Title 5, United States Code, Section 552

(h) DOD Directive 5400.11, "Department of Defense Privacy Program," June 9, 1982; Title 5, United States Code, Section 552a

(i) Title 10, United States Code, Chapter 47, Uniform Code of Military Justice

(j) Wood v. Secretary of Defense, Civ. No. 77-0684 (D.D.C.) (Order, December 3, 1981)

(k) Urban Law Institute of Antioch College, Inc. v. Secretary of Defense, Civ. No. 76-0530, (D.D.C.) (Stipulation of Dismissal, January 31, 1977) (Order and Settlement Agreement, July 30, 1982)

(l) Air Force Regulation 35-41, Vol III, Separation Procedures for USAFR Members, dated October 30, 1975

(m) Air Force Regulation 36-2, Officer Personnel, Administrative Discharge Procedures, August 2, 1976

(n) Air Force Regulation 36-3, Officer Personnel, Administrative Discharge Procedures, August 2, 1976

(o) Air Force Regulation 36-12, Officer Personnel, Administrative Separation of Commissioned Officers and Warrant Officers, July 15, 1977

(p) Air Force Regulation 39-10, Separation Upon Expiration of Term of Service, for Convenience of Government, Minority, Dependency and Hardship, January 3, 1977

(q) Air Force Manual 39-12, Separation for Unsuitability, Misconduct, Resignation, or Request for Discharge for the Good of the Service and Procedures for the Rehabilitation Program, September 1, 1966

(r) Air National Guard Regulation 39-10, Enlisted Personnel-Separation, December 30, 1971

§ 865.102 Statutory authority.

The Air Force Discharge Review Board (DRB) was established within the Department of the Air Force under section 301 of the Serviceman's Readjustment Act of 1944, as amended (now 10 U.S.C. 1553) and further amended by Pub. L. 95-126 dated October 8, 1977.

§ 865.103 Definition of terms.

(a) *Applicant.* A former member of the Armed Forces who has been dismissed or discharged administratively in accordance with Military Department regulations or by sentence of a court-martial (other than a general court-martial) and under statutory regulatory provisions whose application is accepted by the DRB concerned or whose case is heard on the DRB's own motion. If the former member is deceased or incompetent, the term "applicant" includes the surviving spouse, next-of-kin, or legal representative who is acting on behalf of the former member. When the term "applicant" is used in this subpart, it includes the applicant's counsel or representative, except that the counsel or representative may not submit an application for review, waive the applicant's right to be present at a hearing, or terminate a review without providing the DRB an appropriate power of attorney or other written consent of the former member.

(b) *Complainant.* A former member of the Armed Forces (or the former member's counsel) who submits a complaint in accordance with § 865.121 of this subpart with respect to the decisional document issued in the former member's own case; or a former member of the Armed Forces (or the former member's counsel) who submits a complaint stating that correction of the decisional document will assist the former member in preparing for an administrative or judicial proceeding in which the former member's own discharge will be at issue.

(c) *Counsel or representative.* An individual or agency designated by the applicant who agrees to represent the applicant in a case before the DRB. It includes, but is not limited to: a lawyer who is a member of the bar of a federal court or of the highest court of a state; an accredited representative designated by an organization recognized by the Administrator of Veterans Affairs; a representative from a state agency concerned with veterans affairs; and representatives from private organizations or local government agencies.

(d) *Discharge.* A general term used in this subpart that includes dismissal and separation or release from active or inactive military status, and actions that accomplish a complete severance of all military status. This term also includes the assignment of a reason for such discharge and characterization of service.

(e) *Discharge review.* The process by which the reason for separation, the procedures followed in accomplishing separation, and characterization of service are evaluated. This includes determinations made under the provisions of Title 38 U.S.C. 3103(e)(2).

(f) *Discharge Review Board (DRB).* An administrative board constituted by the Secretary of the Air Force and vested with discretionary authority to review discharges and dismissals under the provisions of Title 10 U.S.C. 1553.

(g) *Regional Discharge Review Board.* A DRB that conducts discharge reviews in a location outside the National Capital Region (NCR).

(h) *DRB President.* The senior line officer of any DRB convened for the purpose of conducting discharge reviews.

(i) *Hearing.* A review involving an appearance before the DRB by the applicant or on the applicant's behalf by a counsel or representative.

(j) *Record review.* A review of the application, available service records, and additional documents (if any) submitted by the applicant.

(k) *National Capital Region (NCR).* The District of Columbia; Prince Georges and Montgomery Counties in Maryland; Arlington, Fairfax, Loudoun, and Prince William Counties in Virginia; and all cities and towns included within the outer boundaries of the foregoing counties.

(l) *Director, Air Force Personnel Council.* The person designated by the Secretary of the Air Force who is responsible for the supervision of the Discharge Review function.

§ 865.104 Secretarial responsibilities.

The Secretary of the Air Force is responsible for the overall operation of the Discharge Review program within the Department of the Air Force. The following delegation of authority have been made:

(a) To the Office of the Assistant Secretary of the Air Force (Manpower, Reserve Affairs and Installations) to act for the Secretary of the Air Force in all discharge review actions subject to review by the Secretary as specified in § 865.113 of this subpart.

(b) To the Director, Air Force Personnel Council, for operation of all phases of the discharge review function and authority to take action in the name of the Secretary of the Air Force in all discharge review actions except those specified in § 865.113 of this subpart.

§ 865.105 Jurisdiction and authority.

The DRB has jurisdiction and authority in cases of former military personnel who, at the time of their separation from the Service, were members of the US Army Aviation components (Aviation Section, Signal Corps; Air Service; Air Corps; or Air Forces) prior to September 17, 1947, or the US Air Force. The DRB does not have jurisdiction and authority concerning personnel of other armed services who at the time of their separation, were assigned to duty with the Army Air Forces or the US Air Force.

(a) The DRB's review is based on the former member's available military

records, issues submitted by the former member, or his counsel and on any other evidence that is presented to the DRB. The DRB determines whether the type of discharge or dismissal the former member received is equitable and proper; if not, the DRB instructs the USAF Manpower and Personnel Center (AFMPC) to change the discharge reason or to issue a new character of discharge according to the DRB's findings.

(b) The DRB is not authorized to revoke any discharge, to reinstate any person who has been separated from the military service, or to recall any person to active duty.

(c) The DRB, on its own motion, may review a case that appears likely to result in a decision favorable to the former military member, without the member's knowledge or presence. In this case, if the decision is:

(1) Favorable, the DRB directs AFMPC to notify the former member accordingly at the member's last known address.

(2) Unfavorable, the DRB returns the case to the files without any record of formal action; the DRB then reconsiders the case without prejudice in accordance with normal procedures.

§ 865.106 Application for review.

(a) *General.* Applications shall be submitted to the Air Force DRB on DD Form 293, Application for Review of Discharge or Dismissal from the Armed Forces of the United States (OMB Approval No. 0704–0004) with such other statements, affidavits, or documentation as desired. It is to the applicant's advantage to submit such documents with the application or within 60 days thereafter in order to permit a thorough screening of the case. The DD Form 293 is available at most DOD installations and regional offices of the Veterans Administration, or by writing to: DA Military Review Boards Agency, Attention: SFBA (Reading Room), Room 1E520, The Pentagon, Washington, DC 20310.

(b) *Timing.* A motion or request for review must be made within 15 years after the date of discharge or dismissal.

(c) *Applicant's responsibilities.* An applicant may request a change in the character of or reason for discharge (or both).

(1) *Character of discharge.* DD Form 293 provides an applicant an opportunity to request a specific change in character of discharge (for example, General Discharge to Honorable Discharge; Under Other Than Honorable Conditions Discharge to General or Honorable Discharge). Only a person separated on or after 1 October 1982 while in an entry level status may request a change from other than an honorable discharge to Entry Level Separation. A request for review from an applicant who does not have an Honorable Discharge will be treated as a request for a change to an Honorable Discharge unless the applicant requests a specific change to another character of discharge.

(2) *Reason for discharge.* DD Form 293 provides an applicant an opportunity to request a specific change in the reason for discharge. If an applicant does not request a specific change in the reason for discharge, the DRB will presume that the request for review does not involve a request for change in the reason for discharge. Under its responsibility to examine the propriety and equity of an applicant's discharge, the DRB will change the reason for discharge if such a change is warranted.

(3) The applicant must ensure that issues submitted to the DRB are consistent with the request for change in discharge set forth in "Board Action Requested" of the DD Form 293. If an ambiguity is created by a difference between an applicant's issue and the requested action, the DRB will respond to the issue in the context of the action requested in "Board Action Requested." In the case of a Personal Appearance hearing, the DRB will attempt to resolve the ambiguity.

(d) If the member is deceased or mentally incompetent, the spouse, next-of-kin, or legal representative may, as agent for the member, submit the application for the review along with proof of the member's death or mental incompetency.

(e) Applicants forward their requests for review to the USAF Manpower and Personnel Center-mailing address: AFMPC/MPCDOA1, Randolph AFB TX 78150. AFMPC will obtain all available military records of the former members from the National Personnel Records Center.

(f) *Withdrawal of application.* An applicant shall be permitted to withdraw an application without prejudice at any time before the scheduled review.

(g) *Submission of issues on DD Form 293.* Issues must be provided to the DRB on DD Form 293 before the DRB closes the review process for deliberation and should be submitted in accordance with the guidelines of this subpart for submission of issues.

(1) *Issues must be clear and specific.* An issue must be stated clearly and specifically in order to enable the DRB to understand the nature of the issue and its relationship to the applicant's discharge.

(2) *Separate listing of issues.* Each issue submitted by an applicant should be listed separately. Submission of a separate statement for each issue provides the best means of ensuring that the full import of the issue is conveyed to the DRB.

(3) *Use of DD Form 293.* DD Form 293 provides applicants with a standard format for submitting issues to the DRB, and its use:

(i) Provides a means for an applicant to set forth clearly and specifically those matters that, in the opinion of the applicant, provide a basis for changing the discharge;

(ii) Assists the DRB in focusing on those matters considered to be important by an applicant;

(iii) Assists the DRB in distinguishing between a matter submitted by an applicant in the expectation that it will be treated as a decisional issue under § 865.112, and those matters submitted simply as background or supporting materials;

(iv) Provides the applicant with greater rights in the event that the applicant later submits a complaint under § 865.121 of this subpart concerning the decisional document.

(v) Reduces the potential for disagreement as to the content of an applicant's issue.

(4) *Incorporation by reference.* If the applicant makes an additional written submission, such as a brief, in support of the application, the applicant may incorporate by reference specific issues set forth in the written submission in accordance with the guidance on DD Form 293. The reference shall be specific enough for the DRB to identify clearly the matter being submitted as an issue. At a minimum, it shall identify the page, paragraph, and sentence incorporated. Because it is to the applicant's benefit to bring such issues to the DRB's attention as early as possible in the review, applicants who submit a brief are strongly urged to set forth all issues as a separate item at the beginning of the brief. If it reasonably appears that the applicant inadvertently has failed expressly to incorporate an issue which the applicant clearly identifies as an issue to be addressed by the DRB, the DRB shall respond to such an issue in accordance with § 865.111 and § 865.112 of this subpart.

(5) *Effective date of the new DD Form 293.* With respect to applications received before November 27, 1982, the DRB shall consider issues clearly and specifically stated in accordance with the rules in effect at the time of submission. With respect to applications received on or after November 27, 1982,

if the applicant submits an obsolete DD Form 293, the application will be returned with a copy of the revised DD Form 293 for reaccomplishment. The DRB will only respond to the issues submitted on the new form in accordance with 32 CFR Part 70, 47 FR 37770, August 26, 1982 and this subpart.

(h) *Relationship of issues to character of or reason for discharge.* If the application applies to both character of and reason for discharge, the applicant is encouraged, but not required, to identify the issue as applying to the character of or reason for discharge (or both). Unless the issue is directed at the reason for discharge expressly or by necessary implication, the DRB will presume that it applies solely to the character of discharge.

(i) *Relationship of issues to the standards for discharge review.* The DRB reviews discharges on the basis of issues of propriety and equity. The standards used by the DRB are set forth in § 865.120 of this subpart. The applicant is encouraged to review those standards before submitting any issue upon which the applicant believes a change in discharge should be based. The applicant is also encouraged, but not required, to identify an issue as pertaining to the propriety or the equity of the discharge. This will assist the DRB in assessing the relationship of the issue to propriety or equity under § 865.112(d) of this subpart.

(j) *Citation of matter from decisions.* The primary function of the DRB involves the exercise of discretion on a case-by-case basis. Applicants are not required to cite prior decisions as the basis for a change in discharge. If the applicant wishes to bring the DRB's attention to a prior decision as background or illustrative material, the citation should be placed in a brief or other supporting documents. If, however, it is the applicant's intention to submit an issue that sets forth specific principles and facts from a specific cited decision, the following requirements apply with respect to applications received on or after November 27, 1982.

(1) The issue must be set forth or expressly incorporated in the "Applicant's Issue" portion of DD Form 293.

(2) If an applicant's issue cites a prior decision (of the DRB, another Board, an agency, or a court), the applicant shall describe the specific principles and facts that are contained in the prior decision and explain the relevance of cited matter to the applicant's case.

(3) To insure timely consideration of principles cited from unpublished opinions (including decisions maintained by the Armed Forces Discharge Review Board/Correction Board Reading Room), the applicant must provide the DRB with copies of such decisions or of the relevant portion of treatise, manual, or similar source in which the principles were discussed. At the applicant's request, such materials will be returned.

(4) If the applicant fails to comply with the requirements above, the decisional document shall note the defect, and shall respond to the issue without regard to the citation.

(k) *Identification by the DRB of issues submitted by an applicant.* The applicant's issues shall be identified in accordance with this section after a review of all materials and information is made.

(1) *Issues on DD Form 293.* The DRB shall consider all items submitted as issues by an applicant on DD Form 293 (or incorporated therein) in accordance with this part. With respect to applications submitted before November 27, 1982, the DRB shall consider all issues clearly and specifically stated in accordance with the rules in effect at the time of the submission.

(2) *Amendment of issues.* The DRB shall not request or instruct an applicant to amend or withdraw any matter submitted by the applicant. Any amendment or withdrawal of an issue by an applicant shall be confirmed in writing by the applicant. This provision does not:

(i) Limit by DRB's authority to question an applicant as to the meaning of such matter;

(ii) Preclude the DRB from developing decisional issues based upon such questions:

(iii) Prevent the applicant from amending or withdrawing such matter any time before the DRB closes the review process for deliberation; or

(iv) Prevent the DRB from presenting an applicant with a list of proposed decisional issues and written information concerning the right of the applicant to add to, amend, or withdraw the applicant's submission. The written information will state that the applicant's decision to take such action (or decline to do so) will not be used against the applicant in the consideration of the case.

(3) Additional Issues Identified During a Hearing. The following additional procedure shall be used during a hearing in order to promote the DRB's understanding of an applicant's presentation. If before closing the hearing for deliberation, the DRB believes that an applicant has presented an issue not listed on DD Form 293, the FRB may so inform the applicant, and the applicant may submit the issue in writing or add additional written issues at that time. This does not preclude the DRB from developing its own decisional issues.

(l) *Notification of possible bar to benefits.* Written notification shall be made to each applicant whose record indicates a reason for discharge that bars receipt of benefits under 38 U.S.C. 3103(a). This notification will advise the applicant that separate action by the Board for Correction of Military Records or the Veterans Administration may confer eligibility for VA benefits. Regarding the bar to benefits based upon the 180 days consecutive unauthorized absence, the following applies:

(1) Such absence must have been included as part of the basis for the applicant's discharge under other than honorable conditions.

(2) Such absence is computed without regard to the applicant's normal or adjusted expiration of term of service.

§ 865.107 DRB composition and meeting location.

(a) The DRB consists of five members, with the senior line officer acting as the presiding officer. The presiding officer convenes, recesses and adjourns the Board.

(b) In addition to holding hearings in Washington, DC, the DRB, as a convenience to applicants, periodically conducts hearings at selected locations throughout the Continental United States. Reviews are conducted at locations central to those areas with the greatest number of applicants. A continuing review and appraisal is conducted to ensure the selected hearing locations are responsive to a majority of applicants. Administrative details and responsibilities for Regional Boards are outlined in § 865.124.

§ 865.108 Availability of records and documents.

(a) Before applying for discharge review, potential applicants or their designated resentatives may, and are encouraged to obtain copies of their military personnel records by submitting a General Services Administration Standard Form 180, Request Pertaining to Military Records, to the National Personnel Records Center (NPRC) 9700 Page Boulevard, St. Louis, Mo 63132; thus avoiding any lengthy delays in the processing of the application (DD Form 293) and the scheduling of reviews.

(1) Once the application for discharge review (DD Form 293) is submitted, an applicant's military records are forwarded to the DRB where they cannot be reproduced. Submission of a

request for an applicant's military records, including a request under the Freedom of Information Act or Privacy Act after the DD Form 293 has been submitted, shall result automatically in the termporary suspension of processing of the application for discharge review until the requested records are sent to an appropriate location for copying, are copied, and returned to the headquarters of the DRB. Processing of the application shall then be resumed at whatever stage of the discharge review process is practicable.

(2) Applicants and their designated representatives also may examine their military personnel records at the site of their scheduled review before the hearing. The DRB shall notify applicants and their designated representatives of the dates the records are available for examination in their standard scheduling information.

(b) The DRB is not authorized to provide copies of documents that are under the cognizance of another government department, office, or activity. Applications for such information must be made by the applicant to the cognizant authority. The DRB shall advise the applicant of the mailing address of the government department, office, or activity to which the request should be submitted.

(c) If the official records relevant to the discharge review are not available at the agency having custody of the records, the applicant shall be so notified and requested to provide such information and documents as may be desired in support of the request for discharge review. A period of not less than 30 days shall be allowed for such documents to be submitted. At the expiration of this period, the review may be conducted with information available to the DRB.

(a) The DRB may take steps to obtain additional evidence that is relevant to the discharge under consideration beyond that found in the official military records or submitted by the applicant, if a review of available evidence suggests that it would be incomplete without the additional information, or when the applicant presents testimony or documents that require additional information to evaluate properly. Such information shall be made available to the applicant, upon request, with appropriate modifications regarding classified material.

(1) In any case heard on the request of an applicant, the DRB shall provide the applicant and counsel or representative, if any, at a reasonable time before initiating the decision process, a notice of the availability of all regulations and documents to be considered in the discharge review, except for documents in the official personnel or medical records and any documents submitted by the applicant. The DRB shall also notify the applicant or counsel or representative (i) of the right to examine such documents or to be provided with copies of documents upon request; (ii) of the date by which such request must be received; and (iii) of the opportunity to respond within a reasonable period of time to be set be the DRB.

(2) When necessary to acquaint the applicant with the substance of a classified document, the classifying authority, on the request of the DRB, shall prepare a summary of or an extract from the document, deleting all reference to source of information and other matters, the disclosure of which, in the opinion of the classifying authority, would be detrimental to the national security interest of the United States. Should preparation of such summary be deemed impracticable by the classifying authority, information from the classified source shall not be considered by the DRB in its review of the case.

(e) Current Air Force numbered publications may be obtained from the Chief, Central Base Administration at any major Air Force installation or by writing:

HQ USAF/DASJL, Washington, DC 20330

or

DA Military Review Boards Agency, Attention: SPBA (Reading Room), Room 1E520, Washington, DC 20310

§ 865.109 Procedures for hearings.

(a) The applicant is entitled, by law, to appear in person at his or her request before the DRB in open session and to be represented by counsel of his or her own selection. The applicant also may present such witnesses as he or she may desire.

(b) There are two types of reviews. They are:

(1) *Record Review.* A review of the application, available service records, and additional documents (if any) submitted by the applicant.

(2) *Hearing.* A personal appearance before the DRB by the applicant with or without counsel, or by the counsel only.

(c) The Government does not compensate or pay the expenses of the applicant, applicant's witnesses, or counsel.

(d) A summary of the available military records of the applicant is prepared for use by the DRB in the review process. A copy of the summary is available to the applicant and/or his or her counsel, upon request.

(e) When an applicant has requested a personal appearance and/or representation by counsel on the DD Form 293, the DRB sends written notice of the hearing time and place to the applicant and designated counsel. Evidence of such notification will be placed in the applicant's record.

(f) Personal appearance hearings shall be conducted with recognition of the rights of the individual to privacy. Accordingly, presence at hearings of individuals other than those whose presence is required will be limited to persons authorized by the presiding officer and/or expressly requested by the applicant, subject to reasonable limitations based upon available space.

(g) Formal rules of evidence shall not be applied in DRB proceedings. The presiding officer shall rule on matters of procedure and shall ensure that reasonable bounds of relevancy and materiality are maintained in the taking of evidence and presentation of witnesses. Applicants and witnesses may present evidence to the DRB panel either in person or by affidavit or through counsel. If an applicant or witness testifies under oath or affirmation, he or she is subject to questioning by Board members.

(h) There is a presumption of regularity in the conduct of governmental affairs. This presumption can be applied in any review unless there is substantial credible evidence to rebut the presumption.

(i) Failure to appear at a hearing or respond to scheduling notice.

(1) Except as otherwise authorized by the Secretary of the Air Force, further opportunity for a personal appearance hearing shall not be made available in the following circumstances to an applicant who has requested a hearing.

(i) When the applicant and/or a designated counsel or representative has been sent a letter containing the date and location of a proposed hearing and fails to make a timely response; or

(ii) When the applicant and/or a designated representative, after being notified by letter of the time and place of the hearing, fails to appear at the appointed time, either in person or by representative, without having made a prior, timely request for a postponement or withdrawal.

(2) In such cases, the applicant shall be deemed to have waived his/her right to a hearing, and the DRB shall complete its review of the discharge. Further request for a hearing shall not be granted unless the applicant can demonstrate that the failure to appear or respond was due to circumstances beyond the applicant's control.

(j) Continuance and postponements:

(1) A continuance of a discharge review hearing may be authorized by the presiding officer of the Board concerned, provided that such continuance is of a reasonable duration and is essential to achieving a full and fair hearing. Where a proposal for continuance is indefinite, the pending application shall be returned to the applicant with the option to resubmit when the case is fully ready for review.

(2) Postponements of scheduled reviews normally shall not be permitted other than for demonstrated good and sufficient reason set forth by the applicant in a timely manner, or for the convenience of the government.

(k) Reconsideration. A discharge review shall not be subject to reconsideration except:

(1) Where the only previous consideration of the case was on the motion of the DRB;

(2) When the original discharge review did not involve a personal appearance hearing and a personal appearance is now desired, and the provisions of § 865.109(j) do not apply;

(3) Where changes in discharge policy are announced subsequent to an earlier review of an applicant's discharge, and the new policy is made expressly retroactive;

(4) Where the DRB determines that policies and procedures under which the applicant was discharged differ in material respects from policies and procedures currently applicable on a service-wide basis to discharges of the type under consideration, provided that such changes in policies or procedures represent a substantial enhancement of the rights afforded an applicant in such proceeding;

(5) Where an individual is to be represented by a counsel/representative, and was not so represented in any previous consideration of the case.

(6) Where the case was not previously considered under the uniform standards published pursuant to Pub. L. 95–126 and application is made for such consideration within 15 years after the date of discharge; or

(7) On the basis of presentation of new, substantial, relevant evidence not available to the applicant at the time of the original review. The decision as to whether evidence offered by an applicant in support of a request for reconsideration is in fact new, substantial, relevant, and was not available to the applicant at the time of the original review will be based on a comparison of such evidence with the evidence considered in the previous discharge review. If this comparison shows that the evidence submitted would have had a probable effect on matters concerning the propriety or equity of the discharge, the request for reconsideration shall be granted.

§ 865.110 Decision process.

(a) The DRB shall meet in plenary session to review discharges and exercise its discretion on a case-by-case basis in applying the standards set forth in this regulation.

(b) The presiding officer is responsible for the conduct of the discharge review. The presiding officer shall convene, recess, and adjourn the DRB as appropriate, and shall maintain an atmosphere of dignity and decorum at all times.

(c) Each board member shall act under oath or affirmation requiring careful, objective consideration of the application. They shall consider all relevant material and competent information presented to them by the applicant. In addition, they shall consider all available military records, together with such other records as may be in the files and relevant to the issues before the DRB.

(d) The DRB shall identify and address issues after a review of the following material obtained and presented in accordance with this subpart and 32 CFR Part 70: available official military records, documentary evidence submitted by or on behalf of the applicant, presentation of testimony by or on behalf of the applicant, oral or written arguments presented by or on behalf of the applicant, and any other relevant evidence.

(e) Application of Standards:

(1) When the DRB determines that an applicant's discharge was improper, the DRB will determine which reason for discharge should have been assigned based upon the facts and circumstances properly before the discharge authority in view of the regulations governing reasons for discharge at the time the applicant was discharged.

(2) When the board determines that an applicant's discharge was inequitable, any change will be based on the evaluation of the applicant's overall record of service and relevant regulations.

(f) Voting shall be conducted in closed session, a majority of the five members' votes constituting the DRB's decision.

(g) Details of closed session deliberations of a DRB are privileged information and shall not be divulged.

(h) A formal minority opinion may be submitted in instances of disagreement between members of a board. The opinion must cite findings, conclusions and reasons which are the basis for the opinion. The complete case with the majority and minority recommendations will be submitted to the Director, Air Force Personnel Council.

(i) The DRB may request advisory opinions from staff offices of the Air Force. These opinions are advisory in nature and are not binding on the DRB in its decision making process.

§ 865.111 Response to items submitted as issues by the applicant.

(a) If an issue submitted by an applicant contains two or more clearly separate issues, the DRB should respond to each issue under the guidance of this section as if it had been set forth separately by the applicant.

(b) If an applicant uses a "building block" approach (that is, setting forth a series of conclusions on issues that lead to a single conclusion purportedly warranting a change in the applicant's discharge), normally there should be a separate response to each issue.

(c) This section does not preclude the DRB from making a single response to multiple issues when such action would enhance the clarity of the decisional document, but such response must reflect an adequate response to each separate issue.

(d) An item submitted as an issue by an applicant in accordance with this regulation shall be addressed as a decisional issue under § 865.112 of this subpart in the following circumstances:

(1) When the DRB decides that a change in discharge should be granted, and the DRB bases its decision in whole or in part on the applicant's issue; or

(2) When the DRB does not provide the applicant with the full change in discharge requested, and the decision is based in whole or in part on the DRB's disagreement with the merits of an issue submitted by the applicant.

(e) If the applicant receives the full change in discharge requested (or a more favorable change), that fact shall be noted and the basis shall be addressed as a decisional issue even if that basis is not addressed as an issue by the applicant. No further response is required to other issues submitted by the applicant.

(f) If the applicant does not receive the full change in discharge requested with respect to either the character of or reason for discharge (or both), the DRB shall address the items submitted by the applicant unless one of the following responses is applicable:

(1) *Duplicate Issues.* The DRB may state that there is a full response to the issue submitted by the applicant under a specified decisional issue. This respose may be used only when one issue clearly duplicates another or the issue

clearly requires discussion in conjunction with another issue.

(2) *Citations Without Principles and Facts.* The DRB may state that any issue, which consists of a citation of a previous decision without setting forth any principles and facts from the decision that the applicant states are relevant to the applicant's case, does not comply with the requirements of § 865.106(g)(1) of this part.

(3) *Unclear Issues.* The DRB may state that it cannot respond to an item submitted by the applicant as an issue because the meaning of the item is unclear. An issue is unclear if it cannot be understood by a reasonable person familiar with the discharge review process after a review of the materials considered under § 865.110(d) of this subpart.

(4) *Nonspecific Issues.* The DRB may state that it cannot respond to an item submitted by the applicant as an issue because it is not specific. A submission is considered not specific if a reasonable person familiar with the discharge review process after a review of the materials considered under § 865.110(d), cannot determine the relationship between the applicant's submission and the particular circumstances of the case. This response may be used only if the submission is expressed in such general terms that no other response is applicable. For example, if the DRB disagrees with the applicant as to the relevance of matters set forth in the submission, the DRB normally will set forth the nature of the disagreement under the guidance in § 865.112 of this subpart with respect to decisional issues, or it will reject the applicant's position on the basis of § 865.111(f)(1) or § 865.111(f)(2). If the applicant's submission is so general that none of those provisions is applicable, then the DRB may state that it cannot respond because the item is not specific.

§ 865.112 Decisional issues.

(a) The decisional document shall discuss the issues that provide a basis for the decision whether there should be a change in the character of or reason for discharge. In order to enhance clarity, the DRB should not address matters other than issues relied upon in the decision or raised by the applicant.

(b) *Partial Change.* When the decision changes a discharge but does not provide the applicant with the full change in discharge requested, the decisional document shall address both the issues upon which change is granted and the issues upon which the DRB denies the full change requested.

(c) *Relationship of Issue To Character of or Reason for Discharge.* Generally, the decisional document should specify whether a decisional issue applies to the character of or reason for discharge (or both), but it is not required to do so.

(d) *Relationship of an Issue To Propriety or Equity.* (1) If an applicant identifies an issue as pertaining to both propriety and equity, the DRB will consider it under both standards.

(2) If an applicant identifies an issue as pertaining to the propriety of the discharge (for example, by citing a propriety standard or otherwise claiming that a change in discharge is required as a matter of law), the DRB shall consider the issue solely as a matter of propriety. Except as provided in § 865.112(d)(4), the DRB is not required to consider such an issue under the equity standards.

(3) If the applicant's issue contends that the DRB is required as a matter of law to follow a prior decision by setting forth an issue of propriety from the prior decision and decribing its relationship to the applicant's case, the issue shall be considered under the propriety standards and addressed under § 865.112(e) or § 865.112(f).

(4) If the applicant's issue sets forth principles of equity contained in a prior DRB decision, describes the relationship to the applicant's case, and contends that the DRB is required as a matter of law to follow the prior case, the decisional document shall note that the DRB is not bound by its discretionary decisions in prior cases under the standards in § 865.120 of this subpart. However, the principles cited by the applicant, and the description of the relationship of the principles to the applicant's case, shall be considered under the equity standards and addressed under § 865.112(h) or § 865.112(i).

(5) If the applicant's issue cannot be identified as a matter of propriety or equity, the DRB shall address it as an issue of equity.

(e) *Change of discharge: Issues of propriety.* If a change in the discharge is warranted under the propriety standards the decisional document shall state that conclusion and list the errors or expressly retroactive changes in policy that provide a basis for the conclusion. The decisional document shall cite the facts in the record that demonstrate the relevance of the error or change in policy to the applicant's case. If the change in discharge does not constitute the full change requested by the applicant, the reasons for not granting the full change shall be addressed.

(f) *Denial of the full change requested: Issues of propriety.* If the decision rejects the applicant's position on an issue of propriety, or if it is otherwise decided on the basis of an issue of propriety that the full change in discharge requested by the applicant is not warranted, the decisional document shall note that conclusion. The decisional document shall list reasons for its conclusion on each issue of propriety under the following guidance:

(1) If a reason is based in whole or in part upon a part, statute, constitutional provision, judicial determination, or other source of law, the DRB shall cite the pertinent source of law and the facts in the record that demonstrate the relevance of the source of law to the particular circumstances in the case.

(2) If a reason is based in whole or in part on a determination as to the occurrence or nonoccurrence of an event or circumstance, including a factor required by applicable Air Force regulations to be considered for determination of the character of and reason for the applicant's discharge, the DRB shall make a finding of fact for each such event or circumstance.

(i) For each such finding, the decisional document shall list the specific source of the information relied upon. This may include the presumption of regularity in appropriate cases. If the information is listed in the service record section of the decisional document, a citation is not required.

(ii) If a finding of fact is made after consideration of contradictory evidence in the record (including information cited by the applicant or otherwise identified by members of the DRB), the decisional document shall set forth the conflicting evidence, and explain why the information relied upon was more persuasive than the information that was rejected. If the presumption of regularity is cited as the basis for rejecting such information, the decisional document shall explain why the contradictory evidence was insufficient to overcome the presumption. In an appropriate case, the explanation as to why the contradictory evidence was insufficient to overcome the presumption of regularity may consist of a statement that the applicant failed to provide sufficient corroborating evidence, or that the DRB did not find the applicant's testimony to be sufficiently credible to overcome the presumption.

(3) If the DRB disagrees with the position of the applicant on an issue of propriety, the following guidance applies in addition to the guidance in § 842.112(f)(1)&(2).

(i) The DRB may reject the applicant's position by explaining why it disagrees with the principles set forth in the

applicant's issue (including principles derived from cases cited by the applicant).

(ii) The DRB may reject the applicant's position by explaining why the principles set forth in the applicant's issue (including principles derived from cases cited by the applicant) are not relevant to the applicant's case.

(iii) The DRB may reject an applicant's position by stating that the applicant's issue of propriety is not a matter upon which the DRB grants a change in discharge, and by providing an explanation for this position. When the applicant indicates that the issue is to be considered in conjunction with one or more other specified issues, the explanation will address all such specified issues.

(iv) The DRB may reject the applicant's position on the grounds that other specified factors in the case preclude granting relief, regardless of whether the DRB agreed with the applicant's position.

(v) If the applicant takes the position that the discharge must be changed because of an alleged error in a record associated with the discharge, and the record has not been corrected by the organization with primary responsibility for corrective action, respond that it will presume the validity of the record in the absence of such corrective action. If the organization empowered to correct the record is within the Department of the Air Force, the DRB should provide the applicant with a brief description of the procedures for requesting correction of the record. If the DRB on its own motion cites this issue as a decisional issue on the basis of equity, it shall address the issue as such.

(vi) When an applicant's issue contains a general allegation that a certain course of action violated his or her constitutional rights, respond in appropriate cases by noting that the action was consistent with statutory or regulatory authority, and by citing the presumption of constitutionality that attaches to statutes and regulations. If, on the other hand, the applicant makes a specific challenge to the constitutionality of the action by challenging the application of a statute or regulation is a particular set of circumstances, it is not sufficient to respond solely by citing the presumption of constitutionality of the statute or regulation when the applicant is not challenging the constitutionality of the statute or regulation. Instead, the response must address the specific circumstances of the case.

(g) *Denial of the full change in discharge requested when propriety is not at issue.* If the applicant has not submitted an issue of propriety and the DRB has not otherwise relied upon an issue of propriety to change the discharge, the decisional document shall contain a statement to that effect. The DRB is not required to provide any further discussion as to the propriety of the discharge.

(h) *Change of discharge: Issues of equity.* If the DRB concludes that a change in the discharge is warranted under equity standards the decisional document shall list each issue of equity upon which this conclusion is based. The DRB shall cite the facts in the record that demonstrate the relevance of the issue to the applicant's case. If the change in discharge does not constitute the full change requested by the applicant, the reasons for not giving the full change requested shall be discussed.

(i) *Denial of the full change requested: Issues of equity.* If the DRB rejects the applicant's position on an issue of equity, or if the decision otherwise provides less than the full change in discharge requested by the applicant, the decisional document shall note that conclusion. The DRB shall list reasons for its conclusions on each issue of equity in accordance with the following:

(1) If a reason is based in whole or in part upon a part, statute, constitutional provision, judicial determination, or other source of law, the DRB shall cite the pertinent source of law and the facts in the record that demonstrate the relevance of the source of law to the exercise of discretion on the issue of equity in the applicant's case.

(2) If a reason is based in whole or in part on a determination as to the occurrence or nonoccurrence of an event or circumstance, including a factor required by applicable Air Force regulations to be considered for determination of the character of and reason for the applicant's discharge, the DRB shall make a finding of fact for each such event or circumstance.

(i) For each such finding, the decisional document shall list the specific source of the information relied upon. This may include the presumption of regularity in appropriate cases. If the information is listed in the service record section of the decisional document, a citation is not required.

(ii) If a finding of fact is made after consideration of contradictory evidence in the record (including information cited by the applicant or otherwise identified by members of the DRB), the decisional document shall set forth the conflicting evidence, and explain why the information relied upon was more persuasive than the information that was rejected. If the presumption of regularity is cited as the basis for rejecting such information, the decisional document shall explain why the contradictory evidence was insufficient to overcome the presumption. In an appropriate case, the explanation as to why the contradictory evidence was insufficient to overcome the presumption of regularity may consist of a statement that the applicant failed to provide sufficient corroborating evidence, or that the DRB did not find the applicant's testimony to be sufficiently credible to overcome the presumption.

(3) If the DRB disagrees with the position of the applicant on an issue of equity, the following guidance applies in addition to the guidance in § 865.112(i)(1) and § 865.112(i)(2):

(i) The DRB may reject the applicant's position by explaining why it disagrees with the principles set forth in the applicant's issue (including principles derived from cases cited by the applicant).

(ii) The DRB may reject the applicant's position by explaining why the principles set forth in the applicant's issue (including principles derived from cases cited by the applicant) are not relevant to the applicant's case.

(iii) The DRB may reject an applicant's position by explaining why the applicant's issue is not a matter upon which the DRB grants a change in discharge as a matter of equity. When the applicant indicates that the issue is to be considered in conjunction with other specified issues, the explanation will address all such issues.

(iv) The DRB may reject the applicant's position on the grounds that other specified factors in the case preclude granting relief, regardless of whether the DRB agreed with the applicant's position.

(v) If the applicant takes the position that the discharge should be changed as a matter of equity because of an alleged error in a record associated with the discharge, and the record has not been corrected by the organization with primary responsibility for corrective action, the DRB may respond that it will presume the validity of the record in the absence of such corrective action. However, the DRB will consider whether it should exercise its equitable powers to change the discharge on the basis of the alleged error. If it declines to do so, the DRB shall explain why the applicant's position did not provide a sufficient basis for the change in the discharge requested by the applicant.

(4) When the DRB concludes that aggravating factors outweigh mitigating factors, the DRB must set forth reasons such as the seriousness of the offense,

specific circumstances surrounding the offense, number of offenses, lack of mitigating circumstances, or similar factors. The DRB is not required, however, to explain why it relied on any such factors unless the applicability or weight of such factors are expressly raised as an issue by the applicant.

(5) If the applicant has not submitted any issues and the DRB has not otherwise relied upon an issue of equity for a change in discharge, the decisional document shall contain a statement to that effect, and shall note that the major factors upon which the discharge was based are set forth in the service record portion of the decisional document.

§ 865.113 Recommendations by the Director of the Personnel Council and Secretarial Review Authority.

(a) The Director of the Personnel Council may forward cases for consideration by the Secretarial Reviewing Authority (SRA) under rules established by the Secretary of the Air Force.

(b) The following categories of dicharge review requests are subject to the review of the Secretary of the Air Force or the Secretary's designee.

(1) Cases in which a minority of the DRB panel requests their submitted opinions be forwarded for consideration (refer to § 865.110(h)).

(2) Cases when required in order to provide information to the Secretary on specific aspects of the discharge review function which are of interest to the Secretary.

(3) Any case which the Director, Air Force Personnel Council believes is of significant interest to the Secretary.

(c) The Secretarial Reviewing Authority is the Secretary of the Air Force or the official to whom he has delegated this authority. The SRA may review the types of cases described above before issuance of the final notification of a decision. Those cases forwarded for review by the SRA shall be considered under the standards set forth in § 865.121 and DOD Directive 1332.28.

(d) There is no requirement that the Director of the Personnel Council submit a recommendation when a case is forwarded to the SRA. If a recommendation is submitted, however, it should be in accordance with the guidelines described below.

(e) Format for Recommendation. If a recommendation is provided, it shall contain the Director's views whether there should be a change in the character of or reason for discharge (or both). If the Director recommends such a change, the particular change to be made shall be specified. The recommendation shall set forth the Director's position on decisional issues submitted by the applicant in accordance with the following:

(1) Adoption of the DRB's Decisional document. The recommendation may state that the Director has adopted the decisional document prepared by the majority. The Director shall ensure that the decisional document meets the requirements of this regulation.

(2) Adoption of the Specific Statements From the Majority. If the Director adopts the views of the majority only in part, the recommendation shall cite the specific matter adopted from the majority. If the Director modifies a statement submitted by the majority, the recommendation shall set forth the modification.

(3) Response To Issues Not Included in Matter Adopted From the Majority. The recommendation shall set forth the following if not adopted in whole or in part from the majority:

(i) The issues on which the Director's recommendation is based. Each such decisional issue shall be addressed by the Director in accordance with § 865.112 of this subpart.

(ii) The Director's response to items submitted as issues by the applicant under § 865.111 of this subpart.

(iii) Reasons for rejecting the conclusions of the majority with respect to decisional issues which, if resolved in the applicant's favor, would have resulted in greater relief for the applicant than that afforded by the Director's recommendation. Each issue shall be addressed in accordance with § 865.112 of this subpart.

(f) Copies of the proposed decisional document on cases that have been forwarded to the SRA (except for cases reviewed on the DRB's own motion without the participation of the applicant or the applicant's counsel) shall be provided to the applicant and counsel or representative, if any. The document will include the Director's recommendation to the SRA, if any. Classified information shall be summarized.

(g) The applicant shall be provided with a reasonable period of time, but not less than 25 days, to submit a rebuttal to the SRA. An issue in rebuttal consists of a clear and specific statement by the applicant in support of or in opposition to the statements of the DRB or Director on decisional issues and other clear and specific issues that were submitted by the applicant. The rebuttal shall be based solely on matters in the record when the DRB closed the case for deliberation or in the Director's recommendation.

(h) Review of the Decisional document. If corrections in the decisional document are required, the decisional document shall be returned to the DRB for corrective action. The corrected decisional document shall be sent to the applicant and counsel or representative, if any, but a further opportunity for rebuttal is not required unless the correction produces a different result or includes a substantial change in the discussion by the DRB or Director of the issues raised by the majority or the applicant.

(i) The Addendum of the SRA. The decision of the SRA shall be in writing and shall be appended as an addendum to the decisional document.

(1) The SRA's Decision. The addendum shall set forth the SRA's decision whether there will be a change in the character of or reason for discharge (or both); if the SRA concludes that a change is warranted, the particular change to be made shall be specified. If the SRA adopts the decision recommended by the DRB or the Director, the decisional document shall contain a reference to the matter adopted.

(2) Discussion of Issues. In support of the SRA's decision, the addendum shall set forth the SRA's position on decisional issues, items submitted by an applicant and issues raised by the DRB and the Director. The addendum will state that:

(i) The SRA has adopted the Director's recommendation.

(ii) The SRA has adopted the proposed decisional document prepared by the DRB.

(iii) If the SRA adopts the views of the DRB or the Director only in part, the addendum shall cite the specific statements adopted. If the SRA modifies a statement submitted by the DRB or the Director, the addendum shall set forth the modification.

(3) Response To Issues Not Included in Master Adopted From the DRB or the Director. The addendum shall set forth the following if not adopted in whole or in part from the DRB or the Director:

(i) A list of the issues on which the SRA's decision is based. Each such decisional issue shall be addressed by the SRA. This includes reasons for rejecting the conclusion of the DRB or the Director with respect to decisional issues which, if resolved in the applicant's favor, would have resulted in change to the discharge more favorable to the applicant than that afforded by the SRA's decision.

(ii) The SRA's response to items submitted as issues by the applicant will

be in accordance with § 865.111 of this subpart.

(4) Response to Rebuttal:

(i) If the SRA grants the full change in discharge requested by the applicant (or a more favorable change), that fact shall be noted, the decisional document shall be addressed accordingly, and no further response to the rebuttal is required.

(ii) If the SRA does not grant the full change in discharge requested by the applicant (or a more favorable change), the addendum shall list each issue in rebuttal submitted by an applicant and shall set forth the response of the SRA under the following:

(A) If the SRA rejects an issue in rebuttal, the SRA may respond in accordance with the principles in § 865.112 of this subpart.

(B) If the matter adopted by the SRA provides a basis for the SRA's rejection of the rebuttal material, the SRA may note that fact and cite the specific matter adopted that responds to the issue in rebuttal.

(C) If the matter submitted by the applicant does not meet the requirements for rebuttal material in § 865.113(g), above, that fact shall be noted.

(j) Index Entries. Appropriate index entries shall be prepared for the SRA's actions for matters that are not adopted from the DRB's proposed decisional document.

§ 865.114 Decisional document.

(a) A decisional document shall be prepared for each review conducted by the DRB.

(b) At a minimum, the decisional document shall contain:

(1) The date, character of, and reason for discharge or dismissal certificate issued to the applicant upon separation from the military service, including the specific regulatory authority under which the discharge or dismissal certificate was issued.

(2) The circumstances and character of the applicant's service as extracted from military records and information provided by other government authority or the applicant, such as, but not limited to:

(i) Date of enlistment (YYMMDD).

(ii) Period of enlistment.

(iii) Age at enlistment.

(iv) Length of service.

(v) Periods of unauthorized absence.

(vi) Conduct and efficiency ratings (numerical or narrative).

(vii) Highest rank achieved.

(viii) Awards and decorations.

(ix) Educational level.

(x) Aptitude test scores.

(xi) Incidents of punishment pursuant to Article 15, Uniform Code of Military Justice (including nature and date of offense or punishment).

(xii) Conviction by court-martial.

(xiii) Prior military service and type of discharge received.

(3) A list of the type of documents submitted by or on behalf of the applicant (including a written brief, letters of recommendation, affidavits concerning the circumstances of the discharge, or other documentary evidence), if any.

(4) A statement whether the applicant testified, and a list of the type of witnesses, if any, who testified on behalf of the applicant.

(5) A notation whether the application pertained to the character of discharge, the reason for discharge, or both.

(6) The DRB's conclusions on the following:

(i) Whether the character of or the reason for discharge should be changed.

(ii) The specific changes to be made, if any.

(7) A list of the items submitted as issues on DD Form 293 or expressly incorporated therein and such other items submitted as issues by the applicant that are identified as inadvertently omitted under § 865.106(g)(4). If the issues are listed verbatim on DD Form 293, a copy of the relevant portion of the form may be attached. Issues that have been withdrawn or modified with the consent of the applicant need not be listed.

(8) The response to items submitted as issues by the applicant under the guidance in § 865.111.

(9) A list of decisional issues and a discussion of such issues under the guidance of § 865.112.

(10) Minority views, if any, when authorized under the rules of the Secretary of the Air Force.

(11) The recommendation of the Director when required by § 865.113.

(12) Any addendum of the SRA when required by § 865.113.

(13) Advisory opinions, including those containing factual information, when such opinions have been relied upon for final decision or have been accepted as a basis for rejecting any of the applicant's issues. Such advisory opinions or relevant portions thereof that are not fully set forth in the discussion of decisional issues or otherwise in response to items submitted as issues by the application shall be incorporated by reference. A copy of the opinions incorporated by reference shall be appended to the decision and included in the record of proceedings.

(14) A record of the DRB member's names and votes.

(15) Index entries for each decisional issue under appropriate categories listed in the Subject/Category listing.

(16) An authentication of the document by an appropriate official.

§ 865.115 Issuance of decisions following discharge review.

(a) The applicant and counsel or representative, if any, shall be provided with a copy of the decisional document and of any further action in review. The applicant (and counsel, if any) shall be notified of the availability of the complaint process in accordance with § 865.121 of this subpart and of the right to appeal to the Board for the Correction of Military Records. Final notification of decisions shall be issued to the applicant with a copy to the counsel or representative, if any.

(b) Notification to applicants with copies to counsel or representatives, shall normally be made through the U.S. Postal Service. Such notification shall consist of a notification of the decision, together with a copy of the decisional document.

(c) Notification of HQ AFMPC/MPCDOAI shall be for the purpose of appropriate action and inclusion of review matter in the military records. Such notification shall bear appropriate certification of completeness and accuracy.

(d) Actions on review by Secretarial Reviewing Authority, when occurring, shall be provided to the applicant and counsel or representative in the same manner as the notification of the review decision.

§ 865.116 Records of DRB proceeding.

(a) When the proceedings in any review have been concluded, a record thereof will be prepared. Records may include written records, electromagnetic records, or a combination thereof.

(b) At a minimum, the record will include the following:

(1) The application for review (DD Form 293).

(2) A record of the testimony in verbatim, summarized, or recorded form at the option of the DRB.

(3) Documentary evidence or copies thereof considered by the DRB other than the military record.

(4) Brief/arguments submitted by or on behalf of the applicant.

(5) Advisory opinions considered by the DRB, if any.

(6) The findings, conclusions, and reasons developed by the DRB.

(7) Notification of the DRB's decision to the cognizant custodian of the

applicant's records, or reference to the notification document.

(8) Minority reports, if any.

(9) A copy of the decisional document.

§ 865.117 Final disposition of the record of proceedings.

The original record of proceedings and all appendices thereto shall in all cases be incorporated in the military record of the applicant and returned to the custody of the National Personnel Records Center (NPRC), St. Louis, Missouri. If a portion of the original record cannot be stored with the service record, the service record shall contain a notation as to the place where the record is stored.

§ 865.118 Availability of Discharge Review Board documents for public inspection and copying.

(a) A copy of the decisional document prepared in accordance with § 865.114 of this subpart, shall be made available for public inspection and copying promptly after a notice of final decision is sent to the applicant.

(b) To the extent required to prevent a clearly unwarranted invasion of personal privacy, identifying details of the applicant and other persons will be deleted from documents made available for public inspection and copying. Names, addresses, social security numbers, and military service numbers must be deleted. Written justification shall be made for all other deletions and shall be available for public inspection.

(c) The DRB shall ensure that there is a means for relating a decisional document number to the name of the applicant to permit retrieval of the applicant's records when required in processing a complaint in accordance with § 865.121 of this subpart.

(d) Any other privileged or classified material contained in or appended to any documents required to be furnished the applicant and counsel/representative or made available for public inspection and copying may be deleted therefrom only if a written statement of the basis for the deletions is provided the applicant and counsel/representative and made available for public inspection. It is not intended that the statement be so detailed as to reveal the nature of the withheld material.

(e) DRB documents made available for public inspection and copying shall be located in the Armed Forces Discharge Review/Correction Boards Reading Room. The documents shall be indexed in usable and concise form so as to enable the public and those who represent applicants before the DRB to isolate from all these decisions that are indexed those cases that may be similar to an applicant's case and that indicate the circumstances under and/or reasons for which the DRB or the Secretary of the Air Force granted or denied relief.

(1) The reading file index shall include, in addition to any other items determined by the DRB, the case number, the date, character of, reason for, and authority for the discharge. It shall further include the decisions of the DRB and reviewing authority, if any, and the issues addressed in the statement of findings, conclusions and reasons.

(2) The index shall be maintained at selected permanent locations throughout the United States. This ensures reasonable availability to applicants at least 30 days before a regional board review. The index shall also be made available at sites selected for regional Boards for such periods as the DRB is present and in operation. An applicant who has requested a regional board review shall be advised in the notice of scheduled hearings.

(3) The Armed Forces Discharge Review/Correction Board Reading Room shall publish indexes quarterly for the DRB. The DRB shall be responsible for timely submission to the Reading Room of individual case information required for update of indexes. These indexes shall be available for public inspection or purchase (or both) at the Reading Room. This information will be provided to applicants in the notice of acceptance of the application.

(4) Correspondence relating to matters under the cognizance of the Reading Room (including request for purchase of indexes) shall be addressed to:

DA Military Review Board Agency,
Attention: SFBA (Reading Room), Room 1E520, The Pentagon, Washington DC 20310

§ 865.119 Privacy Act information.

Information protected under the Privacy Act is involved in discharge review functions. The provisions of 32 CFR 286a will be observed throughout the processing of a request for review of discharge or dismissal.

§ 865.120 Discharge review standards.

(a) *Objective of Review.* The objective of a discharge review is to examine the propriety and equity of the applicant's discharge and to effect changes, if necessary. The standards of review and the underlying factors which aid in determining whether the standards are met shall be historically consistent with criteria for determining honorable service. No factors shall be established which require automatic change or denial of a change in a discharge. Neither the DRB nor the Secretary of the Air Force shall be bound by any methodology of weighing of the factors in reaching a determination. In each case, the DRB or Secretary of the Air Force shall give full, fair, and impartial consideration to all applicable factors prior to reaching a decision. An applicant may not receive a less favorable discharge than that issued at the time of separation. This does not preclude correction of clerical errors.

(b) *Propriety.* A discharge shall be deemed to be proper unless in the course of discharge review, it is determined that:

(1) There exists an error of fact, law, procedures, or discretion associated with the discharge at the time of issuance; and that the rights of the applicant were prejudiced thereby (such error shall constitute prejudicial error, if there is substantial doubt that the discharge would have remained the same if the error had not been made); or

(2) A change in policy by the Air Force made expressly retroactive to the type of discharge under consideration, requires a change in the discharge.

(c) When a record associated with the discharge at the time of issuance involves a matter in which the primary responsibility for corrective action rests with another organization (for example, another Board, agency, or court), the DRB will recognize an error only to the extent that the error has been corrected by the organization with primary responsibility for correcting the record.

(d) The primary function of the DRB is to exercise its discretion on issues of equity by reviewing the individual merits of each application on a case-by-case basis. Prior decisions in which the DRB exercised its discretion to change a discharge based on issues of equity (including the factors cited in such decisions or the weight given to factors in such decisions) do not blind the DRB in its review of subsequent cases because no two cases present the same issues of equity.

(e) The following applies to applicants who received less than fully honorable administrative discharges because of their civilian misconduct while in an inactive reserve component and who were discharged or had their discharge reviewed on or after April 20, 1971: the DRB shall either recharacterize the discharge to honorable without any additional proceedings or additional proceedings shall be conducted in accordance with the Court's Order of December 3, 1981, in Wood v. Secretary of Defense to determine whether proper grounds exist for the issuance of a less than honorable discharge, taking into account that:

(1) An Under Other Than Honorable (formerly Undesirable) Discharge for an inactive reservist can only be based upon civilian misconduct found to have affected directly the performance of military duties;

(2) A General Discharge for an inactive reservist can only be based upon civilian misconduct found to have had an adverse impact on the overall effectiveness of the military, including military morale and efficiency.

(f) The following applies to applicants who received less than fully honorable administrative discharges (between June 21, 1971 and March 2, 1982) because evidence developed by or as a direct result of complusory urinalysis testing was introduced in the discharge proceedings. Applicants who believe they are members of the above category will so indicate this by writing "CATEGORY W" in block 7 of their DD Form 293. AFMPC/MPCDOA1 will expedite processing these applications to the designated "CATEGORY W" reviewer. For class members the designated reviewer shall either recharacterize the discharge to honorable without any additional proceedings or complete a review to determine whether proper ground exists for the issuance of a less than honorable discharge. If the applicant is determined not to be a class member, the application is returned to normal review procedure channels. If new administrative proceedings are initiated, the former service member must be notified of:

(1) The basis of separation other than drug abuse or use or possession of drugs based upon compelled urinalysis that was specified in the commander's report and upon which the Air Force now seeks to base a less than honorable discharge.

(2) The full complement of procedural protections that are required by current regulations.

(3) Name, address and telephone number of an Area Defense Counsel with whom the former service member has a right to consult, and

(4) The right to participate in the new proceedings to be conducted at the Air Force base nearest the former service member's current address, or to elect to maintain his or her present character of discharge.

(g) *Equity.* A discharge shall be deemed to be equitable unless:

(1) In the course of a discharge review, it is determined that the policies and procedures under which the applicant was discharged differ in material respects from policies and procedures currently applicable on a service-wide basis to discharges of the type under consideration provided that:

(i) Current policies or procedures represent a substantial enhancement of the rights afforded an applicant in such proceedings; and

(ii) There is substantial doubt that the applicant would have received the same discharge if relevant current policies and procedures had been available to the applicant at the time of the discharge proceedings under consideration.

(2) At the time of issuance, the discharge was inconsistent with standards of discipline in the Air Force; or

(3) In the course of a discharge review, it is determined that a change is warranted based upon consideration of the applicant's military record and other evidence presented to the DRB viewed in conjunction with the factors listed in this section and the regulations under which the applicant was discharged, even though the discharge was determined to have been otherwise equitable and proper at the time of issuance. Areas of consideration include, but are not limited to:

(i) Quality of Service, as evidenced by factors such as:

(A) Service History, including date of enlistment, period of enlistment, highest rank achieved, conduct or efficiency ratings (numerical or narrative).

(B) Awards and decorations.

(C) Letters of commendation or reprimand.

(D) Combat service.

(E) Wounds received in action.

(F) Record of promotions and demotions.

(G) Level of responsibility at which the applicant served.

(H) Other acts of merit that may not have resulted in a formal recognition through an award or commendation.

(I) Length of service during the period which is the subject of the discharge review.

(J) Prior military service and type of discharge received or outstanding post-service conduct to the extent that such matters provide a basis for a more thorough understanding of the performance of the applicant during the period of service which is the subject of the discharge review.

(K) Convictions by court-martial.

(L) Record of non-judicial punishment.

(M) Convictions by civil authorities while a member of the Air Force, reflected in the discharge proceedings or otherwise noted in military records.

(N) Record of periods of unauthorized absence.

(O) Records relating to a discharge in lieu of court-martial.

(ii) Capability to Serve, as evidenced by factors such as:

(A) Total Capabilities. This includes an evaluation of matters such as age, educational level, and aptitude scores. Consideration may also be given to whether the individual met normal military standards of acceptability for military service and similar indicators of an individual's ability to serve satisfactorily, as well as ability to adjust to the military service.

(B) Family/Personal Problems. This includes matters in extenuation or mitigation of the reason for discharge that may have affected the applicant's ability to serve satisfactorily.

(C) Arbitrary or Capricious Actions. This includes actions by individuals in authority which constitute a clear abuse of such authority and which, although not amounting to prejudicial error, may have contributed to the decision to discharge or to the characterization of service.

(D) Discrimination. This includes unauthorized acts as documented by records or other evidence.

§ 865.121 Complaints concerning decisional documents and index entries.

Former members of the Air Force or their counsel or representative may submit complaints with respect to the decisional document issued in the former member's case.

(a) All complaints should be processed in accordance with 32 CFR Part 70 and should be forwarded to:

Assistant Secretary of Defense, Manpower, Reserve Affairs and Logistics, The Pentagon, Washington, D.C. 20331

(b) The Air Force Discharge Review Board will respond to all complaints in accordance with 32 CFR Part 70.

§ 865.122 Summary of statistics for Discharge Review Board.

The Air Force Discharge Review Board shall prepare and provide to the Deputy Assistant Secretary of Defense (Military Personnel and Force Management) DASD(MP&FM), Office of the ASD(MRA&L), a semiannual report of discharge review actions in accordance with § 865.125.

§ 865.123 Approval of exceptions to directive.

Only the Secretary of the Air Force may authorize or approve a waiver of, or exception to, any part of this subpart.

§ 865.124 Procedures for regional hearings.

Composition of the board for these hearings consists of three members from Washington with augmentation by two

members from nearby local Air Force resources. The nearest Air Force installation or Air Force Reserve Unit is tasked to provide two officers to serve as members of the DRB. Active duty members will serve on the board as an additional duty. Reserve members will be on a temporary tour of active duty (TTAD) for the duration of the hearings. Detailed information must be provided to the individuals selected to serve before each hearing date. The administrative staff in Washington processes all cases for regional hearings, establishes hearing dates, and returns the records to the Manpower and Personnel Center at Randolph AFB, Texas, when the case is finalized.

§ 865.125 Report requirement.

Semi-annual reports will be submitted by the 20th day of April and October for the preceding 6-month reporting period (1 October through 31 March and 1 April through 30 September). The reporting period will be inclusive from the first through the last days of each reporting period. The report will contain four parts:

(a) Part 1—Regular Cases are all those that are not included in Part 2 below.

(b) Part 2—Other cases include the following:

(1) Reconsideration of President Ford's memorandum of 19 January 1977.

(2) Special Discharge Review Program cases.

(3) Statutes of Limitation Cases—those heard under Public Law 95–126 by waiver of 10 U.S.C. 1553.

(c) Part 3—Total—combine parts 1 and 2.

(d) Part 4—Cases outstanding include all those eligible cases in which a DD Form 293 has been received but has not been heard by the Discharge Review Board as the reporting date for this report. Reports will be prepared by the Air Force Discharge Review Board and submitted to the Army Discharge Review Board (executive agent for DRB matters).

§ 865.126 Sample report format.

SUMMARY OF STATISTICS FOR AIR FORCE DISCHARGE REVIEW BOARD

RCS: DD-M(SA) 1489

[FY ——]

[————————]

	Record review		Hearing		Total	
	Applied	Number approved	Applied	Number approved	Applied	Number approved

Part 1 Regular Cases.
Part 2 Other.
Part 3 Total.
Part 4 Cases Outstanding.

NOTE.—Identify numbers separately for regional DRB hearings. Use of additional footnotes to clarify or amplify the statistic being reported is encouraged.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-22476 Filed 8-17-83; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD1-83-05]

Special Local Regulations; Peaks Island to Portland Swim

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Peaks Island to Portland Swim. This event will be held on August 27, 1983 at 9:30 a.m. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations become effective at 9:30 a.m., August 27, 1983 and terminate at 1:30 p.m., August 27, 1983.

FOR FURTHER INFORMATION CONTACT: LT. Michael J. Chaplain, USCG. Chief, Boating Standards/Affairs Branch (bc), Room 1102, First Coast Guard District, 150 Causeway Street, Boston, MA 02114 (617) 223-3607.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold the event was not received until July 26, 1983, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are LT M. J. Chaplain, USCG, project officer, First Coast Guard District Boating Standards/Affairs Branch and LCDR S. C. Ploszaj, project attorney, First Coast Guard District Legal Office.

Discussion of Regulations

The participants in this marine event, sponsored by the Portland, Maine YMCA, include approximately 100 swimmers, each accompanied by a small rowboat. The participants enter the water at Peaks Island, Portland Harbor, and swim to East End Beach, Portland. The purpose of this regulation is to augment the safety precautions taken by the sponsor to insure the safety of the swimmers and escort rowboats involved in this event. Severe injury to swimmers by boats in the area and swamping the small escort rowboats by wakes generated by power driven vessels in the area of this event constitute the primary threats to participants. This regulation limits the distance to which non-participating vessels may approach participants and limits the speed at which vessels may pass through the area of this marine event in order to provide for the safety of life on navigable waters during this marine event.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35-1-05 to read as follows:

§ 100.35-1-05 Peaks Island to Portland Swim.

(a) *Regulated Area:* All areas within 300 yards of a line drawn from the Ferry Wharf, located on the southwest side of Peaks Island, Portland Harbor, to Diamond Island Ledge Light 6, Portland Harbor, thence to Pomroy Rock, located off East End Beach, Portland, Maine.

(b) *Special Local Regulations.* All vessels operating in this area in the vicinity of participants in this event shall:

(1) Approach no closer than 200 yards from any participant in this event. Participants will be swimming from Peaks Island, Portland Harbor, to East End Beach, Portland, Maine. Each swimmer will be accompanied by a rowboat.

(2) Observe a maximum speed limit of five (5) knots, or "No Wake Speed", whichever is less.

(3) Exercise extreme caution when operating in this area.

(46 U.S.C. 454; 49 U.S.C. 1655(b); 49 CFR 1.46(b); and 33 CFR 100.35)

Dated: August 9, 1983.

R. A. Bauman,

RADM, USCG, First Coast Guard District.

[FR Doc. 83-22674 Filed 8-17-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD1-83-06]

Special Local Regulations; Boston Light Swim

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the BOSTON LIGHT SWIM. This event will be held on September 10, 1983 at 8:30 a.m. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations become effective at 8:30 a.m., September 10, 1983 and terminate at 1:00 p.m., September 10, 1983.

FOR FURTHER INFORMATION CONTACT: LT Michael J. Chaplain, USCG, Chief, Boating Standards/Affairs Branch (bc), Room 1102, First Coast Guard District, 150 Causeway Street, Boston, MA 02114 (617) 223-3607.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. Following normal rule making procedures would have been impracticable. The application to hold the event was not received until July 20, 1983, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are LT M. J. Chaplain, USCG, project officer, First Coast Guard District Boating Standards/Affairs Branch and LCDR S. C. Ploszaj, project attorney, First Coast Guard District Legal Office.

Discussion of Regulations

The participants in this marine event, sponsored by the New England Marathon Swimming Association, Inc., include approximately 15 swimmers, each accompanied by a power driven escort boat ranging from 12' to 32' in length. The participants begin the event at Buoy N"2", Nantasket Roads, Boston Harbor, and swim to the L-Street Bathhouse/Beach complex, South Boston, Massachusetts, passing under the Moonhead-Long Island Bridge. The purpose of this regulation is to augment the safety precautions taken by the sponsor to insure the safety of the swimmers and escort boats involved in this event. Severe injury to swimmers by boats in the area and swamping the smaller escort boats by wakes generated by power driven vessels in the area of this event constitute the primary threats to participants. This regulation limits the distance to which non-participating vessels may approach participants and limits the speed at which vessels may pass through the area of this marine event in order to provide for the safety of life on navigable waters during this marine event.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35-1-06 to read as follows:

§ 100.35-1-06 Boston Light Swim.

(a) *Regulated Area.* All areas within 300 yards of a line drawn from Buoy N"2", Nantasket Roads, Boston Harbor, thence to the southernmost point of Georges Island, Nantasket Roads, thence to the northernmost point of Rainsford Island, Nantasket Roads, thence to the right stanchion of the Moonhead-Long Island Bridge, thence to the northern tangent to Thompson Island, thence to the L-Street Bathhouse/Beach complex, Old Harbor, South Boston, Massachusetts.

(b) *Special Local Regulations.* All vessels operating in this area in the vicinity of participants in this event shall:

(1) Approach no closer than 200 yards from any participant in this event. Participants will be swimming from Buoy N"2", Nantasket Roads, Boston Harbor to the L-Street Bathhouse/Beach complex, South Boston, Massachusetts. Each swimmer will be accompanied by a power driven escort boat.

(2) Observe a maximum speed limit of five (5) knots, or "No Wake Speed", whichever is less.

(3) Exercise extreme caution when operating in this area.

(46 U.S.C. 454; 49 U.S.C. 1655(b); 49 CFR 1.46(b); and 33 CFR 100.35)

Dated: August 2, 1983.

R. A. Bauman,

RADM, USCG, First Coast Guard District.

[FR Doc. 83-22673 Filed 8-17-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD3-83-36]

Special Local Regulations; Jack Baker's Lobster Shanty, Barnegat Bay, NJ

AGENCY: Cost Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the Jack Baker's Lobster Shanty 100 and 50. This powerboat race will be held on August 27, 1983 on Barnegat Bay in Toms River, New Jersey. This regulation is needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: This regulation becomes effective on August 27, 1983 at 9:00 a.m. and terminates the same day at 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: LTJG D.R. CILLEY, (212) 668-7974.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for this regulation and it is being made effective in less than 30 days from the date of publication. The Third Coast Guard District afforded interested parties an opportunity to comment on this event. A letter dated April 25, 1983 soliciting comments was sent to nearly 50 people including local government officials and parties who had commented adversely on last year's event. A copy of the sponsor's application along with a copy of the proposed race course was attached to this letter. Four letters were received before the July 15, 1983 deadline. These comments will be discussed later in this regulation. There was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are LTJG D.R. CILLEY, Project Officer and Ms. MaryAnn ARISMAN, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulations

The Jack Baker's Lobster Shanty is sponsored by the Barnegat Bay Power Boat Racing Association of Toms River, NJ. This powerboat race event will be held on Barnegat Bay on August 27,

1983. This event is well known to the residents of the communities surrounding Tom's River and Barnegat Bay. Last year's event was held in Tom's River in an effort to bring the event closer to the people and to better control the spectator craft in a smaller area. The event is being moved back out into Barnegat Bay at the request of local authorities and the sponsor. There will be two (2) races, a 50 mile club race and a 100 mile American Power Boat Association sanctioned race. Between 45–60 powerboats will compete during the day reaching speeds of 65–80 mph. The race course has been simplified this year by eliminating a dog leg turn and by reducing the course from approximately 17 to 12 miles in length. The new oval track has been laid out so that there should be little or no interference with vessel traffic in the Intercoastal Waterway (I.C.W.). Access to and from any section of Tom's River and Barnegat Bay will not be restricted. The sponsor is providing in excess of 40 patrol vessels in conjunction with Coast Guard and local resources to patrol this event. In order to provide for the safety of life and property, the Coast Guard will restrict vessel movement in the race course area and will establish special anchorages for what is expected to be a large spectator fleet. Mariners are urged to use extreme caution where transiting the area due to the large numbers of spectators, and should adhere closely to the charted Intercoastal Waterway.

Discussion of Comments

In response to our letter of April 25, 1983 several important considerations were brought forth which have been incorporated within this regulation and the Coast Guard permit. Most parties were pleased to hear the event would be returned to Barnegat Bay. Although last year's event was run very safely in Tom's River, the intermittent closing of this area to general navigation was a major complaint of most people who had written to us about this event. Several parties mentioned that the event would economically hurt the region. Based on the large numbers of people who come to view this event this argument doesn't seem to be accurate. Two letters suggested the event be rescheduled to occur later in the year. This has been considered by the sponsors. However, because this is just one race in a summer series of powerboat races being held around the country, the event date could not be changed without causing major problems for the sponsors of other similar events. The importance of ensuring that the I.C.W. was not blocked was mentioned. The positioning of the race course and spectator areas were designed with this in mind. One comment was received pertaining to the orderly movement of powerboats from the staging/pit area at Lighthouse Marina to the race course. The main concern was with minimizing damage which might result from transiting powerboats. The Coast Guard has discussed this with the sponsor. He is aware of these problems and will work with all parties to ensure no damage occurs. One party commented that at this time of the year many boaters were using the bay for numerous reasons and to hold a powerboat race would not be in the best interest for the public safety and welfare. The entire boating season is available for all users of our nation's waters. To forbid the sponsor from holding his event would deprive him of fair and free access to all users of Barnegat Bay. The Coast Guard will issue a Safety Voice Broadcast and this regulation will be published in the Local Notice to Mariners to advise the general public of this event.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary section 100.35–308 to read as follows:

§ 100.35–308 Jack Baker's Lobster Shanty, Barnegat Bay, N.J.

(a) *Regulated Area.* Barnegat Bay, New Jersey in the area bounded by 39° 55′ on the north 39°50′ on the south, the Intercoastal Waterway I.C.W. on the west and Island Beach on the east, together with all navigable waters connecting with this area.

(b) *Effective Period.* This regulation will be effective from 9:00 a.m. to 4:00 p.m. on August 27, 1983. In case of postponement, the raindate will be August 28, 1983 and this regulation will be in effect for the same time period.

(c) *Special Local Regulations.* (1) All persons or vessels not registered with sponsor as participants or not part of the regatta patrol are considered spectators.

(2) No spectator or press boats shall be allowed out onto or across the race course without Coast Guard escort.

(3) The sponsor shall anchor race committee boats on each turn. Checkpoints shall be positioned so that race participants will pass no closer than 200 feet from the I.C.W. A line of committee boats shall be positioned to separate the race course from the I.C.W.

(4) Spectator vessels must be at anchor within a designated spectator area or moored to a waterfront facility within the regulated area in such a way that they shall not interfere with mariners transiting the Intercoastal Waterway. The spectator fleet shall be held behind buoys or committee boats provided by the sponsor in the following areas:

(i) Between the race course and the ICW in the area to the west of the race course.

(ii) Between the race course and Island Beach State Park in the area north of Tices Shoal.

(5) All persons and vessels shall comply with instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(46 U.S.C. 454; 49 U.S.C. 1655(b); 49 CFR 1.46(b); and 33 CFR 100.35)

Dated: July 27, 1983.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard Commander, Third Coast Guard District.

[FR Doc. 83–22665 Filed 8–17–83; 8:45 am]

BILLING CODE 4910–14–M

VETERANS ADMINISTRATION

38 CFR Part 17

Health Professional Scholarship Program

AGENCY: Veterans Administration.

ACTION: Final Regulation Amendments.

SUMMARY: The Veterans Administration Health Care Amendments of 1980, Pub. L. 96–330, established the Veterans Administration Health Professional Scholarship Program. Under that law, the VA was authorized to award scholarships only to students attending school full-time. Section 3 of Pub. L. 97–251, Veterans Administration Health-Care Programs Improvement and Extention Act of 1982, amended the law to authorize the VA to award scholarships to full-time VA employees working in VA health care facilities, who will attend school part-time. These amendments to VA medical regulations will implement provisions of section 3 of Pub. L. 97–251.

EFFECTIVE DATE: These regulation amendments are effective August 3, 1983.

FOR FURTHER INFORMATION CONTACT: Dorothy E. Reese, Director, VA Health Professional Scholarship Program (14N), Department of Medicine and Surgery, Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389–5071.

SUPPLEMENTARY INFORMATION: Proposed regulation amendments to part 17, title 38, Code of Federal Regulations were published on pages 17619 to 17621 of the **Federal Register** of April 25, 1983 to implement provisions of Pub. L. 97–251, sec. 3. Interested persons were given 30 days to submit comments, suggestions or objections. No comments were received, therefore the proposed amendments as published will be adopted as final without change.

Executive Order 12291

The Administrator has determined that these amendments are nonmajor as that term is defined by Executive Order 12291, Federal Regulation. The amendments will apply to individuals seeking benefits of the program. The amendments will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumer, individual industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment investment, productivity, innovation, or on the ability of United States-based enterprise to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility

The Administrator has certified that these amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these amendments are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that these amendments will, almost exclusively, be directed to individuals who wish to apply for assistance from the VA Health Professional Scholarship Program. They will, therefore, have no significant direct impact on small entities (i.e., small business, small private and non-profit organizations, and small governmental jurisdictions.)

Paperwork Reduction Act

Information collection requirements contained in these regulations (38 CFR 17.600 through 17.612) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980, Public Law 96–511, and have been assigned OMB control number 2900–0352.

The Catalog of Federal Domestic Assistance number for this program is 64.023.

List of Subjects in 38 CFR Part 17

Alcoholism, claims, dental health, drug abuse, foreign relations, government contracts, grants programs—health, health care, health facilities, health professions, medical devices, medical research, mental health programs, nursing homes, Philippines, veterans.

Approved: August 3, 1983.

By direction of the Administrator:

Everett Alvarez, Jr.,

Deputy Administrator.

PART 17—[AMENDED]

38 CFR Part 17, Medical, is amended as follows:

§ 17.600 [Amended]

1. Section 17.600 is amended by inserting the phrase ", as amended by Pub. L. 97–251" after the number "4146)".

2. In § 17.601, paragraph (b) is amended by adding after the number "4146", the phrase: ", as amended by Pub. L. 97–251, the Veterans' Administration Health-Care Programs Improvement and Extension Act of 1982"; paragraph (h) is amended by deleting the word "clinical" and inserting the word "nursing"; paragraph (j) is amended by deleting the words ", supplies, required fees and required educational equipment" and inserting the words "and laboratory equipment"; and the following new paragraphs (r), (s), (t), and (u) are added to read as follows:

§ 17.601 Definitions.

* * * * *

(r) "Part-time student" means an individual who is a VA employee permanently assigned to a VA health care facility who has been accepted for enrollment or enrolled for study leading to a degree in medicine, osteopathy or nursing on a less than full-time but not less than half-time basis.

(s) "Veterans Administration employee" means an individual employed and permanently assigned to a VA health care facility.

(t) "Degree completion date" means the date on which a participant completes all requirements of the degree program.

(u) "VA health care facility" means Veterans Administration medical centers, medical and regional office centers, domiciliaries, independent outpatient clinics, and outpatient clinics in regional offices. (38 U.S.C. 4142(j))

3. In § 17.602, paragraph (b) is redesignated as paragraph (c) and revised and a new paragraph (b) is added so that the added and revised material reads as follows:

§ 17.602 Eligibility.

* * * * *

(b) To be eligible for a scholarship as a part-time student under this program, an applicant must satisfy requirements of paragraph (a) of this section and in addition must—

(1) Be a full-time VA employee permanently assigned to a VA health care facility at the time of application and on the date when the scholarship is awarded;

(2) Remain a VA employee for the duration of the scholarship award. (38 U.S.C. 4142(g)(1))

(c) Any applicant who, at the time of application, owes a service obligation to any other entity to perform service after completion of the course of study is ineligible to receive a scholarship under the Veterans Administration Scholarship Program. (38 U.S.C. 4142(a)(4))

§ 17.603 [Amended]

4. Section 17.603 is amended by adding the following sentence to the end of that section: "The Administrator has the authority to determine the number of scholarships to be awarded in any fiscal year, and the number that will be awarded to full-time and part-time students."; and by adding "and (d)(1)" after "(c)(2)" in the authority citation.

5. Section 17.605 is revised to read as follows:

§ 17.605 Selection of participants.

(a) *General.* In deciding which Scholarship Program applications will be approved by the Administrator, priority will be given to applicants who previously received scholarship awards and who meet the conditions of paragraph (d) of this section. Except for continuation awards (see paragraph (d) of this section) applicants will be evaluated under the criteria specified in paragraph (b) of this section. A situation may occur in which there are a larger number of equally qualified applicants than there are awards to be made. In such cases, a random method may be used as the basis for selection. In selecting participants to receive awards as part-time students, the Administrator may, at his/her discretion—

(1) Award scholarships geographically to part-time students so that available scholarships may be distributed on a

relatively equal basis to students working throughout the VA health care system, and/or

(2) Award scholarships on the basis of retention needs within the VA health care system. (38 U.S.C. 4142(c)(1))

(b) *Selection.* In evaluating and selecting participants, the Administrator will take into consideration those factors determined necessary to assure effective participation in the Scholarship Program. The factors may include, but not be limited to—

(1) Work experience, including prior health care employment and VA employment;

(2) Faculty and employer recommendations;

(3) Academic performance; and

(4) Career goals. (38 U.S.C. 4142(i))

(c) *Selection of part-time students.* Factors in addition to those specified in paragraph (b) of this section, which may be considered in awarding scholarships to part-time students may include, but are not limited to:

(1) Length of service of a VA employee in a health care facility;

(2) Honors and awards received from the VA, and other sources;

(3) VA work performance evaluation;

(4) A recommendation for selection for a part-time scholarship from a VA Medical District. (38 U.S.C. 4142(d)(1))

(d) *Duration of scholarship award.* Subject to the availability of funds for the Scholarship Program, the Administrator will award a participant a full-time scholarship under these regulations for a period of from 1 to 4 school years and a participant of a part-time scholarship for a period of 1 to 6 school years. (38 U.S.C. 4142(e)(1)(A) and (g)(3); 4146)

(e) *Continuation awards.* Subject to the availability of funds for the Scholarship Program and selection, the Administrator will award a continuation scholarship for completion of the degree for which the scholarship was awarded if—

(1) The award will not extend the total period of Scholarship Program support beyond 4 years for a full-time scholarship, and beyond 6 years for a part-time scholarship; and

(2) The participant remains eligible for continued participation in the Scholarship Program. (38 U.S.C. 4142(c)(1)(i))

6. Section 17.606 is revised to read as follows:

§ 17.606 Award procedures.

(a) *Amount of scholarship.*—(1) A scholarship award will consist of (i) tuition and required fees, (ii) other educational expenses, including books and laboratory equipment, and (iii) except as provided in paragraph (a)(2) of this section, a monthly stipend, for the duration of the scholarship award. All such payments to scholarship participants are exempt from Federal taxation. (38 U.S.C. 4145)

(2) No stipend may be paid to a participant who is a full-time VA employee.

(3) The Administrator may determine the amount of the stipend paid to participants, whether part-time students or full-time students, but that amount may not exceed the maximum amount provided for in 38 U.S.C. 4142(f)(1)(B).

(4) In the case of a part-time student who is a part-time employee, the maximum stipend, if more than a nominal stipend is paid, will be reduced in accordance with the proportion that the number of credit hours carried by such participant bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant.

(5) A full stipend may be paid only for the months the part-time student is attending classes. (38 U.S.C. 4142(g)(2)(A))

(6) The Administrator may make arrangements with the school in which the participant is enrolled for the direct payment of the amount of tuition and/or reasonable educational expenses on the participant's behalf. (38 U.S.C. 4142(f)(1) and (2); 4145)

(b) *Leave-of-absence, repeated course work.* The Administrator will suspend scholarship payments to or on behalf of a participant if the school (1) approves a leave-of-absence for the participant for health, personal, or other reasons, or (2) requires the participant to repeat course work for which the Administrator previously has made payments under the Scholarship Program. Additional costs relating to the repeated course work will not be paid under this program. Any scholarship payments suspended under this section will be resumed by the Administrator upon notification by the school that the participant has returned from the leave-of-absense or has satisfactorily completed the repeated course work and is proceeding as a full-time student in the course of study for which the scholarship was awarded. (38 U.S.C. 4142(i))

7. In § 17.607, paragraphs (b) and (c) are revised, paragraph (d) is redesignated as (e) and a new paragraph (d) is added; paragraph (e) is redesignated as (f); and the title of new paragraph (e) is changed from "Service by detail." to "Service in another Federal agency or the Armed Forces." Revised and added paragraphs (b), (c) and (d) read as follows:

§ 17.607 Obligated service.

* * * * *

(b) *Beginning of service.*—(1) Except as provided in paragraph (b)(2) of this section, a participant's obligated service shall begin on the date the Administrator appoints the participant as a full-time VA employee in the VA's Department of Medicine and Surgery in a position for which the degree program prepared the participant. The Administrator shall appoint the participant to such position within 60 days after the participant's degree completion date, or the date the participant becomes licensed in a State to practice nursing, medicine, or osteopathy, whichever is later. At least 60 days prior to the appointment date, the Administrator shall notify the participant of the work assignment, its location, and the date he or she must begin work.

(2) Obligated service shall begin on the degree completion date for a participant who, on that date, is a full-time VA employee working in a capacity for which the degree program prepared the participant. (38 U.S.C. 4143 (b) and (c))

(c) *Duration of service.* The period of obligated service for a participant who attended school as a full-time student shall be one year for each school year for which the participant received a scholarship award under these regulations, or two years, whichever is greater. The period of obligated service for a participant who attended school as a part-time student shall be reduced from that which a full-time student must serve in accordance with the proportion that the number of credit hours carried by the part-time student in any school year bears to the number of credit hours required to be carried by a full-time student, whichever is the greater, but shall be a minimum of one year of full-time employment. (38 U.S.C. 4142(e)(1)(B)(iv))

(d) *Location for service.* A participant who received a scholarship as a part-time student may serve the period of obligated service at the health care facility where the individual was assigned when the scholarship was awarded. (38 U.S.C. 4143(c)(1)(A) and (B))

* * * * *

8. In § 17.610, paragraph (b) is revised to read as follows:

§ 17.610 Failure to comply with terms and conditions of participation.

* * * * *

(b) If a participant:

(1) Fails to maintain an acceptable level of academic standing;

(2) Is dismissed from the school for disciplinary reasons;

(3) Voluntarily terminates the course of study or program for which the scholarship was awarded including in the case of a full-time student, a reduction of course load from full-time to part-time before completing the course of study or program;

(4) Fails to become licensed to practice medicine or osteopathy in a state or fails to become licensed as a registered nurse in a State within one year from the date such person becomes eligible to apply for State licensure; or

(5) Is a part-time student and fails to maintain employment in a permanent assignment in a VA health care facility while enrolled in the course of training being pursued; the participant must instead of performing any service obligation, pay to the United States an amount equal to all scholarship funds awarded under the written contract executed in accordance with § 17.602. Payment of this amount must be made within 1 year from the date academic training terminates unless a longer period is necessary to avoid hardship. No interest will be charged on any part of this indebtedness. (38 U.S.C. 4144(b))

* * * * *

[FR Doc. 83-22675 Filed 8-17-83; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL 2417-6; EPA Docket No.-AW400DC]

Approval and Promulgation of Implementation Plans; Approval of the District of Columbia; State Implementation Plan Controlling Lead Emissions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The District of Columbia submitted a State Implementation Plan (SIP) for the control of lead emissions. The plan submitted by the District provides for maintenance of the national ambient air quality standards (NAAQS) for lead, including control of lead emissions from new stationary sources. This SIP also contains descriptions of the current lead emissions inventory and monitoring network. EPA approves the District's lead SIP, as the plan meets all of the necessary requirements of the Clean Air Act and 40 CFR Part 51.

EFFECTIVE DATE: September 19, 1983.

ADDRESSES: You may inspect copies of the submittal and EPA's evaluation during normal business hours at:

U.S. Environmental Protection Agency, Region III, Air Management Branch (3WA13), Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, Attn: Mr. Harold A. Frankford

District of Columbia Department of Environmental Services, 5010 Overlook Avenue, SW., Washington, D.C. 20032, Attn: Mr. V. Ramadass

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

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at the above listed Region III address (telephone no. 215/597-8392) Ref: AW400 DC.

SUPPLEMENTARY INFORMATION: On October 7, 1982, the District of Columbia (DC) submitted to EPA a State Implementation Plan (SIP) for maintaining the national ambient air quality standard (NAAQS) for lead (Pb). The DC lead SIP contains a statement that the national ambient air quality standard (NAAQS) for lead (1.5 micrograms per cubic meter (ug/m^3) averaged over a calendar quarter) has been attained as of October, 1982. The District ceritifed that a public hearing on this SIP was held on August 24, 1982, as required by 40 CFR 51.4.

The District of Columbia's lead SIP contains the following elements:

(1) A description of the District's ambient air lead monitoring network.

(2) Ambient air quality data for the years 1976 through 1981 (24 quarters).

(3) An emission inventory for lead.

(4) A modeling analysis which demonstrates attainment of the lead standard by 1982.

(5) D.C. Regulation 8-2:720 which covers permits for new major stationary sources for lead emissions.

The District of Columbia's lead SIP is described in more detail in a notice of proposed rulemaking published on April 5, 1983, 48 FR 14661. At that time EPA proposed to approve this SIP. During the 30-day public comment period following publication, no comments were received.

EPA Evaluation/Actions

EPA approves the District of Columbia Lead SIP, as the major elements of the D.C. lead SIP meet all of the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51. Nevertheless, two aspects of the SIP will require follow-up action. First, the District has included its motor vehicle inspection and maintenance (I/M) program as a control strategy for controlling lead emissions. However, the District has not quantified the lead emissions reduction benefits of this strategy, nor has it been approved as part of the District's 1982 carbon monoxide/ozone SIP revision. Therefore, EPA is taking no action on including I/M as a lead control strategy at this time.

Second, the District has installed two lead monitoring sites that are considered to be acceptable National Air Monitoring Station (NAMS) sites. One is a neighborhood site, located at Kenilworth Avenue, N.E., and I-295: the other is a middle scale site, located at the Chevy Chase Library. In a future action, the District will be required to formally revise its SIP to include these sites as NAMS sites.

In conjunction with the Administrator's approval action, 40 CFR 52.470 (Identification of Plan) of Subpart J (District of Columbia) is amended by adding paragraph (c)(22) to incorporate the District's lead SIP into the approved District of Columbia SIP.

General

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

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

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401-7642.

Dated: August 11, 1983.

William D. Ruckelshaus,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the District of Columbia was approved by the Director of the Federal Register on July 1, 1982.

PART 52—[AMENDED]

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

Subpart J—District of Columbia

1. In § 52.470, paragraph (c)(22) is added to read as follows:

§ 52.470 Identification of plan.

* * * * *

(c) * * *

(22) The Washington, D.C. Implementation Plan for maintaining the National Ambient Air Quality Standard for Lead submitted on October 7, 1982 by the Mayor.

[FR Doc. 83-22808 Filed 8-17-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[A-9-FRL 2417-5]

Hawaii State Implementation Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve changes to the Hawaii Department of Health Services (HDHS) rules and regulations for air pollution control submitted by the Director of the HDHS as revisions to the Hawaii State Implementation Plan (SIP). These revisions are administrative and retain the previous emission control requirements. EPA reviewed these rules with respect to the Clean Air Act and determined that they should be approved.

DATE: This action is effective October 17, 1983.

ADDRESSES: A copy of the revisions is available for public inspection during normal business hours at the EPA Region 9 office and at the following locations:

Public Information Reference Unit, Environmental Protection Agency, Library, 401 M Street SW., Room 2404, Washington, D.C. 20460

Library, Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air Programs Branch, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-7641.

SUPPLEMENTARY INFORMATION: On December 20, 1982, the HDHS submitted Title 11, Chapter 60, "Air Pollution Control" to EPA as a SIP revision. This revision represents a recodification of the previously approved "Public Health Regulations," Chapter 43, "Air Pollution Control." The revised rules are as follows:

Sec.
11-60-01 Definitions.
11-60-02 Permit system, applicability.
11-60-03 Permit system, applications.
11-60-04 Permit system, conditions for considering applications.
11-60-05 Permit system, action on application.
11-60-06 Permit system, performance testing.
11-60-07 Permit system, cancellation of authority to construct.
11-60-08 Permit system, suspension or revocation of permit to operate.
11-60-09 Permit system, transfer of permit to operate.
11-60-10 Permit system, reporting discontinuance or dismantlement.
11-60-11 Permit system, posting of permit to operate.
11-60-12 Permit system, fees.
11-60-13 Permit system, fee schedule for a permit to operate.
11-60-14 Permit system, period of permit.
11-60-15 Sampling, testing, and reporting methods.
11-60-16 Malfunction of equipment reporting.
11-60-17 Prohibition of air pollution.
11-60-18 Control of open burning.
11-60-19 Agricultural burning, permit requirement.
11-60-20 Agricultural burning, applications.
11-60-21 Agricultural burning, "no-burn" days.
11-60-22 Agricultural burning, record keeping and monitoring.
11-60-23 Agricultural burning, action on application.
11-60-24 Visible emissions.
11-60-25 Control of motor vehicles.
11-60-26 Fugitive dust.
11-60-27 Incineration.
11-60-28 Bagasse-burning boilers.
11-60-29 Process industries.
11-60-35 Prevention of air pollution emergency episodes.
11-60-36 Variances.
11-60-37 Penalties and remedies.
11-60-38 Severability.

These rule revisions are administrative and do not significantly impact current emission control requirements. The above mentioned rules only reflect a renumbering change, with the exception of the revisions discussed below.

In rule 11-60-01 (Definitions) a number of definitions have been revised to provide clarification and improve the enforceability of the SIP. Rule 11-60-18 (Contol of open burning) continues to exempt fires for training personnel from the open burning requirements; but these fires are no longer subject to the visible emission limitations. Revisions in rule 11-60-24 (Visible emissions) allow an increase for visible emissions of 60 percent opacity from three to six minutes in any sixty minutes of specific stations, delete reference to the Ringelmann Chart, and provide procedures for evaluating opacity readings. Rule 11-60-25 (Control of motor vehicles) is revised to allow an engine to be in operation for up to three minutes while loading or unloading passengers and for the buildup of pressure in the start-up of engines. Section 2(b) and Section 6 of Chapter 43 are deleted from Rule 11-60 since "Registration for Existing Source" and "Compliance Schedule" is no longer applicable since effective dates are specified for individual sections.

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, EPA is required to approve or disapprove these regulations as SIP revisions. All rules submitted have been evaluated and found to be in accordance with EPA policy and 40 CFR Part 51. EPA's detailed evaluation of the submitted rules is available at the EPA Library in Washington, D.C., and the Region 9 office.

It is the purpose of this notice to approve all the rule revisions listed above and to incorporate them into the Hawaii SIP. This is being done without prior proposal because the revisions are noncontroversial, have limited impact, and no comments are anticipated. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, the approval will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

In addition, this notice corrects clerical errors in 40 CFR 52.620 *Identification of plan*, paragraph (c)(14). These corrections impose no new requirements.

Under 5 U.S.C. Section 605(b), I certify that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.) The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 17, 1983. This action may not be challenged later in proceedings to enforce its requirements.

Note.—Incorporation by reference of the State Implementation Plan for the State of Hawaii was approved by the Director of the Federal Register on July 1, 1982.

Authority: Sections 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502 and 7601(a)).

List of Subjects in 40 CFR Part 52

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

Dated: August 10, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Subpart M of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart M—Hawaii

1. Section 52.620 paragraph (c) is revised by redesignating paragraph (14), Hawaii State Lead SIP to paragraph (15) and by adding paragraph (16) to read as follows:

§ 52.620 Identification of plan.

* * * * *

(c) * * *

(14) A variance of the Hawaii Public Health Regulations, Chapter 43, Section 8(b)(1) submitted on April 6, 1982, by the Governor.

(15) Hawaii State Lead SIP Revision submitted on October 29, 1982, by the State.

(16) The following amendments to the plan were submitted on December 20, 1982 by the State.

(i) Title 11—Department of Health, Chapter 60, Air Pollution Control.

(A) Amended Sections 11-60-01 thru 11-60-29, 11-60-35 thru 11-60-38.

* * * * *

[FR Doc. 83-22813 Filed 8-17-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[EPA Docket No. AW048VA; A-3-FRL 2417-4]

Commonwealth of Virginia; Revision of the Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: This notice approves an alternative compliance schedule for the James River Paper Company's Filter Manufacturing Plant in Richmond, Virginia. Volatile organic compound (VOC) emissions from this plant will be eliminated through conversion to a water-based system. However, the company needs additional time to come into compliance with the regulations because of the difficulties involved in the conversion.

DATE: This action will be effective on October 17, 1983. Unless adverse or critical comments are received by EPA on or before September 19, 1983.

ADDRESSES: Copies of the SIP revision and the accompanying support documents are available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Management Branch, 6th & Walnut Streets, Curtis Building, Philadephia, PA 19106, Attn: Gregory Ham (3AW13)

Virginia State Air Pollution Control Board, Commonwealth of Virginia, Room 801, Ninth Street Office Building, Richmond, VA 23219, Attn: John M. Daniel, Jr.

Office of the Federal Register, 1100 L Street NW., Room 8401, Washingtion, D.C.

Public Information Reference Unit, EPA, Room 2404, 401 M Street, SW., Washingtion, D.C.

Written comments on this revision should be sent to: Mr. Bernard Turlinski, Acting Chief, MD/VA/DC/DE Section (3AW13) at the EPA, Region III address above.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Ham at the EPA address above, or at (215) 597-2745.

SUPPLEMENTARY INFORMATION: The changes to the Virginia State Implementation Plan (SIP) were submitted on January 25, 1983 by the State Air Pollution Control Board (SAPCB). A hearing on this proposed SIP revision was held on March 15, 1983.

The James River Paper Company's plant in Richmond, Virginia manufactures paper specialty materials for oil and air filters. In the process, a solvent-borne resin is applied to the filter paper. This solvent then evaporates, resulting in the emissions to the atmosphere of volatile organic compounds (VOC). Through conversion to water-borne resins, the company plans to totally eliminate VOC emissions.

The alternative compliance schedule for the James River Paper Company is being implemented through a Consent Agreement and Order between the company and the SAPCB. This order establishes an emission rate of zero (0) tons per year after January 1, 1987. In addition, interim reductions are required as follows:

(Tons/year)		(Tons VOC/tons paper produced) emission rate
Year	Emissions	
1982	1916	0.410
1983	1916	0.410
1984	1590	0.340
1985	843	0.180
1986	422	0.090

Quarterly progress reports are required which will indicate the progress that the company is making in achieving these reductions.

The Alternative Compliance Schedule requires the following increments of progress.

1. Research and development of low solvent content coatings shall be completed by Janaury 1, 1982 (completed).

2. Evaluation of low solvent content coating, product quality, and commercial acceptance shall begin by April 1, 1982 (completed).

3. Purchase orders shall be issued for low solvent content coatings and process modifications by June 1, 1983 (completed).

4. Initiation of process modifications shall begin by December 1, 1983.

5. Process modifications shall be completed and use of low solvent content coatings shall begin by June 30, 1986.

6. Final compliance shall be achieved by January 1, 1987.

EPA believes this SIP revision will result in substantial environmental benefit. EPA has reviewed the revision and has determined that it meets the requirements of Section 110(a)(2) of the Clean Air Act and of 40 CFR Part 52. Accordingly, EPA is approving this revision. EPA is revising 40 CFR 52.2420 as indicated below to incorporate this revision into the Virginia SIP. The public is advised that this action will be effective 60 days from the publication date of this notice. However, if EPA receives adverse or critical comments within 30 days, EPA will withdraw this action and will publish subsequent notices before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of the Executive Order 12291. Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 17, 1983. This action may not be challenged later in proceedings to

enforce its requirements. (See 307(b)(2)). Under 5 U.S.C. Section 605(b), I certify that SIP approvals do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709.)

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401–7642.

Date: August 10, 1983.

William D. Ruckelshaus,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Virginia was approved by the Director of the Federal Register on July 1, 1982.

PART 52—[AMENDED]

Part 52 of Title 40, Code of Federal Regulations, is amended by adding the following:

Subpart VV—Virginia

In § 52.2420 Identification of Plan, paragraph (c)(77) is added as follows:

(c) * * *

(77) An alternative compliance schedule for the Richmond plant of the James River Paper Company, submitted to EPA on January 25, 1983.

[FR Doc. 83-22609 Filed 8-17-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[Region II Docket No. 7; A-2-FRL 2383-5]

Designation of Areas for Air Quality Planning Purposes; Revisions to Section 107 Attainment Status Designations for the State of New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Environmental Protection Agency's final action on a request from the State of New Jersey to revise certain designations made under Section 107(d) of the Clean Air Act, which relate to an area's attainment of national ambient air quality standards. The affected designations are for the City of Asbury Park and the Borough of Penns Grove and are with regard to the carbon monoxide standards.

EFFECTIVE DATE: This action becomes effective August 18, 1983.

ADDRESSES: Copies of the State of New Jersey's submittal are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Programs Branch, Room 1005, Jacob K. Javits Federal Building, 26 Federal Plaza, New York, New York 10278

New Jersey State Department of Environmental Protection, John Fitch Plaza, Cn 027, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Jacob K. Javits Federal Building, 26 Federal Plaza, New York, New York 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION: Section 107(d) of the Clean Air Act directed each state to submit to the Administrator of the Environmental Protection Agency (EPA) a list of national ambient air quality standard attainment status designations for all areas within the state. EPA received such designations from the states and promulgated them on March 3, 1978 (43 FR 8962). As authorized by the Clean Air Act, these designations have been revised from time to time at a state's request.

On August 24, 1982 the New Jersey Department of Environmental Protection (NJDEP) submitted a redesignation request which it subsequently modified on October 29, 1982. Redesignation was requested with regard to carbon monoxide for the following two areas:

- The City of Asbury Park in Monmouth County from "does not meet primary standards" to "better than national standards."
- The Borough of Penns Grove in Salem County from "does not meet primary standards" to "better than national standards," except within 100 yards of the intersections of U.S. Route 130 and County Road 675 and County Roads 675 and 607 where the State has requested a redesignation from "does not meet primary standards" to "cannot be classified."

In the January 17, 1983 issue of the **Federal Register** (48 FR 1989), EPA advised the public that, based on its review of the technical material submitted by the State, it was proposing to approve the State's redesignation request. (The reader is referred to that notice for a detailed description of the State's submittal.) With the exception of the two intersections in Penns Grove, EPA is today finalizing this earlier action as proposed. However, New Jersey's request that the two Penns Grove intersections be designated as "cannot be classified" is not being approved and they will remain designated as "does not meet primary standards."

The reason for this change from EPA's proposed action is a recent policy determination by EPA that it is no longer appropriate to redesignate an area from nonattainment to unclassifiable. This determination is based on the fact that there has been ample time since the first designations were made in 1978 to study thoroughly each nonattainment area and redesignate them to attainment, if appropriate. In fact, New Jersey's analysis shows that these two carbon monoxide "hot-spots" will be in attainment of the standards prior to December 31, 1987, as required. However, until the carbon monoxide standard is actually shown to be attained at the two Penns Grove intersections, a nonattainment designation is appropriate.

In its January 17, 1983 notice EPA invited interested persons to comment on any element of the subject proposal and on whether it meets Clean Air Act requirements. Although no substantive issues were raised during the comment period, EPA did receive one comment from the State of New Jersey Department of Transportation (DOT). The DOT noted that the "hot-spot" air quality modeling analysis performed at the two intersections in Penns Grove did not take credit for emission reductions from New Jersey's Inspection and Maintenance (I/M) program, in contrast to what was stated by EPA in its **Federal Register** proposal. While it is true that the "hot-spot" analysis did not take direct credit for emission reductions from New Jersey's I/M program, an emission reduction was incorporated into the final air quality modeling analysis. In any event, the conclusions of the "hot-spot" analysis, which indicated that the two intersections in Penns Grove would be in attainment of the standard by 1987, would only tend to be further supported by DOT's comment.

Today's action is being made effective immediately because a redesignation imposes no new or additional regulatory requirements and delay would serve no useful purpose. Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for a review in the United States Court of Appeals for the appropriate circuit within sixty days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not

be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

The Office of Management and Budget has exempted ths rule from the requirements of Section 3 of Executive Order 12291. Any comments from OMB to EPA, and any EPA response, are available for public inspection at the EPA Region II office.

(Sections 107 and 301 of the Clean Air Act, as amended [42 U.S.C. 7407, 7601]

List of Subjects in 40 CFR Part 81

Air pollution control, National Parks, Wilderness areas.

Dated: August 10, 1983.

William D. Ruckelshaus,

Administrator, Environmental Protection Agency.

PART 81—[AMENDED]

PART 81—DESIGNATIONS OF AREAS FOR AIR QUALITY PLANNING PURPOSES

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

Subpart C—Section 107 Attainment Status Designations

Section 81.331 is amended by amending the attainment status designation table for carbon monoxide as follows:

§ 81.331 New Jersey.

* * * * *

NEW JERSEY—CO

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
New Jersey-New York-Connecticut Interstate AQCR:		
The city of Paterson	X	
The city of Hackensack	X	
The city of Jersey City	X	
The city of Newark	X	
The city of Elizabeth	X	
The city of Perth Amboy		X
The town of Morristown	X	
The borough of Somerville	X	
The borough of Freehold	X	
Remainder of AQCR	X	X
Metropolitan Philadelphia Interstate AQCR:		
The city of Trenton	X	
The city of Burlington	X	
The city of Camden	X	
The borough of Penns Grove (those portions within 100 yards of the intersections of U.S. Route 130 and County Road 675 and County Roads 675 and 607).	X	
Remainder of AQCR		X

* * * * *

[FR Doc. 83-22612 Filed 8-17-83; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 5-53

[APD 2800.2 CHGE 31]

Contract Administration

AGENCY: General Services Administration, Office of Acquisition Policy.

ACTION: Final rule.

SUMMARY: The General Services Procurement Regulations, Chapter 5, are amended to prescribe policies and procedures on GSA contract administration in Part 5-53. It defines commonly used terms in the contract administration process, describes the responsible individuals and identifies basic contract administration functions. Also establishes procedural guidance for delegating contract administration responsibility. The intended effect is to improve the efficiency of the contract administration process.

EFFECTIVE DATE: August 1, 1983.

FOR FURTHER INFORMATION CONTACT: Richard H. Hopf, Director, Office of GSA Acquisition Policy and Regulations, (202-566-1224).

List of Subjects in 41 CFR Part 5-53

Contract administration, Government procurement.

1. The Table of Contents for Part 5-53 is revised to read as follows:

PART 5-53—CONTRACT ADMINISTRATION

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

2. Sections 5-53.000 and 5-53.101 are revised and § 5-53.102 is added to read as follows:

§ 5-53.000 Scope of part.

This Part 5-53 prescribes policies and procedures for contract administration and the assignment of contract administration responsibility.

§ 5-53.101 Policy.

(a) Contract administration is an essential element of the procurement process which, among other things, ensures the delivery of the Government's requirements in accordance with all contract terms and conditions. Accordingly, procurement managers must ensure that contract administration activities are performed by qualified personnel and in an effective manner.

(b) In some cases, contract administration may be performed by the contracting officer who awarded the contract. In others, it may be assigned to an administrative contracting officer (ACO) located within the contracting office. Management also may establish a separate contract administration office (CAO) consistent with the nature and complexities of the contracts awarded by contracting offices, the need to provide for performance of contract administration functions at or near the contractor's facility or the place of performance, and the availability of resources. Section 5-53.301 prescribes

policies and procedures for the assignment of contract administration responsibility in those instances where a separate contract administration office has been established or where it has been delegated to an ACO within the contracting office.

(c) The contracting officer ultimately is responsible for the performance of contract administration. In carrying out the responsibility, the contracting officer may designate representatives to perform specified functions. Such representatives may be designated for activities such as quality assurance, production, price analysis, finance and various engineering and technical specialities. These representatives may not enter into or modify a contract or otherwise perform functions reserved for a contracting officer except to the limited extent permitted for PBS construction contracts. (See § 5–53.102(g).) Designations or authorities of these representatives must be in writing and where appropriate, communicated to the contractor.

§ 5–53.102 Definitions.

The following terms as used in this Part 5–53 are defined as follows:

(a) "Contract administration" means the performance and coordination of all actions subsequent to the award of a contract that the Government must take to obtain compliance with all contract requirements, including timely delivery of supplies or services, acceptance, payment, and closing of the contract. These actions also include all technical, financial, audit, legal, administrative, and managerial services in support of the contracting officer. It may include such additional tasks as may be requested or needed by the procuring activity to include needed support in the pre-award phase of contracting.

(b) "Contract administration office" (CAO) means an office outside a contracting office that performs (1) assigned post-award functions related to the administration of contracts and (2) assigned preaward functions.

(c) "Contracting office" means an office that awards or executes a contract for supplies or services and performs post-award functions not assigned to a contract administration office.

(d) "Contracting Officer" (CO) means a person with the authority to enter into, administer and/or terminate contracts and make related determinations and findings. For purposes of this regulation, the term procuring contracting officer (PCO) will be used where necessary to differentiate between procurement and administrative functional responsibilities when contract administration authority has been delegated to an ACO within a contracting office or a CAO.

(e) "Administrative Contracting Officer" (ACO) means an appointed contracting officer who administers contracts.

(f) "Assignment of contract administration" means that process whereby identified functions, duties, or responsibilities related to the administration of contracts are assigned either by this part or by individual assignment to a contract administration office or an ACO within a contracting office.

(g) "Contracting Officer's Representative (COR), Contracting Officer's Technical Representative (COTR), or Contract Administrator" means an individual designated and authorized by the contracting officer to perform contract administration activities on his/her behalf within the limits of delegated authority. Normally, these individuals do not have authority to commit the Government; i.e., signatory authority. In order to commit or bind the Government, a valid contracting officer warrant is needed. COR's or COTR's for PBS construction contracts may possess contracting officer warrants to issue change orders not to exceed $10,000.

§§ 5–53.201—5–53.208–3 (Subpart 5–53.2) [Redesignated as §§ 5–53.401—5–53.408–3 (Subpart 5–53.4)]

3. Subpart 5–53.2 is redesignated as Subpart 5–53.4.

4. New Subparts 5–53.2 and 5–53.3 are added to read as follows:

Subpart 5–53.2 Contract Administration Functions

§ 5–53.201 List of contract administration functions.

(a) The following list identifies contract administration functions to be performed, to the extent they apply, by a contracting officer awarding the contract, an ACO within the contracting office or by a separate CAO:

(1) Review the contractor's compensation structure.

(2) Review the contractor's insurance plans.

(3) Conduct post-award orientation conferences.

(4) Review and evaluate contractor's proposals as part of the price negotiation process. When negotiation will be accomplished by the PCO, furnish comments and recommendations to that officer.

(5) Negotiate forward pricing rate agreements.

(6) Negotiate advance agreements applicable to treatment of costs under contracts currently assigned for administration.

(7) Determine the allowability of costs suspended or disapproved as required, direct the suspension or disapproval of costs when there is reason to believe they should be suspended or disapproved, and approve final vouchers.

(8) Issue Notices of Intent to Disallow or not Recognize costs.

(9) Establish final indirect cost rates and billing rates.

(10) Prepare findings of fact and issue decisions under the Disputes clause on matters in which the administrative contracting officer (ACO) has the authority to take definitive action.

(11) In connection with Cost Accounting Standards:

(i) Determine the adequacy of the contractor's disclosure statements;

(ii) Determine whether disclosure statements are in compliance with Cost Accounting Standards;

(iii) Determine the contractor's compliance with Cost Accounting Standards and disclosure statements, if applicable; and

(iv) Negotiate price adjustments and execute supplemental agreements under the Cost Accounting Standards clauses.

(12) Review and approve or disapprove the contractor's requests for payments under the progress payments clause.

(13) Manage special bank accounts.

(14) Ensure timely notification by the contractor of any anticipated overrun or underrun of the estimated cost under cost-reimbursement contracts.

(15) Monitor the contractor's financial condition and advise the contracting officer when it jeopardizes contract performance.

(16) Analyze quarterly limitation on payments statements and recover overpayments from the contractor.

(17) Issue tax exemption certificates.

(18) Ensure processing and execution of duty-free entry certificates.

(19) For classified contracts, administer those portions of the applicable industrial security program designated as ACO responsibilities. (See subpart 5–53.2.)

(20) Issue work requests under maintenance, overhaul, and modification contracts.

(21) Negotiate and execute contractual documents for settlement of partial and complete contract terminations for convenience.

(22) Process and execute novation and change of name agreements.

(23) Perform property administration.

(24) Perform production support, surveillance, and status reporting, including timely reporting of potential and actual slippages in contract delivery schedules.

(25) Perform pre-award surveys and plant facility reviews.

(26) Monitor contractor industrial labor relations matters under the contract; apprise the contracting officer and, if designated by the agency, the cognizant labor relations advisor, of actual or potential labor disputes; and coordinate the removal of urgently required material from the strikebound contractor's plant upon instruction from and authorization of, the contracting officer.

(27) Perform traffic management services, including issuance and control of Government bills of lading and other transportation documents.

(28) Review the adequacy of the contractor's traffic operations.

(29) Review and evaluate preservation, packaging, and packing.

(30) Ensure contractor compliance with contractual quality assurance requirements to include inspection and acceptance of personal or real property or services.

(31) Ensure contractor compliance with applicable safety requirements, including contractural requirements for the handling of hazardous and dangerous materials and processes.

(32) Perform engineering surveillance to assess compliance with contractural terms for schedule, cost, and technical performance in the areas of design, development, and production.

(33) Evaluate for adequacy and perform surveillance of contractor engineering efforts and management systems that relate to design, development, production, engineering changes, subcontractors, tests, management of engineering resources, reliability of maintainability, data control systems, configuration management, and independent research and development.

(34) Review and evaluate for technical adequacy the contractor's logistics support, maintenance, and modification programs.

(35) Report to the contracting office any inadequacies noted in specifications.

(36) Perform engineering analyses of contractor cost proposals.

(37) Review and analyze contractor-proposed engineering and design studies and submit comments and recommendations to the contracting office, as required.

(38) Review engineering change proposals for proper classification, and when required, for need, technical adequacy of design, producibility, and impact on quality, reliability, schedule, and cost; submit comments to the contracting office.

(39) Assist in evaluating and make recommendations for acceptance or rejection of waivers and deviations.

(40) Monitor the contractor's value engineering program.

(41) Review, approve or disapprove, and maintain surveillance of the contractor's purchasing system.

(42) Consent to the placement of subcontracts.

(43) Review, evaluate, and approve plant or division-wide small and small disadvantaged business master subcontracting plans.

(44) Obtain the contractor's currently approved company- or division-wide plans for small business and small disadvantaged business subcontracting for its commercial products, or, if there is no currently approved plan, assist the contracting officer in evaluating the plans for those products.

(45) Assist the contracting officer, upon request, in evaluating an offeror's proposed small business and small disadvantaged business subcontracting plans, including documentation of compliance with similar plans under prior contracts.

(46) By periodic surveillance, ensure the contractor's compliance with small business and small disadvantaged business subcontracting plans and any labor surplus area contractual requirements; maintain documentation of the contractor's performance under the compliance with these plans and requirements; and provide advice and assistance to the firms involved, as appropriate.

(47) Assign and perform supporting contract administration.

(48) Ensure timely submission of required reports.

(49) With the exception of changes in accounting and appropriation data which must be issued by the contracting office, issue administrative changes.

(50) Cause release of shipments from contractor's plants according to the shipping instructions. When applicable, the order of assigned priority shall be followed; shipments within the same priority shall be determined by date of the instruction.

(51) Obtain contractor proposals for any contract price adjustments resulting from amended shipping instructions. ACO's shall review all amended shipping instructions on a periodic, consolidated basis to assure that adjustments are timely made. Except when the ACO has settlement authority, the ACO shall forward the proposal to the contracting officer for contract modification. The ACO shall not delay shipments pending completion and formalization of negotiations of revised shipping instructions.

(b) The ACO within the contracting office or CAO shall perform the following functions only, when, and to the extent, they are specifically authorized by the contracting officer or by directive issued by the contracting activity:

(1) Negotiate or negotiate and execute supplemental agreements incorporating contractor proposals resulting from change orders issued under the changes clause. Before completing negotiations, coordinate any delivery schedule change with the contracting office.

(2) Negotiate prices and execute priced exhibits for unpriced orders issued by the contracting officer under basic ordering agreements.

(3) Negotiate or negotiate and execute supplemental agreements changing contract delivery schedules.

(4) Negotiate or negotiate and execute supplemental agreements providing for the deobligation of unexpended dollar balances considered excess to known contract requirements.

(5) Issue amended shipping instructions and, when necessary, negotiate and execute supplemental agreements incorporating contractor proposals resulting from these instructions.

(6) Negotiate changes to interim billing prices.

(7) Negotiate and definitize adjustments to contract prices resulting from exercise of an economic price adjustment clause.

(8) Negotiate and issue priced or unpriced orders under indefinite delivery type contract and basic ordering agreements.

(9) Make termination decisions on purchase/delivery orders with coordination or any required concurrence by the PCO. Process the action.

(10) Process termination for default for contracts after PCO termination decision.

(11) Process contractor claims and make final determination.

(12) Assess liquidated damages as appropriate.

(13) Issue cure or show cause notices.

(14) Issue change orders not to exceed $10,000 for PBS construction contracts.

§ 5-53.201-1 Additional contract administration functions.

Any additional contract administration functions not listed in §§ 5-53.201 or not otherwise delegated.

remain the responsibility of the contracting office.

§ 5-53.201-2 Authority for additional functions.

GSA contracting activities may supplement the foregoing lists with additional functions peculiar to their programs upon the approval of the Assistant Administrator for Acquisition Policy. Requests for additional functions must be submitted through the Commissioner of the appropriate service prior to forwarding to the Office of Acquisition Policy.

Subpart 5-53.3 Assignment of Contract Administration

§ 5-53.301 Assignment of contract administration.

§ 5-53.301-1 Authority.

Except as provided in § 5-53.301-2, assignment of a contract for administration automatically carries with it the authority to perform all of the normal functions listed in § 5-53.201(a) to the extent that all of the normal functions apply to the contract. An ACO within a contracting office or the CAO has the authority to perform the functions requiring specific authorizations, listed in § 5-53.201(b) only to the extent specified by the contracting officer or by directive issued by the contracting activity. No other function shall be performed by an ACO within a contracting office or the CAO unless delegated as provided under § 5-53.301-3.

§ 5-53.301-2 Withholding normal functions.

In assigning a contract for administration, the contracting officer, may withhold individual functions among those listed in § 5-53.201(a) if it is clear, after consultation with an ACO within a contracting office or the CAO when appropriate, that they can best be performed by the contracting office and the decision to withhold them is approved above the contracting officer's level.

§ 5-53.301-3 Delegating additional functions.

For individual contracts or groups of contracts, the contracting officer may delegate to an ACO within a contracting office or the CAO functions not listed in § 5-53.201, provided that:

(a) The office or person assigned administration possesses the necessary resources; and

(b) The Assistant Administrator for Acquisition Policy approves the additional delegation. Requests for additional delegations must be submitted through the Commissioner of the appropriate service prior to forwarding to the Office of Acquisition Policy.

§ 5-53.301-4 Assigning a contract for administration.

(a) When assigning a contract for administration, the contracting officer shall:

(1) Enter on the contract the name and address of the ACO within a contracting office or the CAO designated to administer it;

(2) Provide any special instructions, including any specific authorization to perform functions listed in § 5-53.201(b) in an accompanying letter to the ACO within a contracting office or to the CAO.

(3) Include or make available, as appropriate, along with the contract furnished to the ACO within a contracting office or the CAO, copies of all regulations or directives that are (i) incorporated into the contracts by reference or (ii) otherwise necessary to administer the contract, unless copies have been previously made available.

(4) Advise the contractor (and other activities as appropriate) of any functions withheld or additional functions delegated in the special instructions under subparagraph (2) above.

(5) Provide or make available, as appropriate, a complete copy of the contract file to the ACO within a contracting office or the CAO.

(b) For each contract assigned for administration, the ACO within the contracting office or the CAO shall do the following:

(1) Perform the functions listed in § 5-53.201(a) to the extent that they apply to the contract, except for any functions specifically withheld under § 5-53.301-2;

(2) Perform the functions listed in § 5-53.201(b) to the extent that they apply and are specifically authorized by the contract office; and

(3) Serve as a focal point for inquiries and keep the contracting officer and other interested activities advised concerning all pertinent matters related to administration of the contract.

§ 5-53.302 Contract correspondence.

(a) The contracting officer (or other contracting agency personnel) normally shall: (1) Forward correspondence relating to assigned contract administration functions through the cognizant ACO within the contracting office or the CAO to the contractor and (2) provide a copy of the file for the ACO within the contracting office or the CAO. When urgency requires sending such correspondence directly to the contractor, a copy shall be sent concurrently to the person delegated contract administration responsibility.

(b) The ACO within the contracting office or the CAO shall send the contracting officer a copy of their pertinent correspondence conducted with the contractor.

§ 5-53.303 Visits to contractor's facility.

Government personnel visiting a contractor's facility shall advise the ACO within the contracting office or the CAO of the visit and fully inform them of any results of the visit which may affect contract administration.

§ 5-53.304 Implementation.

Heads of contracting activities may issue implementing guidelines or procedures. Before issuance of such documents, the prior concurrence of the Assistant Administrator for Acquisition Policy shall be obtained.

5. Sections 5-53.402, 5-53.402-1, 5-53.404(b)(10), 5-53.404(b)(12), 5-53.404(c) are amended to change all references to "Security Division (HSS)" to "Office of Internal Security (OAI)".

6. Sections 5-53.407 and 5-53.407-2 are amended to change all references to "(ADM P.1025.2A)" to "(ADM P.1025.2B)".

Dated: August 3, 1983.

Allan W. Beres,

Assistant Administrator for Acquisition Policy.

[FR Doc. 83-22099 Filed 8-17-83; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Medicare Depreciation, Useful Life Guidelines

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: These final rules amend Medicare regulations to clarify which useful life guidelines may be used by providers of health care services to determine the useful life of a depreciable asset for Medicare reimbursement purposes. Current regulations state that providers must utilize the Departmental useful life guidelines or, if none have been published by the Department, either the American Hospital Association (AHA) useful life guidelines of 1973 of IRS guidelines.

We are eliminating the reference to IRS guidelines because these are now outdated for Medicare purposes since they have been rendered obsolete either by the IRS or by statutory change. We are also deleting the specific reference to the 1973 AHA guidelines since these guidelines are updated by the AHA periodically. In addition, we are clarifying that certain tax legislation on accelerated depreciation, passed by Congress, does not apply to the Medicare program.

EFFECTIVE DATES: These regulations are effective on September 19, 1983.

FOR FURTHER INFORMATION CONTACT: Bernard Patashnik, 301–597–1335.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program (title XVIII of the Social Security Act), hospitals, skilled nursing facilities and home health agencies furnish medically necessary inpatient, outpatient or home health services to eligible beneficiaries. These institutions or organizations, known as providers of health care services, are reimbursed by Medicare for the covered services they provide to beneficiaries. In determining Medicare reimbursement to providers, HCFA takes into account only costs that are necessary and proper expenses in providing health care services.

Current Requirements

Current Medicare regulations (42 CFR 405.415(a)) provide that an appropriate allowance for depreciation on buildings and equipment used by providers in furnishing patient care is an allowable cost. The regulations further provide that depreciation is determined by prorating the costs of depreciable assets over the estimated useful lives of the assets. The useful life of an asset is defined as the normal operating or service life of the asset to the provider (42 CFR 405.415(b)(7)). Thus, the useful life of an asset is an estimate of how long a provider can use the asset in the production of health care services. Generally, we require that assets be depreciated to salvage value. These concepts are consistent with contemporary accounting theory, which defines depreciation as a systematic and rational method of allocating costs to periods is which benefits are received.

In projecting the useful life of an asset, a provider may consider factors such as normal wear and tear, obsolescence due to normal economic and technological changes, climatic and other local conditions, and the provider's policies regarding repair and replacement. Various guidelines are available to aid the provider in estimating useful lives. Some guidelines provide an item-by-item breakdown of useful lives, and others give recommendations for classes of assets.

Current regulations (42 CFR 405.415(b)(7)(i)) require that providers use guidelines established by the Secretary. The regulations further state that, if there are no such guidelines, either the guidelines published by the American Hospital Association (AHA) in its 1973 edition of "Chart of Accounts for Hospitals" or the guidelines published by the Internal Revenue Service (IRS) must be used. Alternatively, the regulations permit a provider to select a useful life not contained in the AHA or IRS guidelines if it is based on the asset's operating or service life to the provider. If a provider opts for the latter alternative, the provider must furnish the Medicare fiscal intermediary with convincing reasons and supporting documentation to justify its selection and obtain the intermediary's approval.

AHA Guidelines

The AHA's "Chart of Accounts for Hospitals" contains general accounting data and information which may be used by hospitals in establishing a uniform system for classification of accounts in the hospital field. The document also contains guidelines for estimating useful lives of depreciable assets. Those guidelines are periodically updated by the AHA and are currently being revised for 1983.

As noted above, current regulations state that providers may use the 1973 AHA useful life guidelines if the Secretary has not published applicable useful life guidelines. We are changing this reference to state that for assets acquired on or after January 1, 1981 providers may use the edition of AHA guidelines as specified in HCFA Medicare program manuals. A recent revision to the Provider Reimbursement Manual (PRM) permits the use of the 1978 AHA useful life guidelines for assets acquired on or after January 1, 1982. For assets acquired before, 1982 providers may continue to use the guidelines in the 1973 edition of AHA's "Chart of Accounts for Hospitals."

Providers routinely receive manual changes through their intermediaries and, therefore, have been notified that we have currently adopted the 1978 edition of the AHA useful life guidelines.

IRS Guidelines

Use of IRS useful life guidelines by providers is not widespread. We estimate that fewer than ten percent of all providers currently rely on them. We have permitted providers to use IRS guidelines because the IRS concept of an asset's useful life, for the most part, has been consistent with that of the Medicare program. However, IRS guidelines have been changed over the years and have included various options that are inconsistent with Medicare reimbursement principles. For example, we specifically prohibit, in Medicare program manuals but not in regulations, the use of the IRS Asset Depreciation Range System (ADRS). That system sets forth class lives for broad classes of assets and designates upper and lower limits from which a life may be selected for depreciation purposes. We determined that ADRS was unacceptable because the depreciation period may be significantly shorter than the actual useful life of the asset. Moreover, the IRS guidelines that were acceptable to HCFA in the past are now outdated (for instance, *Bulletin F. Estimated Useful Lives and Depreciation Rates* and *Revenue Procedure 62–21* both of which provided for depreciation of individual assets by assigning useful lives based on the utility of the asset to the taxpayer). For these reasons, we are removing from the regulations the option allowing providers to select IRS useful life guidelines for estimating the useful lives of newly acquired assets. Providers that are currently using IRS guidelines for existing assets may continue to do so because previously acceptable IRS guidelines have been based on the utility of an asset and because this rule will permit the use of guidelines other than AHA guidelines subject to the approval of the intermediary.

Legislation

Section 201 of Pub. L. 97–34, the Economic Recovery Tax Act of 1981, established an accelerated cost recovery system (ACRS) for writing off the costs of assets for tax purposes. This provision is designed to encourage investments by business and industry in new assets as a means of stimulating the national economy. It requires all assets acquired on or after January 1, 1981 to be depreciated for tax purposes over much shorter periods of time than may be done under previously existing tax laws. For example, ACRS permits real property such as buildings to be depreciated over 15 years. This policy contrasts with existing depreciation rules, approved for use in the Medicare program, that prescribe useful lives of buildings as 30, 40 or even 50 years.

Congress specifically provided in section 203(e) of Pub. L. 97–34 that the Secretary of HHS is not required to

apply any provision of the Internal Revenue Code of 1954, as amended, in calculating depreciation for the purpose of determining any cost under a program administered by HHS, unless required by law to do so. We are expressly foreclosing the application of the new tax legislation for Medicare reimbursement purposes. We do not believe that this change in the regulations will result in any disadvantage to providers because we are not removing any options previously available to them.

The recent tax reduction legislation does not repeal or amend any provisions of the Medicare statute or require any changes to Medicare reimbursement principles. We believe that the adoption of the application of ACRS to the Medicare program would have a severe adverse impact on the program by resulting in significantly accelerated reimbursement having no reasonable connection to the efficient delivery of patient care. Consequently, we do not think it is appropriate for the Medicare program to use the ACRS for Medicare reimbursement purposes.

II. Final Regulations

On September 30, 1982, we published a proposed rule to clarify which useful life guidelines providers of health care services may use to determine the useful life of a depreciated asset for Medicare reimbursement purposes. The amendments to the regulations are basically the same as those stated in the proposed rules.

Specific reference to the AHA 1973 "Chart of Accounts for Hospitals" and the general reference to IRS guidelines contained in 42 CFR 405.415(b)(7)(i) are being deleted. In place of the reference to specific AHA guidelines, we are requiring providers to use the edition of AHA guidelines that is specified in HCFA manuals as acceptable. Consequently, providers are able to use guidelines established by HCFA or in their absence, approved AHA guidelines or alternative guidelines approved by their intermediary for determining useful lives of assets.

This deletion eliminates the need to update the reference in the regulations to AHA guidelines. The change ensures that any existing tax depreciation methods (for example, ADRS or ACRS), or any new methods developed in the future, which do not provide for depreciation based on the asset's useful life are not used by providers for Medicare reimbursement purposes. The regulations become effective 30 days after publication. To be consistent with the effective date of the ACRS provisions of Pub. L. 97-34, we are applying this final rule beginning with January 1, 1981. This final rule does not change any options previously available to providers. Providers that are currently using IRS guidelines for existing assets may continue to do so because previously acceptable IRS guidelines have been based on the utility of an asset and because this rule will permit the use of guidelines other than AHA guidelines subject to the approval of the intermediary. Rather, we would be prohibiting the use of new tax legislation for Medicare reimbursement purposes. Therefore, we do not believe that this change in the regulations will result in any disadvantage to providers.

As noted above, providers continue to have the right to request approval from their intermediaries to use a particular set of guidelines different from the approved AHA guidelines. Any useful life guideline proposed for use by a provider must be based on the utility of the asset to the provider, and the provider must submit documentation to the intermediary to justify the selection.

III. Public Comments

We received five comments on the proposed rule. They included one from a provider chain organization, one from a State nursing home association, two from national health care associations and one from a national nursing home association. The national nursing home association agreed with our proposal. A discussion of the remaining comments and our responses are as follows:

Comment: One commenter suggested that we change the proposed rule to allow providers to use the "latest" edition of the AHA useful life guidelines rather than the edition specified in Medicare program manuals. The commenter felt that this would allow providers to react more quickly to changes in the AHA useful life guidelines (rather than waiting for HCFA review and approval) and that it would save HCFA the cost of periodically updating the program manuals. Two other commenters agreed that HCFA might not adopt new AHA useful life guidelines in a timely manner.

Response: We do not believe it is in the best interest of the Medicare program to accept future editions of the AHA guidelines without having an opportunity to review their suitability for program purposes. AHA updates its useful life guidelines only about once every five years. We believe that any administrative cost savings associated with not having to update the appropriate section of the Provider Reimbursement Manual every five years could be far outweighed by adverse provider reimbursement consequences that could arise should AHA publish a future edition of the useful life guidelines that is unacceptable for program purposes. We have adopted the 1978 edition of the AHA useful life guidelines for assets acquired on or after January 1, 1982. Providers will continue to use the guidelines in the 1973 edition for assets acquired before 1982.

We are in the process of reviewing the proposed 1983 edition of the AHA's "Chart of Accounts for Hospitals" so that it can be adopted in a timely manner.

Comment: One commenter objected to our deletion of IRS guidelines as acceptable useful life guidelines. The commenter was concerned that the deletion would require providers to keep two sets of depreciation schedules.

Response: The use of IRS useful life guidelines for Medicare purposes is not widespread; only a small percentage of all providers currently rely on them. For assets acquired prior to January 1, 1981 (the effective date of the ACRS), providers that used previously approved IRS guidelines may continue to do so under the provisions of subsection (b)(7)(i)(B) of this rule. It is only for assets acquired on or after that date that this rule specifically prohibits the use of the ACRS for computing depreciation under the Medicare program. Only a minority of providers (those not exempt from taxation under the Internal Revenue Code) will have to keep two sets of depreciation schedules for newly acquired assets. However, we expect that the impact of those providers' administrative costs would be minimal because depreciation schedules are usually automated and remain fairly static in the long run. The alternative, to adopt the ACRS for Medicare reimbursement purposes, is unacceptable because ACRS is not an estimation of an asset's useful life, and adoption of the ACRS system would add an average of over $250 million to program costs annually over the next five years without any corresponding increase in services or quality of care.

IV. Impact Analyses

A. Executive Order 12291

The Secretary has determined that this rule does not meet the criteria for a "major rule," as defined by section 1(b) of Executive Order 12291.

While the regulations implement a change in Medicare policy regarding the use of IRS guidelines in determining useful lives of assets, the effect on providers and intermediaries will be minimal. Few providers currently use the guidelines. Moreover, providers

currently using previously acceptable IRS guidelines for Medicare depreciation purposes will be able to continue for existing assets. In addition, providers will retain the right, with respect to newly acquired assets, to seek approval of useful lives other than those set out in approved AHA guidelines. On the other hand, the change in policy will help to avoid possible increased costs to the Medicare program because of inadvertent application of IRS accelerated depreciation methods or guidelines in Medicare depreciation determinations.

B. Regulatory Flexibility Act

The Secretary certifies, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), that these regulations will not have a significant economic impact on a substantial number of small entities.

Many providers of health care services qualify as small businesses. However, the change in policy concerning the IRS useful life guidelines will not have a significant economic effect because few providers currently use those guidelines. Furthermore, for newly acquired assets, providers can seek the approval of their intermediaries to use guidelines that are as advantageous to the providers as the previously acceptable IRS guidelines.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

42 CFR 405.415 is amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart D—Principles of Reimbursement for Providers, Outpatient Dialysis and Services by Hospital-Based Physicians

The authority citation for Subpart D reads as follows:

Authority: Secs. 1102, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881, 1886, and 1887 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395g, 1395l(a), 1395x(v), 1395hh, 1395rr, 1395ww, and 1395xx).

Section 405.415 is amended by reprinting the introductory language in paragraph (b)(7) unchanged, revising paragraph (b)(7)(i), redesignating current paragraph (b)(7)(ii) as paragraph (b)(7)(iii) and adding a new paragraph (b)(7)(ii) to read as follows:

§ 405.415 Depreciation: Allowance for depreciation based on asset costs.

* * * * *

(b) Definitions.* * *

(7) *Useful life.* The estimated useful life of a depreciable asset is its normal operating or service life to the provider. Subject to the provisions in paragraph (b)(7)(i) of this section. Factors to be considered in determining useful life include normal wear and tear; obsolescence due to normal economic and technological changes: climatic and other local conditions: and the provider's policy for repairs and replacement.

(i) *Initial selection of useful life.* In selecting a proper useful life for computing depreciation under the Medicare program, providers must use the useful life guidelines published by HCFA. If HCFA has not published applicable useful life guidelines, providers must use:

(A) The edition of the American Hospital Association useful life guidelines, as specified in HCFA Medicare program manuals; or

(B) A different useful life specifically requested by the provider and approved by the intermediary. A different useful life may be approved by the intermediary if the provider's request is properly supported by acceptable factors that affect the determination of useful life. However, such factors as an expected early sale, retirement, demolition or abandonment of an asset, or termination of the provider from the Medicare program may not be used.

(ii) *Application of guidelines.* The provisions concerning the selection of useful life guidelines described in paragraph (b)(7)(i) of this section apply to assets acquired on or after January 1, 1981. For assets acquired before January 1, 1981, providers must use the useful life guidelines published by the American Hospital Association in its 1973 edition of *Chart of Accounts for Hospitals*, or those published by the Internal Revenue Service, or those approved for use by intermediaries as provided in paragraph (b)(7)(i)(B) of this section.

* * * * *

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare-Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: June 16, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: July 27, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-22590 Filed 8-17-83; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 2

Privacy Act; Records and Testimony

AGENCY: Department of the Interior.

ACTION: Final rule.

SUMMARY: Department of the Interior regulations relating to certain exemptions to provisions of the Privacy Act of 1974 and Departmental regulations relating thereto are being revised by adding Privacy Act System of Records entitled Investigative Records, Interior/Office of Inspector General, IG–2, to those systems of records listed in 43 CFR 2.79(a).

EFFECTIVE DATE: September 19, 1983.

FOR FURTHER INFORMATION CONTACT: Danny P. Danigan, Assistant Inspector General for Administration, at (202) 343–8231, or Maurice O. Ellsworth, Associate Solicitor, Audit and Investigation, at (202) 343–8275. These are not toll free numbers.

SUPPLEMENTARY INFORMATION: On March 11, 1983, the Office of the Secretary, Department of the Interior published a Notice of Proposed Rulemaking (48 FR 10382). Interested persons were given a deadline of April 11, 1983, for submission of written comments. Only one written comment was received. The individual made several observations. First he gave his opinion that the (j)(2) exemption is only available if a system of records is "maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws" and that although an Office of Inspector General may perform some activity pertaining to the enforcement of criminal laws, that is not the principal function of the office. Second, he commented that for several years this system has relied solely on a (k)(2) exemption without reporting any difficulties.

The (j)(2) exemption is being requested only for one system in the Office of Inspector General: Investigative Records, OIG–2; not the

entire Office of Inspector General file system. The Office of Inspector General was created under the Inspector General Act of 1978 (Pub. L. 95-452) and the investigators in that office have the duty to prevent, detect, and investigate fraud and abuse in matters under the jurisdiction of the Secretary of the Interior. One of the three components of the Office of Inspector General is the investigations unit under the direction of the Assistant Inspector General for Investigations. The staff of the Assistant Inspector General for Investigations has as its principal function the enforcement of criminal laws. Further, as defined in 28 CFR 20.3(c) a "Criminal justice agency means * * * (2) a government agency or any subunit thereof which performs the administration of criminal justice pursuant to a statute or executive order and which allocates a substantial part of its annual budget to the administration of criminal justice." Federal Inspector General Offices are specifically identified in 28 CFR 20.3(d) as involved in the "administration of criminal justice." Federal Inspector General Offices are also specifically included in 28 CFR 20.3(b) as collectors of "criminal history record information."

Accordingly, as the principal function of investigations unit pertains to the enforcement of criminal laws, the use of the (j)(2) exemption is appropriate. With respect to the comment that this system has been operating with a (k)(2) exemption without reporting difficulties, this exemption was requested as early as August 1981; the (k)(2) exemption dates back to the predecessor office of the Office of Inspector General which was not recognized as a criminal justice agency, and at least five other Federal Office of Inspector General Offices have found a need to request and obtain this exemption.

Third, the commenter stated that the notice for the system contains no information regarding notification procedures for those who might seek access to the records in the system. Further, he stated that most agencies that maintain records under the (j)(2) exemption entertain requests for access notwithstanding the exemption and that access is normally granted if disclosure does not interfere with a significant agency interest. The commenter stated that the exemption from access under (j)(2) is only available for information compiled for the specific criminal law enforcement purposes listed in the exemption and that other information is either not exempt at all or only subject to exemption under (k)(2). We agree with the comment that the exemptions should be applied to those records in the system to which they apply and affirm that it is our policy to entertain requests for access notwithstanding the exemptions if such disclosures do not interfere with significant agency interests.

While the Privacy Act does not require an administrative appeal on denial of access to records or a denial of information concerning whether a system of records exempted under (j)(2) contains records on an individual, the Office of Management and Budget encouraged agencies to permit individuals to request an administrative review of initial denials of access to avoid, where possible, the need for judicial action (40 FR 56743, Thursday, December 4, 1975). Department of the Interior regulations set out at 43 CFR 2.60 *et seq.* are quite explicit in their requirements of notification of existence of records by the system manager and concurrence by the bureau Privacy Act Officer and/or the head of the office in any denial of a request for notification. Department regulations also provide an appeal system outside the Office of Inspector General on denial of notification of whether a system of records contains information concerning an individual. Based on our policy and Department appeal procedures as set out in 43 CFR 2.60 *et seq.*, we have determined that no further information regarding notification procedures is needed.

Fourth, the commenter stated that "in claiming the (j)(2) exemption, the Department has invoked an exemption from every available requirement of the Privacy Act. However, no section-by-section justification has been provided." The Office of Management and Budget in its publication on Wednesday, July 9, 1975, **Federal Register**, Volume 40, Number 132, Part III, entitled "Privacy Act Implementation Guidelines and Responsibilities," states in part on Page 28971 that "A separate reason need not be stated for each provision from which the system is being exempted, where a single explanation will serve to explain the entire exemption." Therefore, we have determined not to provide a section-by-section justification.

Fifth, the commenter expressed concern at the total exemption from subsection (g) which contains the civil remedies for violations of the Privacy Act and specifically recommended that the exemption from subsection (g) be revised so that remedies under (g)(1)(D) remain available where the Department remains subject to Privacy Act requirements. Use of the exemption has been judiciously and appropriately applied and due process in both civil enforcement actions and criminal prosecutions will assure that individuals have a reasonable opportunity to learn of the existence of and to challenge investigatory material which is to be used against them in enforcement proceedings. Further, such exemption is also consistent with that of similar offices having (k)(2) or (j)(2) authorities. In view of the above, and the fact that the independent Department of the Interior appeals system, and the authority for in camera inspection by a judge if judicial review is sought, serve as added protection to individuals covered in the system of records, we have determined not to implement the recommendation. A companion notice describing this system of records is published in the Notices Section of today's **Federal Register**.

The Department of the Interior has determined that this is not a major rule under E.O. 12291 and certifies that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The Department of the Interior has determined that this rule does not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969.

List of Subjects in 43 CFR Part 2:

Administrative practice and procedure, Classified information, Freedom of information, Privacy.

Accordingly, under authority of 5 U.S.C. 301, 552a and 5 U.S.C. app. Sections 9(a)(1)(D) and 9(b), 43 CFR 2.79(a) is amended by adding paragraph (a)(4) as set forth below:

§ 2.79 Exemptions.

(a) *Criminal Law enforcement records exempt under 5 U.S.C. 552a(j)(2).* * * *

(4) Investigative Records, Interior/Office of Inspector General—2.

* * * * *

Dated: June 24, 1983.

Richard R. Hite,

Deputy Assistant Secretary of the Interior.

[FR Doc. 83-22667 Filed 8-17-83; 8:45 am]

BILLING CODE 4310-10-M

FEDERAL COMMUNICATIONS COMMISSION

[FCC 83-239]

47 CFR Part 0

Reorganization of the Field Operations Bureau

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This amendment changes the Commission's Rules to incorporate the reorganization of the Field Operations Bureau. This reorganization was necessary to improve management of the Bureau and to better reflect current Bureau programs and objectives.

EFFECTIVE DATE: August 10, 1983.

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

FOR FURTHER INFORMATION CONTACT: Jerry Cowden, Office of Managing Director, (202) 632-7513.

List of Subjects in 47 CFR Part 0

Organization and functions (government agencies).

Order

In the matter of amendment of Part 0 of the Commission's rules to reflect a reorganization of the Field Operations Bureau.

Adopted: May 13, 1983.

Released: August 10, 1983.

By the Commission.

1. The Commission has before it for consideration proposed changes in the organization of the Field Operations Bureau. Implementation of the proposed changes would require amendments to §§ 0.111, 0.112, 0.311, and 0.314, and removal of §§ 0.113, 0.114, 0.115, 0.116, 0.117, and 0.121 of the Commission's Rules.

2. To improve management of the Field Operations Bureau and better reflect current programs, the Commission is hereby approving a reorganization of the Field Operations Bureau. The Violations Division will be incorporated into the Enforcement Division as a branch. The Investigation Branch and the Inspection Branch in the Enforcement Division will be combined into one branch. The Bureau will create a Support Staff in the Enforcement Division and an Administrative Accounting Staff in the Engineering Division. Also, the names of certain organizational units within the Bureau will change. The list of Bureau functions in Part 0 will be amended.

3. The Commission no longer lists the functions of any office below the Bureau level in Part 0 of the rules and regulations. Accordingly, those sections of Part 0 concerning the functions of divisions in the Field Operations Bureau will be removed. Also, § 0.121 currently lists all FOB field installations and their administrative areas. This information quickly becomes obsolete because of address or organizational changes. The Bureau believes that the public would be better served by a current FCC telephone directory rather than the § 0.121 list and is therefore removing § 0.121 from the Rules.

4. The Bureau will amend §§ 0.311 and 0.314 of the Rules to clarify or update certain delegations of authority conferred upon the Chief of the Field Operations Bureau or his subordinates.

5. The amendments adopted herein pertain to agency organization. The prior notice procedure and effective date provisions of Section 4 of the Administrative Procedure Act are, therefore, inapplicable. Authority for the amendments adopted herein is contained in Sections 4(i) and 5(b) of the Communications Act of 1934, as amended.

6. It is ordered, effective August 10, 1983, that Part 0 of the rules and regulations is amended as set forth in the Appendix hereto.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Part 0 of Chapter 1 of Title 47 of the Code of Federal Regulations is hereby amended as indicated below.

§§ 0.113, 0.114, 0.115, 0.116, 0.117 and 0.121 [Removed]

1. Sections 0.113, 0.114, 0.115, 0.116, 0.117, and 0.121 are removed.

2. Sections. 0.111, 0.112, 0.311(d) (1) and (2), the introductory paragraph of 0.314, are revised, 0.314(g) is added, and 0.314 (s), (t), and (u) are removed and reserved to read as follows:

Field Operations Bureau

§ 0.111 Functions of the Bureau.

Responsible for all Commission engineering activities performed in the field relating to radio stations and wire facilities including enforcement activities (inspection, investigation, monitoring), radio operator examination and licensing, interference suppression, and communications user liaison.

(a) Enforce the Commission's rules and regulations; monitor, inspect, and investigate all non-government communications matters.

(b) Advise the Commission and act in matters pertaining to the enforcement of the Commission's rules and regulations, licensing of commercial radio operators (Part 13), marking and lighting of antenna towers (Part 17), and field liaison with the user public and local and federal government agencies (Part 0).

(c) Participate in international conferences dealing with monitoring and measurements; serve as the point of contact for the United States government in matters of international monitoring, fixed and mobile direction finding, and interference elimination.

(d) Reduce or eliminate interference to authorized communications.

(e) Develop and implement Bureau-wide management programs; prepare consolidated budget estimates and justifications for the Bureau; develop and control execution of operating budgets and financial plans.

(f) Develop and implement Bureau plans for personnel management and organization planning; maintain personnel records; coordinate external management surveys, studies, and audits of Bureau operations; conduct or coordinate internal studies of systems and procedures.

(g) Plan and coordinate requirements for administrative support services such as space and printing.

(h) Develop overall policies, programs, objectives, and priorities (budget year and beyond) for all programs and activities; review program performance, accomplishments, and effectiveness; recommend changes in policies, programs, objectives, and priorities.

(i) Analyze short and long-term technical developments and the impact of predicted growth of existing and new telecommunications services on mission and workload; recommend changes in field enforcement and public service techniques and organization to maximize bureau mission accomplishment; develop plans to integrate new and revised requirements for field enforcement and public service activities into current and future programs.

(j) Recommend legislation and rule changes pertaining to the field enforcement and public service programs; review legislation and rulemaking proposals initiated by other offices with a potential impact on field enforcement and public service operations; determine impact in terms of enforcement techniques and organization, workload, and resource requirements.

(k) Provide projections of future requirements for technical equipment and real property requirements to

support field enforcement and public service activities.

(l) Maintain liaison with other agencies and communications users on matters concerning program development and evaluation.

§ 0.112 Units of the Bureau.

The Field Operations Bureau is comprised of the following units:

(a) Office of the Bureau Chief,
(b) Enforcement Division,
(c) Engineering Division,
(d) Public Service Division,
(e) Regional Offices.

§ 0.311 Authority delegated.

* * * * *

(d)(1) The Chief of the Field Operations Bureau is authorized to issue notices of apparent liability, final forfeiture orders, and orders cancelling or reducing forfeitures, pursuant to § 1.80 of this chapter, if the amount set out in the notice of apparent liability is $2,000 or less. The scope of the Field Operations Bureau's authority to take such actions includes cases of violation of Sections 301 or 318 of the Communications Act, or Parts 13 or 17 of this chapter, and any other rule parts or sections specified in statements of policy provided by the other bureaus and offices available for inspection in the Field Operations Bureau. The Chief of the Field Operations Bureau is authorized to further delegate this authority to Engineers in Charge of field installations.

(2) The Chief of the Field Operations Bureau is authorized to issue citations pursuant to § 1.80(d) of this chapter and to further delegate this authority to Engineers in Charge of field installations.

§ 0.314 Additional authority delegated.

The Engineer in Charge at each installation is delegated authority to act upon applications, requests, or other matters, which are not in hearing status, and direct the following activities necessary to conduct investigations or inspections:

* * * * *

(g) To act on and make determinations on behalf of the Commission regarding requests for reassignment of restoration priority levels and assignment of new restoration priorities concerning the restoration in emergencies of common carrier-provided intercity private line service pursuant to Appendix A of Part 64 of the Commission's rules when, for any reason, the Commission's Emergency Communications Division cannot be contacted.

* * * * *

(s) [Reserved]
(t) [Reserved]
(u) [Reserved]

* * * * *

[FR Doc. 83-22408 Filed 8-17-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-350; RM-4354]

FM Broadcast Stations in Port St. Joe, Florida; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: Action taken herein assigns Channel 233 to Port St. Joe, Florida, and modifies the license of FM Station WJST to specify Channel 233 in lieu of Channel 228A. The assignment is made in response to a petition filed by Brown Broadcasting of Florida, Inc., licensee of Station WJST.

EFFECTIVE DATE: October 11, 1983

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

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Port St. Joe, Florida); MM Docket No. 83-350 RM-4354.

Adopted: July 28, 1983.
Released: August 9, 1983.

By the Chief, Policy and Rules Division:

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 48 Fed. Reg. 16090, published April 14, 1983, proposing the assignment of Channel 233 to Port St. Joe, Florida, and the substitution of Channel 233 for Channel 228A in the same community. Supporting comments were filed by Brown Broadcasting of Florida, Inc. ("petitioner"), licensee of FM Station WJST (formerly WGCV (FM)), which currently operates on Channel 228A and seeks modifications of its license to operate on the new Class C channel. Comments were previously filed by William C. Blackmore ("Blackmore") expressing his interest in Channel 233 at Port St. Joe and opposing modification of Station WJST's license. These comments have been withdrawn.

2. In view of the expression of interest and the provision of a wider coverage area station for Port St. Joe, we will make the requested assignment. With regard to petitioner's request for modification of license, it is our policy (see *Notice*, paragraph 3), as expressed in *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976), to grant a proposed modification from a Class A to a Class C (or Class B) channel where no other person in its comments asserts *Ashbacker* rights by expressing an interest in applying for the newly assigned Class C channel. In view of the pleading filed by Blackmore withdrawing his comments expressing an interest in the new Class C assignment, and there being no other expressions of interest, we shall grant the requested modification of Station WJST's license to specify Channel 233 in lieu of Channel 228A.

3. Accordingly, pursuant to the authority contained in §§ 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective October 11, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with regard to the following community:

City	Channel No.
Port St. Joe, Florida	233

4. It is further ordered, That pursuant to § 316(a) of the Communications Act of 1934, as amended, the license of Brown Broadcasting of Florida, Inc. for Station WJST (formerly WGCV(FM)), Port St. Joe, Florida, IS MODIFIED effective October 11, 1983, to specify operation on Channel 233 in lieu of Channel 228A. The license modification for Station WJST is subject to the following:

(a) At least 30 days before operating on Channel 233, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301);

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.301 of the Commission's Rules.

5. It is further ordered, That the Secretary shall send a copy of this *Order* by Certified Mail, Return Receipt Requested, to: Brown Broadcasting of Florida, Inc., Radio Station WJST, P.O. Box 310, Port St. Joe, Florida 32456.

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

7. For further information concerning the above, contact D. David Weston, Mass Media Bureau, (202) 634–6530.

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

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-22597 Filed 8-17-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-124; RM-4218]

FM Broadcast Stations in New Carlisle, Indiana; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 272A to New Carlisle, Indiana, as that community's first FM assignment, in response to a petition filed by Miramar Broadcasting, Inc.

EFFECTIVE DATE: October 11, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634–6530

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order Providing Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (New Carlisle, Indiana); MM Docket No. 83–124, RM–4218.

Adopted: August 3, 1983.
Released: August 10, 1983.

By the Chief, Policy and Rules Division:

1. The Commission has under consideration the Notice of Proposed Rule Making, 48 FR 10894, published March 15, 1983, proposing the assignment of Channel 272A to New Carlisle, Indiana, as that community's first FM assignment in response to a petition filed by Miramar Broadcasting, Inc. ("petitioner"). Petitioner filed comments in support of the Notice and reaffirmed its interest in applying for the channel, if assigned. A site restriction of 1.2 miles northeast of the city is required to avoid a short spacing to Station WTAS, Crete, Illinois, on Channel 272A.

2. Canadian concurrence has been obtained.

3. The Commission has determined that the public interest would be served by assigning Channel 272A to New Carlisle, Indiana, since it could provide a first local FM broadcast service to that community.

4. Accordingly, pursuant to the authority contained in §§ 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is Ordered, That effective October 11, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, IS AMENDED, with respect to the following community:

City	Channel No.
New Carlisle, Indiana	272A

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

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-22594 Filed 8-17-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-120; RM-4346]

FM Broadcast Station in Bear Lake, Michigan; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 261A to Bear Lake, Michigan, in response to a petition filed by North Michigan Associates, Inc. The assignment could provide for a first FM service to Bear Lake.

EFFECTIVE DATE: October 11, 1983.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Bear Lake, Michigan), MM Docket No. 83–120 RM–4346.

Adopted: July 21, 1983.
Released: August 9, 1983.

By the Chief, Policy and Rules Division:

1. In response to a petition filed by North Michigan Associates ("petitioner"), the Commission adopted a Notice of Proposed Rule Making, 48 FR 10890, published March 15, 1983, proposing the assignment of Channel 261A to Bear Lake, Michigan, as its first FM assignment. Petitioner filed comments indicating that it would file an application to construct and operate on Channel 261A, if assigned.

2. Canadian concurrence in the assignment of Channel 261A to Bear Lake, Michigan, has been obtained.

3. The Commission has determined that Bear Lake could benefit from the requested assignment, since it could provide that community with its first FM station. The channel can be assigned in compliance with the minimum distance separation requirements.

4. Accordingly, pursuant to the authority contained in §§ 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective October 11, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended, with respect to the community listed below:

City	Channel No.
Bear Lake, Michigan	261A

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

6. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-22595 Filed 8-17-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-126; RM-4275]

FM Broadcast Stations in Mandan, North Dakota; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: This action substitutes Class C Channel 284 for Channel 285A in Mandan, North Dakota, and modifies the license for Station KNDR(FM) to specify operation on Class C Channel 284, in response to a petition filed by Central Dakota Enterprises, Inc.

EFFECTIVE DATE: October 11, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Mandan, North Dakota): MM Docket No. 83-126, RM-4275.

Adopted: August 3, 1983.
Released: August 10, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration the Notice of Proposed Rule Making, 48 FR 10895, published March 15, 1983, proposing the substitution of Class C Channel 284 for Channel 285A at Mandan, North Dakota, in response to a petition filed by Central Dakota Enterprises, Inc. ("petitioner") licensee of Station KNDR(FM). The Notice also proposed modification of the license for Channel 285A to specify operation on Class C Channel 284. Petitioner submitted comments in support of the Notice and reaffirmed its interest in the Class C channel. No oppositions to the proposal were received.

2. After careful consideration of the proposal, we believe that the public interest would be served by the substitution of the Class C for the Class A channel inasmuch as it would provide service to a larger area. We have authorized in paragraph 5, herein, a modification of the petitioner's license for Station KNDR(FM) to specify operation on Channel 284 since there were no other expressions of interest in the Class C channel. See, *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976).

3. Canadian concurrence has been received.

4. In view of the foregoing and pursuant to the authority contained in §§ 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b), and 0.283 of the Commission's Rules, it is ordered, That effective October 11, 1983, the FM Table of Assignments, § 73.202(b) of the Rules is amended, with respect to the following community:

City	Channel No.
Mandan, North Dakota	284

5. It is further ordered, That pursuant to § 316(a) of the Communications Act of 1934, as amended, the outstanding license held by Central Dakota Enterprises, Inc. for Station KNDR(FM), Mandan, North Dakota, is modified, effective October 11, 1983, to specify operation on Channel 284 instead of Channel 285A. Station KNDR-FM may continue to operate on Channel 285A for one year from the effective date of this action or until it is ready to operate on Channel 284, whichever is earlier, unless the Commission sooner directs, subject to the following:

(a) The licensee shall file with the Commission a minor change application for a construction permit (Form 301) specifying the new facilities.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

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

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-22593 Filed 8-17-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-99; RM-4242]

FM Broadcast Stations in Amarillo, Texas, Changes Made in Table Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a seventh FM channel to Amarillo, Texas, in response to a petition filed by Wendell C. Alexander.

DATE: Effective: October 11, 1983.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and order (Proceeding Terminated)

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Amarillo, Texas); MM Docket No. 83-99; RM-4242.

Adopted: July 21, 1983.
Released: August 9, 1983.

By the Chief, Policy and Rules Division:

1. In response to a petition filed by Wendell C. Alexander ("petitioner"), the Commission adopted a *Notice of Proposed Rule Making*, 48 FR 8510, published March 1, 1983, proposing the assignment of Channel 276A to Amarillo, Texas. Supporting comments were filed by the petitioner reaffirming that he will apply for the channel, if assigned.

2. The Commission is satisfied that the public interest would be served by the proposed assignment which could provide Amarillo with its seventh FM station. The channel can be assigned in compliance with the minimum distance separation requirements.

3. In view of the above and pursuant to the authority contained in §§ 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, It is ordered, That effective October 11, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended, with respect to the following community:

City	Channel No.
Amarillo, Texas	226, 231, 245, 250, 254, 270, and 276A

4. It is further ordered, That this proceeding IS TERMINATED.

5. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-22596 Filed 8-17-83; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 48, No. 161
Thursday, August 18, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 101

Federally Licensed Cotton Warehouses; Fees for Services: Proposed Rulemaking

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Rulemaking.

SUMMARY: This action proposed for comment fees and charges to be paid by cotton warehouses licensed under provisions of the United States Warehouse Act, as amended (7 U.S.C. 241, *et seq.*). A new fee is proposed to be assessed which would cover, as nearly as practicable, the costs of annual cotton warehouse licenses issued to warehousemen. Further, a fee increase is proposed for the existing fee charged for licensing persons to classify, inspect, grade, sample, or weigh cotton. An increase in fees for original inspection and/or reinspection of a cotton warehouse when made upon application of a warehousemen is proposed also. All of these fees are to cover, as nearly as practicable, the costs of providing such services or licenses, including administrative and supervisory costs.

DATE: Comments to be postmarked by September 19, 1983.

ADDRESS: Send or deliver written comments ot Dr. Orval Kerchner, Chief, Warehouse Development Branch, Room 2720-South, Warehouse Division, Agricultural Marketing Service, Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Dr. Orval Kerchner, 202-447-3616.

SUPPLEMENTARY INFORMATION: This proposal has been reviewed under the USDA procedure established in accordance with Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified "non-major" because the proposal does not meet the criteria contained therein for major regulatory actions.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities because (i) the amount of the new fees are the minimal amount necessary, and as nearly as practicable cover costs; and the amount of the fee increase is too small to have a significant economic impact; (ii) further, if there is any impact, the Secretary has to recover the costs of the services from the users of the services; and (iii) the use of the services is voluntary.

In compliance with Office of Management and Budget (OMB) regulations, 5 CFR Part 1320 Controlling Paperwork Burdens on the Public, which implements the Paperwork Reduction Act of 1980, Pub. L. 96-511, the information collection requirements resulting from this proposed revision—specifically the reporting requirements—have been submitted to OMB for review as prescribed in § 1320.13, [48 FR 13666] Clearance of Collection of Information requirements in proposed rules under section 3504(h) of the Paperwork Reduction Act. Comments concerning the information collection requirements contained in this proposed rule may be addressed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer, AMS/USDA, Washington, D.C. 20503, Telephone (202) 395-7340.

A thirty day comment period is deemed adequate in view of the need to promulgate new and increased fees at the beginning of the new fiscal year.

The Omnibus Budget Reconciliation Act of 1981 ("Act," Pub. L. 97-35), amended Section 10 (7 U.S.C. 251), of the U.S. Warehouse Act to provide that "The Secretary of Agriculture, or the Secretary's designated repesentative, shall charge, assess, and cause to be collected a reasonable fee for (1) each examination or inspection of a warehouse (including the physical facilities and records thereof and the agricultural products therein) under this Act; (2) each license issued to any person to classify, inspect, grade, sample, or weigh agricultural products stored or to be stored under provisions of this Act; (3) each annual warehouse license issued to a warehouseman to conduct a warehouse under this Act; and (4) each warehouse license amended, modified, extended, or reinstated under this Act. Such fees shall cover, as nearly as practicable, the costs of providing such services and licenses, including administrative and supervisory costs."

In addition, Section 156(d) of the Act (95 Stat. 374), stated that "Notwithstanting any other provision of law, the Secretary shall take such action as may be necessary to insure that the * * * licensing and inspection procedures for cotton warehouses are preserved * * *."

Pursuant to the Act, AMS proposed in 46 FR 44680, September 4, 1981, a schedule of new fees for cotton and all other commodities for which there were regulations in effect to cover, as nearly as practicable, the costs of examination or inspection of warehouses and annual warehouse licenses issued, and requested comments on these proposals. AMS received seven comments, all of which were negative, concerning the proposed schedule of fees for cotton warehouses. In addition to opposing the imposition of the fees, these comments generally requested AMS to postpone implementation of these fees to allow continued appraisal of the situation while the industry and the Department worked out an agreeable solution to the problem which would not weaken licensing and inspection procedures. After considering these comments, the Secretary determined, pursuant to Section 156(d) of the Act, that these fees and charges to cotton warehouses should be waived for fiscal year 1982 to insure that the licensing and inspection procedures for cotton warehouses were preserved. A notice of this waiver was published in 46 FR 63198, December 30, 1981. This waiver was made dependent upon receiving from Congress the funds necessary to pay for the services. Congress did appropriate the funds, thus obviating the need for such fees in fiscal year 1982. However, fees for licensing persons to classify, inspect, grade, sample, or weigh cotton, fees for an original, amended and/or reinstated warehouseman's license, and fees for original inspection and/or reinspection of a cotton warehouse when requested remained in effect.

Later, Congress appropriated the necessary funds for fiscal year 1983, and so by a notice published in 48 FR 9894, March 9, 1983, the Secretary waived

applicable fees for that fiscal year. To date, Congress has not appropriated any funds to pay for these services in fiscal year 1984. For this reason the Secretary is required by statute to impose reasonable fees and charges that will cover, as nearly as practicable, the costs of providing these services. If Congress does subsequently appropriate funds to pay for these services, the proposed fee schedule will be reviewed and appropriately modified.

After having taken into account all information available, including the prior comments received on the 1981 proposal, subsequent discussions with the cotton trade, and the fiscal situation expected to exist in fiscal year 1984, it has been determined that the imposition of reasonable fees and charges will not endanger the preservation of the licensing and inspection procedures for cotton warehouses. On the contrary, it has been determined that if Congress does not appropriate the funds to pay for these services, it will be necessary to impose reasonable fees and charges to insure that services will be provided in fiscal year 1984.

License Fees

The Warehouse Act provides that the Secretary may charge, assess, and cause to be collected a reasonable fee for each license issued to a warehouseman or to any person to classify, inspect, grade, sample, and/or weigh agricultural products stored or to be stored under provisions of the Warehouse Act. Accordingly, fees were assessed pursuant to regulation (7 CFR 101.50) for each original warehouseman's license issued, for each amended or reinstated warehouseman's license issued and for each license issued to classify, inspect, grade, sample, and/or weigh cotton.

The present fee for issuance of an original warehouseman's license is a modest one-time charge, and was intended to cover only the costs of issuance. The license is continued each year without a new license being issued but may be terminated any year should the warehouseman fail to furnish annually on or before the anniversary date such bond for the ensuing year as is required by the Act and regulations. The present fee has been in effect since 1952 and has not been increased since that time. Based upon present and projected costs, an increase from $20 to $50 is proposed for each original warehouseman's license, an increase from $10 to $50 for each amended or reinstated license and an increase from $6 to $20 for each license, or amendment, issued to a sampler, classifier, and/or weigher. The proposed changes reflect increases in several cost factors, including salaries, rent, and miscellaneous overhead, and includes applicable administrative and supervisory costs. Such proposed fees will increase the charges to the level of the same fees charged for other agricultural commodities stated under the Warehouse Act.

Inspection of a Warehouse

The Warehouse Act provides that the Secretary may charge, assess, and cause to be collected a reasonable fee for every examination or inspection of a warehouse when such examination or inspection is made upon application of a warehouseman.

Accordingly, fees were assessed and collected pursuant to regulation (7 CFR 101.51) for each original inspection and/or reinspection when such inspection was made upon application of a warehouseman. This is a voluntary service in which the present fee for each original inspection or reinspection of a warehouse is based upon a flat $20, per 1,000 bales of cotton storage capacity of the warehouse with a $40 minimum and $500 maximum fee range. The present fee has been in effect since 1969 and has not been increased since that time. Based upon present and projected costs, the fee is proposed to be increased to $50 per 1,000 bales of cotton storage capacity with a $100 minimum to $1,000 maximum range. This proposed increase reflects increases in several cost factors, including salaries, rent, miscellaneous overhead, and includes applicable administrative and supervisory costs.

Annual Warehouse License

No fees were authorized, specified, assessed, or collected under the Warehouse Act for examinations, reexaminations or inspections of cotton warehouses made by the Secretary prusuant to authority contained in Sections 24 and 27 of the Act until the amendments to the Act pursuant to the Omnibus Budget Reconciliation Act of 1981. The amendment to the Act and the proposed regulations provide for fees for examinations conducted pursuant to sections 24 and 27 as part of an "annual warehouse license" charge.

Unannounced, unrequested examinations are the focal point of administering the warehouse program and consequently account for the major costs of the program. It is proposed that an annual warehouse license fee should recover the reasonable costs of examinations made pursuant to Sections 24 and 27 of the Warehouse Act including applicable administrative and supervisory costs related to maintaining an effective program.

The integrity of warehouse receipts issued for stored cotton is based on effective examinations or inspections. The Department has studied what constitutes an effective examination or inspection, including the question of how frequently examinations or inspections must be made to be effective. The examination or inspection includes review of records and inventory as well as the warehousing operation as a whole. As such, depositors, sellers, and the warehouseman as well as other interested parties, benefit from this service which is provided as part of the overall warehouse program.

By a final rule dated December 30, 1981 (46 FR 63198) fees for the inspection, reexamination or reinspection of grain, tobacco, wool, dry bean, nut, sirup and cottonseed warehouses were increased. For each of these commodities, the fees for inspection, reexamination or reinspection are based upon a flat rate per volume of storage capacity with a minimum and maximum fee range. The new fees promulgated by that final rule for annual licensing of a warehouse are based also upon a flat rate per volume of storage capacity with a minimum and maximum fee range.

When fees were originally proposed in 46 FR 44680 September 4, 1981, for all eligible commodities including cotton, the annual warehouse license fee for cotton warehouses was proposed to be at the rate of 1.5 cents for each bale of licensed capacity plus 4.5 cents for each receipted bale handled by the warehouse during the preceding cotton season. Discussions with the cotton trade at that time indicated that returns to the warehouseman were not equated to capacity or bales handled per se.

Further, cotton is a commodity which is unique from other stored commodities in that each bale is identity preserved. Other commodities such as grain are generally considered fungible and therefore commingled. Based upon comments received in 1981 on the fees for cotton warehouses and subsequent discussions with the industry, a somewhat different method of assessing the cotton warehouse annual license fees is now proposed.

The charges for the annual warehouse license fee take into account: (1) Licensed capacity; (2) volume handled based on bale storage month; (3) number of bales handled or warehouse receipts issued; (4) hourly rate costs; (5) flat charge fees or (6) a combination thereof.

A combination of these factors has been developed for the proposed fee. Any one factor alone would not

necessarily reflect the unique identity preserved nature of cotton.

The three-part annual warehouse license proposed in 101.51b(1) was considered with the criteria that:

—Fees should relate to amount of bale activity in the warehouse,
—Assessment methods should be simple and straightforward,
—Assessment system should be performed at a minimum cost of collection and monitoring while assuring security from fraud and,
—Assessment system should afford collection of fees in advance of service to avoid interest and late charges payments and to simplify administration and recordkeeping.

Part one is a flat or base fee to cover the fixed costs of an examination. Each licensed warehouse would pay the same amount. A charge of $200 per licensed warehouse is proposed. This fee is based upon a minimum cost necessary to maintain the warehouse license irrespective of activity at the warehouse.

Part two is a handling assessment based on the number of bales handled by the warehouse during the 12 months of the year preceding the assessment of the fee. This figure is the number of bales handled and relates directly to the amount of work involved in auditing receipts. A charge of 3 cents a bale for each bale handled is proposed.

Part three is a storage assessment based on the number of bales stored and the length of time each is stored. The concept of bale storage months best explains the basis for this charge. The amount of time required to perform a tag check on cotton in storage directly correlates with the number of bales in the warehouse when an examination is made. Thus, the concept of bale storage months represents a fair way to assess this part of the fee. It also takes into account any cotton bales which are stored for long periods of time and subject to tag check more than once. The charge for this will be less than 1 cent per bale per month. The exact amount will be determined after information on the numbers of bales currently in storage is obtained, and the exact amount will be determined before collection of the fee begins.

The proposed fee reflects several cost factors, including salaries, rents, miscellaneous overhead, and includes applicable administrative and supervisory costs.

To implement the three-part fee schedule data from each warehouseman will be requested. Presently, pursuant to § 101.34 of the regulations, each licensed warehouseman is required to make reports as requested by the Administrator. Pursuant to that section, each warehouseman will be asked to provide annually the number of bales handled during the year and the number of bales stored each month during the preceding year. This data will serve as the bases for setting the charge for parts two and three of the fee schedule. Accordingly, while warehousemen will be affected by the proposed changes in terms of recordkeeping, no change is necessary to § 101.34.

The Commodity Credit Corporation (CCC) owns or has an interest in considerable quantities of cotton stored in federally licensed warehouses. The Agricultural Marketing Service presently makes and is paid for examinations for CCC at nonlicensed cotton warehouses, and at other types of commodity warehouses. The examination of such warehouses performed by examiners employed by AMS protects the interest of CCC and makes CCC a prime beneficiary of the program. For this reason it is proposed, as is done presently with other agricultural commodities, that if CCC shares in the costs of the examination program at a warehouse, the applicable fees charged will be reduced to that warehouseman by the amount CCC pays. As a result the industry share is estimated at approximately $300,000 annually.

Conforming changes are proposed to § 101.52 to reflect advance deposit requirements for the new fees and also a change is proposed as to whom payment is to be made. The change is from the Treasurer of the United States to Agricultural Marketing Service, USDA to reflect the changes made by the Omnibus Budget Reconciliation Act of 1981.

Implementation of Fees

Fees for the original, amended and/or reinstated licenses, for inspection and/or reinspection examinations, for licenses to classify sample, and/or weigh shall be assessed and collected as the service covered is performed. The annual warehouse license fee shall be assessed and collected for service through the following September 30 effective with the date of issuance of the original license and each October 1 thereafter, as long as the license shall continue. Failure of a warehouseman to pay such fee at that time shall be grounds for suspension of license.

List of Subjects in 7 CFR Part 101

Administrative practice and procedure, Cotton, Reporting and recordkeeping requirements, Surety bonds, Warehouses.

Therefore, the fees and charges specified below as revisions to §§ 101.50, 101.51 and 101.52 are proposed to be implemented commencing October 1, 1983.

PART 101—COTTON WAREHOUSES

1. Section 101.50 is revised as follows:

Fees

§ 101.50 License Fees.

There shall be charged and collected a fee of $50 for each original warehouseman's license, and a fee of $50 for each amended, modified, extended, reinstated or duplicate warehouseman's license applied for by a warehouseman, and a fee of $20 for each license or amendment thereto issued to any person to classify, sample, or weigh agricultural products stored or to be stored under provisions of this act.

2. Section 101.51 is revised as follows:

§ 101.51 Warehouse inspection fees.

There shall be charged and collected—

(a) For each original examination or inspection, or reexamination or reinspection of a warehouse under the Act a fee at the rate of $50 for each 1,000 bales of storage capacity, or fraction thereof, determined in accordance with § 101.5, but in no case less than $100 nor more than $1,000; and

(b) For each annual warehouse license issued or continued, an annual fee equal to the total of: (1) A flat charge of $200, (2) a handling assessment charge of 3 cents a bale for each bale handled for which warehouse receipts have been issued or are subject to issue at the warehouse during the 12 months of the year preceding assessment of the fee and (3) a storage assessment charge not to exceed 1 cent a bale a month for each bale in storage in the warehouse at the end of each month during the 12 months of the year preceding assessment of the fee. The annual warehouse license fee shall be assessed and payable for service through the following September 30 effective with the date of issuance of the original license and each October 1 thereafter, as long as the license shall continue. Failure of a warehouseman to pay such fee at that time shall be grounds for suspension of license.

If Commodity Credit Corporation has a depository interest in any warehouse covered by this section and shares in the cost of the examination program at that warehouse, the fees stipulated in this section shall be reduced to that warehouseman by the amount Commodity Credit Corporation pays.

3. Section 101.52 is revised as follows:

§ 101.52 Advance deposit.

Before any license is granted, or an original examination or inspection is made, or reexamination or reinspection for modification of an existing license is made, or when the annual fee for the licensed warehouse is assessed, pursuant to the regulation in this part, the applicant or licensee shall deposit with the Service the amount of the fee prescribed. Such deposit shall be made in the form of a check, certified if required by the Service, draft, or post office or express money order, payable to the order of "Agricultural Marketing Service, USDA."

(Section 28, 39 Stat. 490; 7 U.S.C. 268)

Dated: August 11, 1983.

Vern F. Highley,

Administrator, Agricultural Marketing Service.

[FR Doc. 83-22707 Filed 8-17-83; 8:45 am]

BILLING CODE 3410-01-M

Federal Crop Insurance Corporation

7 CFR Part 416

[Amendment No. 2]

Pea Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Pea Crop Insurance Regulations (7 CFR Part 416), effective for the 1984 and succeeding crop years, by (1) changing the policy to make it easier to read, (2) eliminating the substitute crop provision, (3) eliminating the reduction in production guarantee for unharvested acreage and related provisions, (4) providing that peas are insurable following sunflowers, potatoes, dry beans, soybeans, rape, or mustard if the proper rotation practices are carried out, as designated by the actuarial table, (5) adding a provision permitting the determination of indemnities based on the acreage report rather than at loss adjustment time, (6) adding a provision to provide a coverage level if the insured does not select one, (7) providing that the 15-day notice of loss applies to both dry and green peas, (8) adding a 60-day claim for indemnity provision, (9) adding a section regarding appraisals following the end of the insurance period for unharvested acreage, (10) adding a hail/fire provision for appraisals of uninsured causes, (11) changing the cancellation/termination dates to conform with farming practices, (12) providing that any change in the policy will be available in the service office by a certain date, (13) adding a definition of "service office," (14) providing for unit determination when the acreage report is filed, and (15) adding a section concerning "descriptive headings."

In addition, FCIC proposes to issue a new subsection in the pea crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring peas in accordance with Secretary's Memorandum No. 1512-1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

DATE: Written comments on this proposed rule must be submitted not later than October 17, 1983.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 477-3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512-1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

All written comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 416

Crop Insurance, Pea.

Proposed rule

PART 416—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the Pea Crop Insurance Regulations, effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 416 is:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77 as amended (1506, 1516).

2. 7 CFR Part 416 is amended in the Table of Contents thereof by removing the word "Reserved" from § 416.3 and inserting, in its place, the words "OMB control numbers assigned pursuant to the Paperwork Reduction Act."

3. 7 CFR 416.3 is amended by removing the word "Reserved" in the title thereof and inserting, in its place, the following:

§ 416.3 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR Part 416) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563-0003 and 0563-0007.

4. 7 CFR 416.7(d) is amended by removing the Pea Crop Insurance Policy therein and inserting the following:

* * * * *

(d)

Department of Agriculture, Federal Crop Insurance Corporation—Pea Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

Agreement to insure: We whall provide the insurance described in this policy in return

for the premium and your compliance with all applicable provisions.

Throughout this policy "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. *Causes of Loss.*

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period: (1) adverse weather conditions; (2) fire; (3) insects; (4) plant disease on acreage not planted to peas the previous year; (5) wildlife; (6) earthquake; or (7) volcanic eruption, unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(8).

b. We shall not insure against any cause of loss of produciton due to:

(1) green peas not being timely harvested, unless we determine that, due to unusual weather conditions, a substantial amount of acres of green peas in the area were ready for harvest at the same time;

(2) the neglect or malfeasance of you, any member of your household, your tenants or employees;

(3) the failure to follow recognized good pea farming practices;

(4) damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(5) any cause not specified in section 1a as an insured loss.

2. *Crop, acreage, and share insured.*

a. The crop insured shall be either green peas or dry peas which are planted for harvest as peas; which are grown on insured acreage and for which a guarantee and premium rate are provided in the actuarial table.

b. The acreage insured for each crop year shall be peas planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured peas at the time of planting.

d. We do not insure any acreage:

(1) Of green peas not grown under a contract executed with a processor before you report your acreage or excluded from the processor contract for, or during, the crop year;

(2) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(3) Which is irrigated and an irrigated practice is not provided by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(4) Which is destroyed and it is practical to replant to the same type of green peas or the same varietal group of dry peas, and such acreage is not replanted;

(5) Initially planted after the final planting date contained in the actuarial table, unless you agree to coverage reduction in writing on our form;

(6) Of volunteer peas;

(7) Planted to a type or variety of peas not established as adapted to the area or excluded by the actuarial table;

(8) Planted with a crop other than peas; or

(9) Planted for the development or production of hybrid seed or for experimental purposes.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good irrigation practice for peas at the time of planting; and

(2) Any loss of production caused by failure to carry out a good irrigation practice for peas, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

g. An instrument in the form of a "lease" under which the insured grower retains control of the acreage on which the insured crop is grown and which provides for delivery of the crop under certain conditions and at a stipulated price(s) shall, for the purpose of this contract, be treated as a contract under which the insured has the share in the crop.

3. *Report of Acreage, Share, and Practice.*

You shall report on our form:

a. All the acreage of peas in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any peas planted in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. *Production Guarantees, Coverage Levels, and Prices for Computing Indemnities.*

a. The production guarantees, coverage levels, and prices for computing indemnities are in the actuarial table.

b. If you do not elect a coverage level, you shall have coverage level 2.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. *Annual Premium.*

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) the contract of your estate or surviving spouse in case of your death;

(2) the contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. *Deductions for Debt.*

Any unpaid amount due as may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. *Insurance Period.*

a. Insurance attaches when the peas are planted and ends at the earliest of:

(1) total destruction of the peas;

(2) combining, vining, or removal from the field;

(3) final adjustment of a loss; or

(4) September 15 of the calendar year in which peas are normally harvested, except if any green peas are not timely havested, except if any green peas are not timely harvested, insurance shall cease when the acreage should have been harvested.

8. *Notice of Damage or Loss.*

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) during the period before harvest, the peas on any unit are damaged and you decide not to further care for or harvest any part of them;

(b) you want our consent to put the acreage to another use;

(c) after consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the peas and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined on dry peas, immediate notice shall be given and a representative sample of the unharvested dry peas (at least 10 feet wide and the entire length of the field) shall be left intact for a period of 15 days from the date of notice, unless we given you written consent to harvest the sample.

(4) If probable loss is later determined on green peas and you are going to claim an indemnity on any unit notice shall be given not later than 48 hours after:

(a) total destruction of the green peas on the unit;

(b) discontinuance of harvest on the unit prior to completion, if before all acreage; or

(c) before harvest would normally start if any acreage on the unit is not to be harvested.

If such notice is not given or if the unharvested acreage is not left intact, the appraisal on such acreage shall be the production guarantee.

(5) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) total destruction of the peas on the unit;

(b) harvest of the unit; or

(c) the calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the peas which are not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. *Claim for Indemnity.*

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) total destruction of the peas on the unit;

(2) harvest of the unit; or

(3) the calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) establish the total production of peas on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) multiplying the insured acreage by the production guaranteee;

(2) subtracting therefrom the total production of peas to be counted (see section 9e);

(3) multiplying the remainder by the price election; and

(4) multiplying this product by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit shall include all harvested and appraised production.

(1) Mature dry pea production which, due to insurable causes, does not grade No. 3 or better, in accordance with the Official United States Standards for dry peas and lentils, shall be adjusted by:

(a) dividing the value per pound of such peas, by the price per pound for the same variety of dry peas grading No. 3 (No. 2 for lentils); and

(b) multiplying the results by the number of pounds of such peas. The applicable price for No. 3 dry peas (No. 2 lentils) shall be the local market price on the earlier of the day the loss is adjusted or the day the peas were sold.

(2) The pounds for harvested green peas shall be determined by dividing the dollar amount received from the processor by the contract price for the tenderometer reading or sieve size designated by the actuarial table.

(3) If any acreage of green peas is not timely harvested, as determined by us, the production to count shall be the greater of:

(a) the appraised production with no adjustment for quality; or

(b) the dollar amount received from the processor divided by the processor's contract price per pound for the tenderometer reading or sieve size designated by the actuarial table.

(4) If any acreage as green peas is harvested as dry peas, the guarantee for such acreage shall be reduced 40 percent.

(5) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good pea farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Any appraised production on unharvested acreage.

(6) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) is not put to another use before harvest of peas becomes general in the county;

(b) is harvested; or

(c) is further damaged by an insured cause before the acreage is put to another use.

(7) We may determine the amount of production of any unharvested peas on the basis of field appraisals conducted after the end of the insurance period.

(8) When you have elected to exclude hail and fire as insured causes of loss and the peas are damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request To Exclude Hail and Fire."

(9) The commingled production of units shall be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the peas are planted for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) the amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) the amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. *Concealment or Fraud.*

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as the beginning of the crop year with respect to which such act or omission occurred.

11. *Transfer of Right to Indemnity on Insured Share.*

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer shall be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. *Assignment of Indemnity.*

You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. *Subrogation.* (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. *Records and Access to Farm.*

You shall keep for two years after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition of all peas produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by us shall have access to such records and the farm for purposes related to the contract.

15. *Life of Contract: Cancellation and Termination.*

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) if deducted from an indemnity claim shall be the date you sign the claim; or

(2) if deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are April 15.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premiuns is earned for five consective years.

16. *Contract Changes.*

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by December 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. *Meaning of Terms.*

For the purposes of pea crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices where applicable, insurable and uninsurable acreage, and related information regarding pea insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

c. "Crop year" means the period within which the peas are normally grown and shall be designated by the calendar year in which the peas are normally harvested.

d. "Harvest" as to any green pea acreage means the vining or combining and acceptance by the processor of the peas from such acreage. "Vining" or "combining" means separating the peas from the pods. "Harvest" as to any dry pea acreage means combining peas which are or could be marketed as dry peas.

e. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

H. "Peas" means either:

(1) canning and freezing peas ("green peas") grown under contract executed with a processor before you report your acreage; or

(2) all spring-planted smooth green and yellow, and wrinkled varieties of dry peas and lentils ("dry peas").

i. "Service office" means the office servicing your contract as shown on the application for insurance or such other

approved office as may be selected by you or designated by us.

j. "Tenant" means a person who rents land from another person for a share of the peas or a share of the peas or a share of the proceeds therefrom.

k. "Unit" means all insurable acreage of any one type of green peas or varietal group of dry peas as designated by the actuarial table in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the peas on such land shall be considered as owned by the leassee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between us and you. Units will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any acreage and share of or reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. *Descriptive Headings.*

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. *Determinations.*

All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those deteminations in accordance with Appeal Regulations to be published soon in the **Federal Register.**

20. *Notices.*

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Approved by the Board of Directors on April 21, 1983.

Edward Hews,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

Dated: August 11, 1983.

[FR Doc. 83-22681 Filed 8-17-83; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 1079

[Marketing Agreements and Orders; Milk]

Milk in the Iowa Marketing Area; Temporary Revision of Shipping Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of rule.

SUMMARY: This notice invites written comments on a proposal that the supply plant shipping requirement under the Iowa Federal milk order be decreased for the months of September, October and November 1983. This action was requested by the operator of a pool supply plant who ships milk to distributing plants regulated by the order.

DATE: Comments are due on or before August 25, 1983.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077 South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4829.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has also been determined that the potential need for adjusting certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register.** However, this would not permit the completion of the procedure in time to give interested parties timely notice that the supply plant shipping requirement for September 1983 would be modified. The initial request for the action was received on August 5, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to assure that the market would be adequately supplied with milk for fluid use with a smaller proportion of milk shipments from pool supply plants.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the provisions of § 1079.7(b)(1) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Iowa marketing area is being considered for the months of September, October and November 1983.

All persons who desire to submit written data, views or arguments in connection with the proposed revision should file the same with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, not later than 7 days after publication of this notice in the **Federal Register.** Please submit two copies of the documents filed. The period for filing views is limited because a longer period would not provide the time needed to complete the required procedures and include September 1983 in the temporary revision period.

All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be revised are the supply plant shipping percentages set forth in § 1079.7(b) that are applicable during the months of September, October and November 1983. It has been requested that they be temporarily reduced 10 percentage points from the present 35 percent to 25 percent during each respective month.

Pursuant to the provisions of § 1079.7(b)(1), the supply plant shipping percentages set forth in § 1079.7(b) may be increased or decreased by up to 10 percentage points during any month to encourage additional milk shipments to pool distributing plants or to prevent uneconomic shipments.

Beatrice Foods Co., which is requesting the action, said that under the current supply conditions distributing plants in the Iowa market will have more than an adequate supply of milk for Class I use and that there will be no need for supply plants to ship 35 percent of their producer receipts to distributing plants during each of the months of September, October and November 1983. The petitioner said that a 25 percent shipping standard would be adequate for such months and would prevent uneconomic shipments of milk.

List of Subjects in 7 CFR Part 1011

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on: August 12, 1983.

W. H. Blanchard,

Acting Director, Dairy Division.

[FR Doc. 83-22583 Filed 8-17-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-77-AD]

McDonnell Douglas Model DC-10 and KC-10A (Military) Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes a new airworthiness directive (AD) that would require modification of wing fuel tank boost pump electrical conduits on McDonnell Douglas Model DC-10 and KC-10A airplanes. This action is prompted by a report of wire chafing and arcing through the conduit wall. Arcing in the fuel tank may cause an explosion or fire.

DATES: Comments must be received on or before November 7, 1983. Compliance schedule as prescribe in the body of the AD unless already accomplished.

ADDRESS: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Roy A. McKinnon, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2835.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified under the caption "AVAILABILITY OF NPRMS". All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availibility of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83-NM-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

One DC-10 operator found two small holes in an aft fuel boost pump electrical conduit taken from a high time aircraft. The holes, 15 mils and 5 mils in diameter, were caused by bare electrical wire arcing to the conduit wall. It is believed that the breaks in the 22-mil wire insulation were caused by chafing. The manufacturer estimated the normal wear to be approximately 1 mil (based on inspection of conduits pulled from a wing with comparable time in service).

The cause of the excessive isulation wear is not known. However, the manufacturer has developed a modification to the conduits which will effectively reduce the probability of recurrence. McDonnell Douglas DC-10 Service Bulletin 24-123, dated June 14, 1983, has been issued to permit operators to modify the conduits in service.

Although no other incidents of this type have been reported, the potential for an explosion or fire requires precautionary measures be taken on aircraft exceeding 20,000 hours time in service.

Therefore, in consideration of the potentially hazardous consequence of electrical arcing thru the wing conduit, the proposed AD is considered to be necessary.

It is estimated that 171 airplanes of U.S. Registry and 22 military airplanes would be affected by this AD. The cost for parts and labor is estimated to be $267,188 for U.S. operators and $48,950 for military airplanes. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning to the Regulatory Flexibility Act will be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive.

McDonnell Douglas: Applies to McDonnell Douglas Model DC-10 and KC-10A (Military) series airplanes, certificated in all categories. Compliance required as indicated, unless previously accomplished.

To prevent electrical arcing in wing fuel tank boost pump electrical conduits, accomplish the following:

A. Prior to the accumulation of 20,000 hours time in service or within the next 3,000 hours time in service after the effective date of this AD, whichever occurs later, install Teflon tubing in all fuel tank aft boost pump harness conduits in accordance with the Accomplishment Instructions in McDonnell Douglas DC-10 Service Bulletin 24-123, dated June 14, 1983, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Prior to the accumulation of 30,000 hours time in service or within the next 3,000 hours time in service after the effective date of this AD, whichever occurs, later, install Teflon tubing in all fuel tank forward boost pump harness conduits in accordance with the Accomplishment Instructions in McDonnell Douglas DC-10 Service Bulletin 24,123, dated June 14, 1983, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or at 4344 Donald Douglas Drive, Long Beach, California.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

Noted.—For the reason discussed earlier in the preamble: the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291, and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on August 8, 1983.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-22621 Filed 8-17-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-NM-67-AD]

Boeing Model 747 Series Airplanes; Airworthiness Directive

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) which would require inspection and replacement, as required, of the engine pylon diagonal brace aft attach fuse pins on the inboard pylons. One operator has reported two instances of a fractured fuse pin and its retaining bolt. This AD is needed to prevent possible separation of the engine from the wing.

DATES: Comments must be received on or before September 26, 1983.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Dockets No. 83-NM-67-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Owen Schrader, Airframe Branch, ANM-120S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2516. Mailing Address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons. A report summarized each FAA-public contact concerned with the substance of this proposal will be filed in the rules docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83-NM-67-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

An operator has reported two instances in which engine strut diagonal brace-to-wing fuse pins and retaining bolts have been found fractured on an inboard strut. The fractures are attributed to a combination of fatigue and corrosion. Fracture of the fuse pin and retaining bolt could allow the engine to separate from the wing under some flight conditions.

Boeing has issued Service Bulletin 747-54-2101 which defines the specific inspection procedures to be used to check for cracks in the inboard strut diagonal brace-to-wing fuse pin on certain Boeing 747 series airplanes. The modification for terminating action described by the Service Bulletin, consists of replacement of the existing fuse pin with a pin of improved design.

Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed AD would require inspection and/or replacement of the fuse pin of certain Boeing 747 series airplanes.

It is estimated that 113 airplanes of U.S. operators will be affected by this AD, that it will take approximately 38 man-hours per airplane to accomplish the required actions, and that the average labor cost will be $45 per man-hour. Repair parts are estimated at $2,480 per airplane. Based on these figures, the total cost impact of the AD is estimated to be $430,530. For these reasons the proposed rule is not considered to be major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, the Federal Aviation Administration proposed to amend § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive.

Boeing: Applies to all Model 747 series airplanes certificated in all categories listed in Boeing Service Bulletin 747-54-2101, dated April 11, 1983, or later FAA approved revisions. To prevent failure of the inboard strut diagonal brace-to-wing fuse pin, accomplish the following, unless already accomplished:

A. Prior to the accumulation of 5000 landings, or within 175 landings, after the effective date of this AD, whichever occurs later, perform a visual or ultrasonic inspection for cracks in the fuse pin bore in recessed shear plane areas in accordance with the service bulletin. Repeat the inspections thereafter at intervals not to exceed 350 landings if visual inspection methods are used or 1200 landings if ultrasonic methods are used.

B. If any cracking is found in the fuse pin, replace the pin prior to further flight.

C. Installation of the new pin design configuration in accordance with Service Bulletin 747-54-2101, dated April 11, 1983, or later FAA approved revisions, is terminating action for this AD.

D. Alternate means of compliance with the AD which provides an equivalent level of safety may be used when approved by Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

E. For purposes of complying with this AD, subject to acceptance by the assigned FAA maintenance inspector, the number of landings may be determined by dividing each airplane's time in service by the operator's

fleet average from takeoff to landing for the airplane type.

F. Aircraft may be ferried to a base for maintenance in accordance with Sections 21.197 and 21.199 of the Federal Aviation Regulations.

(Secs.) 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble: the FAA has determined that this document: (1) involves a proposed regulation which is not major under Executive Order 12291, and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington, on July 28, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-22623 Filed 8-17-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-NM-76-AD]

McDonnell Douglas Model DC-10 Series Airplanes; Airworthiness Directive.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes a new airworthiness directive (AD) that would require installation of a positive, antirotational stop on the horizontal stabilizer single chain differential drive assembly on McDonnell Douglas Model DC-10 series airplane. Installation of this unit will provide an automatic means of locking the horizontal stabilizer in position following the failure of a differential drive shear pin. This AD is required because a failure of the shear pin could allow uncommanded movement of the horizontal stabilizer and result in potentially hazardous airplane handling characteristics.

DATE: Comments must be received no later than October 7, 1983.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Michael E. O'Neil, Aerospace Engineer, Airframe Branch, ANM-121L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2826.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified under the caption "AVAILABILITY OF NPRMS". All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83-NM-76-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

There have been three verified instances of uncommanded horizontal stabilizer motion following a differential drive shear pin failure on DC-10 series airplanes incorporating single chain drive systems and Part No. AJH7343-1 dual shear surface pins. Analysis and tests have established that following the pin shearing, which by design disconnects the two horizontal stabilizer jackscrew nuts from their drive unit, the nuts, previously assumed irreversible, may in fact turn under certain aerodynamic loads allowing the horizontal stabilizer to move. One of the incidents reported that the stabilizer moved 4.4 degrees airplane nose down after encountering turbulence. In another incident, this uncommanded movement occurred during cruise shortly after the airplane encountered heavy turbulence. Information from the flight data recorder indicated that the horizontal stabilizer moved an uncommanded 3.1 degrees in the airplane nose up direction. The stabilizer movement occurred in 5 seconds (approximately twice the normal trim rate). Pilot action limited the positive load factor excursion to 1.85G. Termination of the uncommanded stabilizer motion resulted in an airplane pitch-down of minus 0.2G. The installation of shear pins with a single shear surface throughout most of the fleet has all but eliminated the nuisance failure of this pin. However, uncommanded horizontal stabilizer movement could still occur in those airplanes employing the single chain drive assembly in the event of a shear pin failure. The potential exists for more severe reaction than those reported incidents; e. g., the center of gravity may be farther aft, the pilot may not respond immediately; or the uncommanded trim change may be greater than previously encountered. The proposed airworthiness directive will require the installation of a positive antirotational stop on the horizontal stabilizer single chain drive unit per DC-10 Service Bulletin 27-192. Therefore, in consideration of the hazardous consequence of an uncommanded movement of the horizontal stabilizer, the proposed AD is considered to be necessary.

The estimated costs associated with the proposed AD are as follows: 141 domestic airplanes will be affected, and it will require approximately 16 manhours per airplane to accomplish the required modification, at an average labor charge of $35.00 per hour. The modification kit can be obtained at a cost of approximately $4,000. Based upon these figures, the total economic impact is estimated to be $643,000. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-10 series airplanes incorporating a horizontal stabilizer single chain differential drive system and certificated in all categories. Compliance required within 6 months after the effective date of this AD, unless previously accomplished.

To prevent the possible uncommanded movement of the horizontal stabilizer following fused drive system shear pin failure, accomplish the following:

A. Modify the horizontal stabilizer drive assembly in accordance with Section 2, Accomplishment Instructions, of McDonnell Douglas DC-10 Service Bulletin 27-192, dated March 17, 1983, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to base for the accomplishment of modifications required by this AD.

C. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or at 4344 Donald Douglas Drive, Long Beach, California.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-440, January 12, 1983); and 14 CFR 11.85).

Note:—For the reasons discussed earlier in the preamble: the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291, and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington, on August 8, 1983.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-22822 Filed 8-17-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ACE-06]

Transition Area—Estherville, Iowa; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to alter the 700-foot transition area at Estherville, Iowa, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Estherville Municipal Airport, Estherville, Iowa, utilizing the Swan Lake nondirectional radio beacon (NDB) as a navigational aid.

DATES: Comments must be received on or before September 19, 1983.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-500, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Operations, Procedures and Airspace Branch, Air Traffic Division.

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

SUPPLEMENTARY INFORMATION:

Comments invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 374-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181, of the Federal Aviation Regulations (4 CFR 71.181) by altering the 700-feet transition area at Estherville, Iowa. To enhance airport usage, an additional instrument approach procedure to the Estherville Municipal Airport is being established utilizing the Swan Lake NDB as a navigational aid. The establishment of this new instrument approach procedure based on this navigational aid entails alteration of the transition area at Estherville, Iowa, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

List of Subjects in 14 CFR Part 71

Aviation safety—transition areas.

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), by altering the following transition area:

Estherville, Iowa

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Estherville Municipal Airport (latitude 43°24'15"N, longitude 94°44'45"W); within 3 miles each side of the 175° radial from the Estherville VOR (latitude 43°24'37"N, longitude 94°44'20"W) extending

from the 6½-mile radius area to 8½ miles south of the VOR; within 3 miles each side of the 180° bearing from the Swan Lake NDB (latitude 43°21'08"W, longitude 94°44'23"N), extending from the 6½-mile radius area to 8½ miles south of the Swan Lake NDB; and within 3 miles each side of the 340° radial from the Estherville VOR extending from the 6½-mile radius area to 8½ miles north of the VOR, excluding that portion that overlies the Emmetsburg, Iowa transition area.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65))

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

Issued in Kansas City, Missouri, on August 4, 1983.

James O. Robinson,

Director, Central Region.

[FR Doc. 83-22627 Filed 8-17-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 83-ACE-13]

Transition Area—Clarion, Iowa; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to alter the 700-foot transition area at Clarion, Iowa, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Clarion Municipal Airport, Clarion, Iowa, utilizing the Dort Dodge, Iowa VORTAC as a navigational aid.

DATE: Comments must be received on or before September 19, 1983.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Operations, Procedures and Airspace Branch, Air Traffic Division.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

the FAA is considering an amendment to Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR Section 71.181) by altering the 700-foot transition area at Clarion, Iowa. To enhance airport usage, an additional instrument approach procedure to the Clarion Municipal Airport is being established utilizing the Fort Dodge, Iowa VORTAC as a navigational aid. The establishment of this new instrument approach procedure based on this navigational aid entails alteration of the transition area at Clinton, Iowa, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), by altering the following transition area:

Clarion, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Clarion Municipal Airport (latitude 42°44'30"N, longitude 93°45'30"W), within 3 miles each side of the 311° bearing from the Clarion Municipal Airport, extending from the 5-mile radius to 8.5 miles northwest of the airport and within 2.5 miles each side of the 326° bearing from the Clarion Municipal Airport, extending from the 5-mile radius to 6 miles northwest of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354)(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65).

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

Issued in Kansas City, Missouri, on August 4, 1983.

James O. Robinson,

Acting Director, Central Region.

[FR Doc. 83-22626 Filed 8-17-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 159

[Docket No. 23655; Notice No. 83-5A]

Carpools on Dulles Access Highway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplement to notice proposed rulemaking and reopening of comment period.

SUMMARY: This supplementary notice clarifies the scope of Notice 83-5, regarding carpools on Dulles access highway, announces the availability of supplementary material to the environmental assessment, and extends the date for commenting on the NPRM.

DATE: Comments on Notice 83-5A as supplemented herein must be received on or before September 1, 1983.

ADDRESSES: Comments may be mailed in duplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Atterntion: Rules Docket (AGC-204) Docket No. 23655, 800 Independence Avenue SW., Washington, D.C. 20591 or delivered in duplicate to:

Room 915 G, 800 Independence Avenue SW., Washington, D.C. 20591

Comments must be marked: Docket No. 23655

Comments may be inspected in Room 915 G weekdays between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Edward Faggen, Legal Counsel, AMA-7, Hanger 9, Washington National Airport, Washington, D.C. 20001, Telephone: (703) 557-8123.

SUPPLEMENTARY INFORMATION:

Comments Invited

On June 6 the FAA published a Notice of Proposed Rulemaking (Notice 83-5; 48 FR 25215) requesting comments on a proposal to amend the Federal Aviation Regulations (14 CFR 159.35) to allow carpools with two or more persons to use the Dulles Airport Access Highway (Access Highway) during commuter hours. As explained in the Notice, FAA issued the proposals for the following reasons: The Access Highway is currently restricted to Dulles Airport users with certain exceptions including an exception for carpools of four or more persons. Also, a large number of unauthorized vehicles, as many as 8000 each day, use the Access Highway for non-airport related travel. In the fall of 1983, the extention of the Dulles Access Highway to Interstate 66 (I-66) will be completed, thereby enabling traffic to pass from one road directly on to the other. It is expected that the traffic restrictions on I-66 (four or more persons per vehicle during the peak period and in the peak direction) will remain in effect after the connector road is open. These restrictions apply to non-airport traffic including the non-airport traffic coming from the Access Highway. To better assure that the traffic leaving the Dulles Access Highway and entering on to I-66 consists of the legitimate airport traffic and carpools of four or more persons during the I-66 restricted hours, FAA will prevent unauthorized vehicles from entering on to the connector roadway.

As indicated in the Notice 83-5, FAA has identified alternative ways of dealing with this problem. The principal proposal is to eliminate all unauthorized traffic from the Access Highway but to relax the carpool requirements by allowing carpools of two or more persons to enter the Access Highway at Reston and Trap road. The carpools would also be permitted to enter the Access Highway from Route 28 westbound and turn around at the airport to proceed eastbound. The four person requirements on I-66 would not be affected by this or any other FAA action.

Another alternative is to eliminate all unauthorized users other than four person carpools which could continue on to I-66.

FAA has been urged to consider another alternative, the alternative of authorizing all commuter vehicles to use the Access Highway with a decal regardless of the number of occupants in the vehicles. This alternative has several variations. Essentially, vehicles with a decal would be permitted to enter the Access Highway at one or more locations but could not use the connector road or I-66 without complying with the I-66 restrictions. This approach, it is urged, would keep thousands of vehicles that currently use the Access Highway from having to travel on already congested alternate routes. Also, it would be the least disruptive of established commuting patterns during the period that the Dulles Toll Road is under construction.

With this Notice FAA is clarifying to parties interested in Notice 83-5 that although the proposed rule was drafted in terms of 2- and 3-person carpools, the scope of alternatives before FAA includes the option of adopting a commuter vehicle rule without an occupancy requirement in some form as well as the alternative of retaining the 4-person carpool requirements. Interested persons should consider this range of alternatives in presenting their comments.

Supplementary traffic projections are being prepared for the environmental assessment associated with Notice 83-5. This supplementary material will assess the effect of authorizing properly marked single occupant commuter vehicles to use the Access Highway. This supplementary assessment material will help FAA focus on the volume of highway users and the impacts on feeder roadways that can be expected if single occupant vehicles are allowed to enter the highway at one or more locations. The supplementary material will be placed on public review in the rulemaking docket as soon as it is available.

Reopening of Comment Period

In view of the additional information to be provided for public review, the FAA is reopening the formal period for commenting on Notice 83-5. Comments will be received until September 1, 1983.

(Secs. 3 and 4, Second Washington Airport Act, 64 Stat. 770; Sec. 313, Federal Aviation Act of 1958, as amended (49 U.S.C. 1359); sec. 6, Department of Transportation Act (49 U.S.C. 1655))

Note.—It is certificated under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. Only a few small entities (businesses) are affected and the cost of implementation and compliance is deemed minimal. FAA has therefore determined that the proposed regulation is not major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A detailed economic evaluation is not required because the economic impact of the proposal is judged to be minimal.

Issued in Washington, D.C., on July 15, 1983.

James A. Wilding,

Director, Metropolitan Washington Airports.

[FR Doc. 83-22801 Filed 8-17-83; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 20080, File No. S7-950]

Exemption for Options on Government Securities Traded Otherwise Than on a National Securities Exchange

AGENCY: Securities and Exchange Commission.

ACTION: Modification of rulemaking proposal and extension of comment period.

SUMMARY: The Commission is modifying a rulemaking proposal and extending for thirty days the public comment period on the proposal. The proposed rule as originally published would designate as "exempted securities" under the Securities Exchange Act of 1934 options on government securities where such options are traded otherwise than on a national securities exchange or an automated quotation system of a registered securities association. The Commission wishes to modify the proposed exemption by adding a requirement that the exempted options cover securities representing obligations of $250,000 or more.

DATE: Comments should be submitted by September 18, 1983.

ADDRESSES: Interested persons should submit three copies of their written data, views and arguments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and should refer to File No. S7-950. All submissions will be available for public inspection at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Kevin Fogarty, Esq., Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549 (202) 272-7345.

SUPPLEMENTARY INFORMATION:

I. Introduction

In Securities Exchange Act Release No. 19162 (October 20, 1982), 47 FR 49409 (November 1, 1982) ("Proposing Release"), the Commission proposed Rule 3a12-7 for comment. The proposed rule would have established as "exempted securities" under the Securities Exchange Act of 1934 ("Exchange Act") options or privileges (1) which relate to securities guaranteed by the U.S. government or issued by the government or government corporations, and (2) which are "exclusively traded otherwise than on a national securities exchange or an automated quotation system of a registered securities association."

As discussed in the Proposing Release, government securities dealers sometimes trade such options in connection with their government securities business. Trading appears to be largely confined to market professionals and institutions using the options for hedging or income-producing purposes. While the Commission staff has generally taken the position that OTC government options are securities separate from the exempt securities underlying them,[1] the Commission has not, as a general administrative matter, required registration of firms that limit their activities to government securities and OTC government options. As originally proposed, Rule 3a12-7 would have codified this informal practice and also made it clear that the options are not subject to the margin requirements of Section 7 or to any provision of the Exchange Act that does not apply to "exempted securities." All the provisions of the Securities Act of 1934, including the registration requirements, would remain applicable.

After receiving some adverse comments in response to the Proposing Release,[2] the Commission resolicited comment[3] in order to learn more about the OTC government options market, the prospect for public investor participation in it, alternative ways of monitoring it and the burden that broker-dealer registration would impose on OTC government options dealers. The Commission specifically requested comment regarding whether any exemption should be limited to entities monitored by the Federal Reserve Board or subject to some type of governmental supervision.

II. Additional Public Comment

Six comment letters were received in response to the Resolicitation Release. Donaldson Lufkin & Jenrette ("DLJ") restated its earlier opposition to the proposed rule,[4] while commentators from the Federal Reserve Bank of New York, Salomon Brothers, the Mortgages Bankers Association and the National Association of Home Builders expressed support for the rule. The Government National Mortgage Association ("GNMA") of the Department of Housing and Urban Development also favored the rule but with some qualification.

Commentators described the existing OTC government options market as one composed of institutions and professionals, with the bulk of the activity centered on options on mortgage-backed securities such as those guarnateed by GNMA. DLJ suggested that exchange trading might stimulate new public interest in OTC options, and cited the development of precious metals options in the 1970's. The National Association of Home Builders, however, argued that public investor interest in "This institutional market where a round lot is $1 million when there is a well-established, regulated and publicly reported exchange system already in place" would be unlikely.

Commentators did not discuss in detail either the burdens they believed would result from requiring OTC government option dealers to register as broker-dealers[5] or the advisability of limiting the exemption to entities reporting to the Federal Reserve Bank of New York or whose financial responsibility was otherwise subject to public scrutiny. Such a limitation was favored by DLJ but opposed by the Federal Reserve Bank of New York and Salomon Brothers. Several commentators stressed the need to fulfill Congressional expectations of a regulatory exemption and the Commission's ability to continue to monitor the OTC government options market and to act should any abuses appear. Commentators also argued that past abuses in the GNMA market, which had been cited in opposition to Rule 3a12-7 after its first proposal, have been remedied by regulatory reforms that GNMA and various financial regulators have instituted as well as by the lessons of experience learned by market participants.

Two views emerged on the competitive consequences of the proposed rule. DLJ suggested that regulation of standardized exchange-traded government options, with the associated expenses of compliance, might pose a competitive disadvantage to traders of standardized options, given the exemption for OTC government options. Salomon Brothers, in contrast, argued that it would be unreasonable not to exempt the OTC options contracts while various other vehicles relating to government securities, such as forward delivered contracts and dealer-financed cash purchases, possibly subject to the

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[1] This position has now been written into the securities statutes by virtue of the securities legislation implementing the SEC/CFTC Accord ("1982 Securities Acts Amendments"). *See, e.g.*, Securities Exchange Act of 1934, *as amended*, Section 3(a)(10), 15 U.S.C. 78c(a)(10).

[2] *See* letter from Frank M. Wilkinson, Managing Director, Fixed Income Division, Donaldson Lufkin & Jenrette, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, November 24, 1982; letter from Howard Brenner, Chairman, Options and Derivative Products Committee, Securities Industry Association, to George A. Fitzsimmons, December 16, 1982. File No. S7-950.

[3] Securities Exchange Act Release No. 19512 (February 18, 1983) 48 FR 8291 (February 28, 1983) ("Resolicitation Release").

[4] *See* Resolicitation Release for a discussion of DLJ's initial comment.

[5] The National Association of Home Builders, however, noted that if currently exempted government securities dealers registered (rather than using a registered subsidiary) in order to continue the OTC options phase of their business, all phases of their business would become subject to net capital requirements, which would raise their costs of doing business and therefore the public sector's cost of financing.

same abuses as OTC options, were exempt from regulation.

III. Dollar Amount Limitation

Certain commentators, in particular, DLJ and the Securities Industry Association Options Committee ("SIA"),[6] contend that an across-the-board exemption of OTC government options would be inconsistent with the protection of investors, while other commentators argue that a failure to adopt any exemption would impose unnecessary burdens on government securities dealers and others trading OTC government options. The Commission believes these competing concerns may be subsantially accommodated by adopting an exemption with a minimum dollar limitations designed to bring most professional and insitutional transactions within the exemption, while excluding from the exemption options on smaller principal amounts which are most likely to be of interest to individual investors. Specifically, the Commission proposes a limitation of the exemption to OTC government options on securities representing principal amounts of $250,000 or more. This figure was selected because it is now the minimum principal amount of mortgage packages that GNMA will accept for guarantee.[7] Since OTC government options on debts smaller than the minimum GNMA package amount do not appear to be common, such a limitation would minimize interference with the existing market. At the same time, the premium on an option covering $250,000 in debt is likely to represent a substantial enough investment that it would not be undertaken lightly by an unsophisticated individual investor.[8] Of course, since the premium becomes lower the farther an option is out of the money, and since an OTC option can be written for any strike price, a minimum principal amount limitation may not provide complete protection.[9] The limitation, however, may provide additional investor protection at little or no expense in regulatory burden to the types of traders the exemption aims to accommodate.[10]

IV. Regulatory Flexibility Act Consideration

The Regulatory Flexibility Act, which became effective on January 1, 1981, imposes new procedural steps applicable to agency rulemaking which has a significant economic impact on a substantial number of small entities.[11] The Chairman of the Commission has certified pursuant to the Regulatory Flexibility Act that proposed Rule 3a12–7, if adopted, would not have a significant economic impact on a substantial number of small entities, because the rule will enable unregistered broker-dealers to continue to conduct a business in qualifying over-the-counter government options without registering with the Commission, and there is not a substantial number of unregistered broker-dealers conducting business in over-the-counter government options which do not meet the above-mentioned $250,000 qualification. Therefore the rule would not have impact on a substantial number of broker-dealers, including small broker-dealers.

V. Statutory Basis

Proposed Rule 3a12–7 would be adopted under the Act, 15 U.S.C. 78a *et seq.*, and particularly Sections 3(a)(12), 15(a)(2) and 23(a) [15 U.S.C. 78c(a)(12), 78o(a)(12) and 78w(a)(23)].

VI. Text of the Proposed Amendment

PART 240—[AMENDED]

On the basis of the above discussion and analysis, the Commission is proposing to amend Part 240 of Chapter II of Title 17 of the Code of Federal Regulations by adding § 240.3a12–7 as follows:

§ 240.3a12–7 Exemption for certain derivative securities traded otherwise than on a national securities exchange.

Any put, call, straddle, option, or privilege exclusively traded otherwise than on a national securities exchange or an automated quotation system of a registered securities association, which relates to any security which is a direct obligation of, or an obligation guaranteed as to principal or interest by the United States, or a security issued or guaranteed by a corporation in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury pursuant to Section 3(a)(12) of the Act, shall be exempt from all provisions of the Act which by their terms do not apply to any "exempted security" or "exempted securities," provided that such underlying security represents an obligation equal to or exceeding $250,000 principal amount.

VII. Solicitation of Comments

All interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should submit three copies thereof to George A Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549, by September 18, 1983. Reference should be made to File No. S7–950. All submissions will be made available for public inspection at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C.

Dated: August 12, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

Regulatory Flexibility Act Certification

I, John S.R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that the proposed rule 3a12–7 to define over-the-counter government options covering obligations of $250,000 or more as exempted securities under the Securities Exchange Act of 1934 set forth in Securities Exchange Act Release No. 20080 will not have a significant economic impact on a substantial number of small entities. The reason for this certification is that the rule will enable

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[6] DLJ submitted comments in response to both the Proposing Release and Resolicitation Release, while the SIA commented only on the Proposing Release.

[7] A package this small, however, will be combined with others to form a larger pool against which the actual GNMA certificates will issue. No pool will be smaller than $350,000. Because of the declining principal amount feature of GNMA pools and the fact that GNMA pools of variable size are often deliverable in connection with GNMA commitments, the Commission specifically solicits comment on whether any special provision regarding GNMA securities should be written into the rule or left to interpretation.

[8] Exchange-traded government debt options currently cover principal amounts as low as $20,000.

[9] Furthermore, the suggested limitations does not purport to assure the financial responsibility of any participant in the exempted market. So long as the market remains limited to the kinds of participants now active in it, however, traders may reasonably be expected to rely on their own judgment as to their obligors.

[10] The Commission staff has informally discussed the dollar-limitation concept with a number of the commenatators. Summaries of these conversations appear in the public file, File No. S7–950.

[11] Although Section 601(6) of the Regulatory Flexibility Act, 5 U.S.C. § 601 (6), defines the term "small entity," the statute permits agencies to formulate their own definitions. The Commission has adopted definitions of the term small entity for purposes of Commission rulemaking in accordance with the Regulatory Flexibility Act. Those definitions, as relevant to this proposed rulemaking, are set forth in Rule 0–10, 17 CFR 240.0–10. *See* Securities Exchange Act Release No. 18452 (January 28, 1982). A broker or dealer under Rule 0–10 generally is a "small business" or "small organization" if it had total capital of less than $500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to 17 CFR 240.17a–5(d), or, if not required to file such a statement, if it had total capital of less than $500,000 on the last business day of the proceding fiscal year [or in the time it has been in business, if shorter]. *See* Rule 0–10(c).

unregistered broker-dealers to continue to conduct a business in qualifying over-the-counter government options without registering with the Commission, and there is not a substantial number of unregistered broker-dealers conducting business in over-the-counter government options which do not meet the above-mentioned $250,000 qualification. Therefore the rule would not have impact on a substantial number of broker-dealers, including small broker-dealers.

Dated: August 4, 1983.

John S.R. Shad,

Chairman.

[FR Doc. 83-22732 Filed 8-17-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD3-83-44]

Regatta; Head of the Connecticut River, Middletown, Connecticut

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: Special Local Regulations are being proposed for the Head of the Connecticut River Regatta being sponsored by the City of Middletown, Connecticut. This event will be held on October 9, 1983 between the hours of 9:45 a.m. and 5:00 p.m. The Coast Guard is considering the issuance of this regulation to provide for the safety of participants and spectators on navigable waters during the event.

DATES: Comments must be received on or before September 18, 1983.

ADDRESSES: Comments should be mailed to Commander (b), Third Coast Guard District, Governors Island, New York, NY 10004. The comments will be available for inspection and copying at the Boating Safety Office, Building 110, Governors Island, New York, NY. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this office.

FOR FURTHER INFORMATION CONTACT: LTJG D. R. Cilley, (212) 668-7974.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD3-83-44) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed. The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are LTJG D. R. Cilley, Project Officer, Boating Safety Office, and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Proposed Regulations

The annual Head of the Connecticut River Regatta sponsored by the City of Middletown, Connecticut is well known to the boaters and residents of this area. In the past few years it has grown to become one of the largest crew shell race events of it's type on the East Coast. Approximately 400 crew shells will race against the clock in 18 heats during the day. The sponsor will provide 6-8 vessels to help patrol this event in conjunction with Coast Guard and local authority resources. Few spectator craft are expected due to the late date of this event. The race course and other organizational details have not been altered from that of last year. There was no problem with last year's regulation, therefore this regulation remains virtually unchanged. The Coast Guard proposes restricting vessel movement within this section of the Connecticut River during the event to provide for the safety of the participants and spectators.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations by adding a temporary § 100.35-309 to read as follows:

§ 100.35-309 Head of the Connecticut River Regatta, Middletown, Connecticut.

(a) *Effective Dates.* This regulation shall be effective from 9:00 a.m. to 6:00 p.m. on October 9, 1983. No raindate has been approved for this event.

(b) *Regulated Area.* That section of the Connecticut River between the southern tip of Gildersleeve Island and Light Number 87.

(c) *Special Local Regulations.* (1) No person or vessel shall enter or remain in the regulated area unless participating in the event or authorized by the event sponsor or Coast Guard patrol personnel.

(2) No spectator or transiting vessel shall be allowed to go out onto or across the regulated area without Coast Guard escort.

(3) Vessels awaiting passage through the regulated area will be held in the vicinity of the southern tip of Gildersleeve Island, if southbound and at Light Number 87 if northbound, until they are escorted at no wake speeds by Coast Guard patrol personnel through the race course.

(4) The sponsor shall not start any race after 5:30 p.m. on October 9, 1983.

(5) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(46 U.S.C. 454; 49 U.S.C. 1655(b); 49 CFR 1.46(b) and 33 CFR 100.35)

Dated: August 10, 1983.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard Commander, Third Coast Guard District.

[FR Doc. 83-22872 Filed 8-17-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 161

[CGD 79-131]

U.S./Canadian Cooperative Vessel Traffic Management System

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to issue regulations which establish the Cooperative Vessel Traffic Management System (CVTMS) in Haro Strait and the Strait of Juan de Fuca. In 1979, the United States and Canada signed an agreement to establish a jointly managed CVTMS in the region. These regulations provide for the safe and expeditious movement of vessel traffic while minimizing the risk of pollution.

DATES: Comments must be submitted on or before October 3, 1983.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/44), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered to

and will be available for inspection and copying at the Office of the Executive Secretary, Marine Safety Council, Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593 between the hours of 8 A.M. and 4 P.M. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: LCDR T. A. THOMPSON, Office of Marine Environment and Systems, (202) 426–1940. Normal office hours are 7:00 a.m. to 3:30 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Comments should include the name and address of the person making them, identify this notice (CGD 79–131) and the specific section of the proposal to which each comment applies, and give the reasons for the comments. If an acknowledgement is desired, a stamped, self-addressed postcard or envelope should be enclosed. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

No public hearing is presently planned. However a hearing may be held if it is determined that it would aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this proposal are LCDR T. A. THOMPSON, Project Manager, Office of Marine Environment and Systems, and LCDR BRAD SHORT, Project Counsel, Office of the Chief Counsel.

Background

The Ports and Waterways Safety Act, (33 U.S.C. 1221) as amended by the Port and Tanker Safety Act of 1978, (Pub. L. 95–474, 92 Stat. 1471), provides authority for the Secretary of the Department of Transportation to "establish, operate, and maintain vessel traffic services * * * in any area covered by an international agreement." In 1975, the United States and Canada jointly implemented a voluntary Traffic Separation Scheme (TSS) for the Strait of Juan de Fuca in order to reduce the risk of vessel collisions and pollution. The joint Canadian/United States "Agreement for a Cooperative Vessel Traffic Management System for the Juan de Fuca Region" was signed by representatives of both nations on December 19, 1979. It is an international agreement between United States and Canada which was entered into for the express purpose of establishing a permanent vessel traffic service in the Juan de Fuca region between the United States and British Columbia, Canada. The objectives of the agreement are to enhance safe and expeditious vessel traffic movement, and to minimize risk of pollution to the marine environment. The United States and Canda have determined that the terms of this agreement may best be carried out through the issuance and enforcement of compatible regulations by each party.

Discussion of the Proposal

The waters to which this rulemaking applies are referred to as the Coperative Vessel Traffic Management System Area (CVTMS Area.) The CVTMS Area is separated into three divisions, referred to as zones. The Tofino and Vancouver zones are managed by the Canadian Coast Guard, while the United States Coast Guard manages the Seattle zone. The zone boundaries are described in §§ 161.256, 161.258, and 161.260. In the Tofino and Vancouver Zones, Canadian Regulations and the reuglations proposed in this rulemaking require vessels in Canadian waters and U.S. waters respectively to report to and comply with the directions of the appropriate Canadian Vessel Traffic Management Center. In the Seattle Zone, Canadian Regulations and the regulations in this rulemaking require vessels in Canadian waters and U.S. wates respectively to report to and comply with directions of the United States Vessel Traffic Management Center.

Vessels which are located in a particular zone will be monitored by radar at the Vessel Traffic Management Center. Radar observations of vessels will be augmented by radiotelephone reports which are made by each vessel to the Center whenever a calling-in-point is reached or a zone boundary is crossed.

This proposed rule would require the carriage of a radiotelephone by certain vessels which would not otherwise be required to carry them. Currently, the Vessel Bridge-to-Bridge Radiotelephone Act requires the use of radiotelephones on power-driven vessels of 300 gross tons and upward, on vessels of 100 gross tons and upward carrying one or more passengers for hire, on towing vessels of 26 feet and over, and on certain dredges and floating plants.

This proposed rule requires certain vessels engaged in towing and most vessels of 20 meters or more to carry a radiotelephone. The impact of this requirement will be to require the carriage of a radiotelephone by the following vessels which presently are not required to carry them:

a. Power-driven vessels of 20 meters or more but less than 300 gross tons, except fishing vessels;

b. All vessels of 20 meters or more but less than 100 gross tons carrying one or more passengers for hire;

c. All nonpower-driven vessels which are greater than 20 meters which are not presently required to carry a radiotelephone except unmanned vessels or those being towed or pushed;

d. All vessels engaged in towing alongside or astern, or in pushing ahead, which are less than 8 meters, where (1) the combined overall length of the vessel towing, the towing apparatus, and the vessel or object being towed is 45 meters or more; or (2) the vessel or object towed is 20 meters or more in overall length.

Regulatory Evaluation

This proposed rulemaking action is considered to be non-major under Executive Order 12291 (46 FR 13193; February 19, 1981) and is classified as "non-significant" under Department of Transportation Order 2100.5, "Policies and Procedures for Simplifications, Analysis and Review of Regulations," dated May 22, 1980. A draft Evaluation has not been prepared because the impact of the proposed regulation is expected to be minimal. As previously discussed the proposed regulations would require a radiotelephone on certain vessels currently not required to carry them. The number of vessels in these categories is small and the proposed regulations would not affect most recreational and fishing vessels. The cost to equip a vessel with equipment required by the proposed regulations, a radiotelephone, would average $400 per unit.

Regulatory Flexibility Act

For the reasons discussed above, the Coast Guard has determined that these regulations will not have a significant economic effect. The cost of installing a radiotelephone, where required by the proposed rules, is inconsequential compared to the cost of owning and operating the affected vessels. Therefore, pursuant to Section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164) it is certified that these regulations will not have a significant economic impact on a substantial number of small entities.

Reporting and Recordkeeping Requirements

The collection of information requirements contained in section 161.208 of this rule have been submitted to the Office of Management and Budget

(OMB) for review under Section 3504(h) of the Paperwork Reduction Act, Pub. L. 96-511. Comments on this collection of information are directed to the Office of Information and Regulatory Affairs of OMB, Attention: Mr. Wayne Leiss, room 3001. A copy should also be sent to the Coast Guard as indicated under "Addresses".

Environmental Impact

An Environmental Assessment (EA) has been prepared by the Coast Guard for this action. The EA will be circulated for review and comment through the OMB Circular A-95 Clearinghouse in accordance with COMDTINST M16475.1A. Based upon the EA, a Finding of No Significant Impact (FONSI) has been prepared for circulation with the EA. It is anticipated that the FONSI will be accepted. If accepted it would be finalized only after the comment period for the EA has ended.

List of Subjects in 33 CFR Part 161

Navigation (water), Vessels.

Sections 161.200 through 161.266 are added to Part 161, Title, 33 of the Code of Federal Regulations, to read as follows:

PART 161—VESSEL TRAFFIC MANAGEMENT

* * * * *

Subpart B—Vessel Traffic Service

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Juan de Fuca Region Cooperative Vessel Traffic Management System

General Rules

Sec.
161.200 Purpose.
161.201 Applicability.
161.202 Vessel exemptions.
161.203 Definitions.
161.204 Vessels operation in the CVTMS area.
161.205 CVTMC instruction.
161.206 CVTMS User's Manual.
161.208 Authorization to deviate from these rules; equivalent procedures.
161.210 Emergencies.

Communications Rules

161.212 Radio listening watch.
161.214 Frequencies.
161.216 Time.
161.218 English language.
161.220 Radio failure.
161.222 Report of emergency or radio failure.
161.224 Report of impairment to the operation of the vessel.
161.226 Miscellaneous reports.

Vessel Movement Reporting System Rules (VMRS Rules)

161.228 Initial report, vessels entering the CVTMS Area from sea.
161.230 Initial report, vessels within the CVTMS Area.
161.232 Zone boundary and calling-in-point report.
161.234 Follow-up report.
161.236 Final Report.
161.238 Calling-in-points; Tofino Zone.
161.239 Calling-in-points; Seattle Zone.
161.240 Calling-in-points; Vancouver Zone.

Traffic Separation Scheme (TSS) Rules

161.242 Vessel operation in the TTS.
161.244 Direction of traffic.
161.246 Anchoring in the TSS.
161.248 Joining, leaving, and crossing a traffic lane.

Description and geographic coordinates

161.254 CVTMS Area.
161.256 Tofino Zone.
161.258 Seattle Zone.
161.260 Vancouver Zone.
161.262 Separation Zones.
161.264 Traffic Lanes.
161.266 Precautionary Areas.

Authority: Pub. L. 95-474, 92 Stat. 1477 (33 U.S.C. 1231); 49 CFR 1.46(n)(4).

Subpart B—Vessel Traffic Service

* * * * *

Juan De Fuca Region Cooperative Vessel Traffic Management System

General Rules

§ 161.200 Purpose.

Section 161.200 to 161.299 prescribe rules for vessel operation in the Cooperative Vessel Traffic Management System Area (CVTMS Area) for the Juan de Fuca region. These rules are intended to enhance safe and expeditious vessel traffic movement, to prevent groundings and collisions, and to minimize the risk of property damage and pollution to the marine environment.

§ 161.201 Applicability.

The CVTMS is established as a program jointly managed by the United States and Canada. However, the CVTMS Area is divided into zones, each of which is administered solely by the United States or Canada. The appropriate Vessel Traffic Management Center administers, within its zone, the regulations issued by both nations. Each set of regulations applies only to the waters over which the issuing nation has jurisdiction. With the exception of the vessels listed in § 161.202, the United States' regulations apply in the CVTMS Area to:

(a) Each vessel of 20 meters or more in length.

(b) Each vessel that is engaged in towing alongside or astern or in pushing ahead one or more vessels or objects, other than fishing gear, where: (1) the combined overall length of the vessel towing, the towing apparatus, and the vessel or object towed is 45 meters or more; or (2) the vessel or object towed is 20 meters or more in overall length.

(c) Each air cushion vehicle of 8 meters or more in overall length.

§ 161.202 Vessel exemptions.

The rules contained in §§ 161.212 through 161.240 do not apply to—

(a) Fishing vessels or less than 300 gross tons;

(b) Unmanned vessels or vessels which are being towed or pushed;

(c) Vessels engaged in towing or pushing within a booming ground; or

(d) A vessel while it is engaged in a military or law enforcement operation authorized by the Government of the United States to the extent that compliance with these regulations will interfere with that operation.

§ 161.203 Definitions.

As used in §§ 161.200–161.299—

"Authority" means the Commissioner of the Canadian Coast Guard or the Commandant of the United States Coast Guard.

"Berth" means any wharf, pier, anchorage, or mooring buoy.

"Cooperative Vessel Traffic Management Center" (CVTMC) means the shore-based facility established by the appropriate Authority for managing vessel traffic in the CVTMS.

"Cooperative Vessel Traffic Management Center Instruction" (CVTMC Instruction) means an instruction issued by a vessel traffic management center to one or more ships, for the purpose of managing vessel traffic.

"Cooperative Vessel Traffic Management System" (CVTMS) means the system of vessel traffic management established and jointly operated by Canada and the United States within the waters of the CVTMS Area.

"Cooperative Vessel Traffic Management System Area" (CVTMS Area) means the waters described in § 161.254.

"ETA" means estimated time of arrival.

"National vessel traffic service" means a vessel traffic service which is operated and administered solely by Canada or the United States and is not a part of the Cooperative Vessel Traffic Management System.

"Person" means an individual, firm, corporation, association, partnership, or governmental entity.

"Precautionary area" means an area of the TSS at the entrance of one or more traffic lanes where vessel traffic converges from two or more directions.

"Separation zone" means an area of the TSS which is located between two

traffic lanes as a buffer to keep vessels proceeding in opposite directions a safe distance apart.

"Traffic lane" means an area of the TSS in which all vessels ordinarily proceed in the same direction.

"Traffic Separation Scheme" (TSS) means the network of traffic lanes, separation zones, and precautionary areas in the CVTMS Area.

"Vessel" means every description of watercraft, including non-displacement craft and seaplanes.

"Vessel Movement Reporting System (VMRS)" means a system by which vessel progress is monitored by reports from a vessel rather than by electronic surveillance.

"Zone" means a geographic subdivision of the CVTMS Area, defined for purposes of allocating responsibility for vessel traffic management to one of the authorities.

§ 161.204 Vessel operation in the CVTMS Area.

No person may cause or authorize the operation of a vessel in the CVTMS Area contrary to the rules in §§ 161.200 through 161.299.

§ 161.205 CVTMC instructions.

(a) During conditions of vessel congestion, adverse weather, reduced visibility, or other hazardous circumstances in a CVTMS Zone, the CVTMC may issue instructions to control and supervise traffic, and may specify times when vessels may enter, move within or through, or depart from ports, harbors, or other waters of the CVTMS Zone.

(b) When a vessel is navigating in an unsafe manner or with improperly functioning equipment, the CVTMC may direct the vessel's movement, including directing it to anchor or moor.

(c) The master, pilot or person directing the movement of a vessel shall comply with each instruction issued to the vessel.

§ 161.206 CVTMS User's Manual.

(a) The master of a vessel shall ensure that a copy of the current edition of the Cooperative Vessel Traffic Management System User's Manual for the Juan de Fuca Region is available on board the vessel when it is in the CVTMS Area.

(b) The CVTMS User's Manual is available from:

Officer-in-charge, Transportation Canada, Canadian Coast Guard, Vessel Traffic, Management Centre, P.O. Box 190, Ucluelet, BC Canada, VOR 3A0, Phone: (604) 726–7777

Commanding Officer, US Coast Guard, Vessel Traffic Service, 1519 Alaskan Way S., Seatle, Washington 98134, Phone: (202) 442–4124

Officer-in-Charge, Transport Canada, Canadian Coast Guard, Vessel Traffic, Management Centre, Room 1006, Kapilano 100, Park Royal West Van couver, BC Canada, V7T 1A2, Phone: (604) 666–6011

§ 161.208 Authorization to deviate from these rules; equivalent procedures.

(a) Where these regulations require a particular procedure, the Commander, Thirteenth Coast Guard District may, upon written request, authorize any other procedure provides a level of safety equivalent to that provided by the required procedure. An application for an authorization must state the need and fully describe the proposed procedure.

(b) Before a vessel embarked or about to embark upon a voyage may deviate from these regulations in a non-emergency, the master, pilot or person directing the movement of the vessel shall contract the CVTMC for authorization.

§ 161.210 Emergencies

In an emergency, the master, pilot, or person directing the movement of the vessel may deviate from any rule in §§ 161.200 through 161.299 to the extent necessary to avoid endangering persons, property, or the environment, and shall report the deviation to the CVTMC as soon as possible

Communications Rules

§ 161.212 Radio listening watch.

(a) The master of a vessel in the CVTMS Area shall ensure that a radiotelephone listening watch on the designated frequency is maintained on the navigational bridge of the vessel.

(b) The listening watch on the designated frequency may be suspended when—

(1) The vessel is securely berthed, other than at an anchorage or moored to a buoy; or

(2) When authorized by the CVTMC to conduct communications with other ships or shore stations on an alternate frequency.

§ 161.214 Frequencies.

The frequencies to be used when communicating with the CVTMC and with other vessels are as follows:

	Primary VTMC	Secondary VTMC
Tofino Zone	11	74
Seattle Zone	14	13
Van Couver Zone	11	74

§ 161.216 Time.

Each report required by §§ 161.200 through 161.299 must specify time using—

(a) The zone time in effect in the CVTMS Area; and

(b) The 24-hour clock system.

§ 161.218 English language.

Each report required by §§ 161.200 through 161.299 shall be made in English language.

§ 161.220 Radio failure.

Whenever a vessel's radiotelephone equipment fails:

(a) Before entering or while underway in the CVTMS Area—

(1) Compliance with §§ 161.212 and 161.228 is not required; and

(2) Compliance with §§ 161.228, 161.232, 161.234, and 161.236 is not required unless those reports can be made by other means.

(b) Before getting underway in the CVTMS Area, permission to get underway must be obtained from the CVTMC.

(c) The master shall restore the radiotelephone to operating condition as soon as possible.

§ 161.222 Report of emergency or radio failure.

Whenever the master, pilot, or person directing the movement of a vessel deviates from any rule in §§ 161.200 through 161.299 because of an emergency or a radio failure, he shall report the deviation or radio failure to the CVTMC by the most expeditious means.

§ 161.224 Report of impairment to the operation of the vessel.

The master, pilot, or person directing the movement of a vessel in the CVTMS Area shall report to the CVTMC as soon as possible—

(a) Any condition on the vessel that may impair its navigation, such as fire, defective propulsion machinery, defective steering equipment, defective radar, defective gyrocompass, or defective echo depth sounding device;

(b) Any tow that the towing vessel is unable to control or can control only with difficulty; and

(c) When involved in a grounding, collision, or ramming of a fixed or floating object.

§ 161.226 Miscellaneous reports.

The master, pilot, or person directing the movement of every vessel within the CVTMS Area shall report to the CVTMC whenever he becomes aware of any of the following circumstances:

(a) Another vessel in apparent difficulty or involved in a casualty.
(b) An obstruction which is dangerous to navigation.
(c) Any aid to navigation which is malfunctioning, damaged, missing, or off position.
(d) Any pollution of the marine environment.
(e) Any vessel which is creating a hazard to traffic.
(f) Any other danger to navigation including adverse weather conditions.
(g) Any significant change in information previously supplied under this section.

Vessel Movement Reporting System Rules (VMRS Rules)

§ 161.228 Initial report, vessels entering the CVTMS Area from sea.

At least 15 minutes and no more than 2 hours before a vessel enters the Tofino Zone from the Pacific Ocean, or the Vancouver Zone from the Strait of Georgia, the master, pilot, or person directing the movement of the vessel shall report by radiotelephone the following information to the appropriate CVTMC:
(a) The type and name of the vessel.
(b) The point of entry in the CVTMS Area.
(c) Destination, ETA to destination, and route in the CVTMS Area.
(d) Speed of the vessel in knots.
(e) Length and deepest draft of the vessel and overall length of the tow if the vessel is towing.
(f) Whether or not any dangerous cargo listed in § 124.14 of this Chapter is on board the vessel or its tow if bound to or from a U.S. port.
(g) Any impairment to the operation of the vessel as described in § 161.224 (a) and (b).

§ 161.230 Initial report, vessels within the CVTMS Area.

At least 15 minutes and no more than 2 hours before a vessel berthed within the CVTMS Area intends to get underway, the master, pilot, or person directing the movement of the vessel shall report the following information by radiotelephone or telephone to the appropriate CVTMC:
(a) The type and name of the vessel.
(b) The point of getting underway from within the CVTMS Area.
(c) Destination, ETA to destination, and route in the CVTMS Area.
(d) Speed of the vessel in knots.
(e) Length and deepest draft of the vessel and overall length of the tow if the vessel is towing.
(f) Any impairment to the operation of the vessel as described in § 161.224 (a) and (b).

§ 161.232 Zone boundary and calling-in-point report.

When a vessel arrives at a calling-in-point listed in §§ 161.238, 161.239 or 161.240, or crosses a zone boundary, including a boundary between a national VTS Area and the CVTMS Area, whether or not the zone boundary is designated as a calling-in-point, the master, pilot, or person directing the movement of the vessel shall report the following information to the CVTMC by radiotelephone on the designated frequency for the zone in which the vessel is located or is leaving, if applicable, and on the designated frequency for the zone that the vessel is entering, if applicable:
(a) Vessel name.
(b) Vessel location.

§ 161.234 Follow-up report.

The master, pilot, or person directing the movement of the vessel shall report the following information to the CVTMC by radiotelephone:
(a) Any change in speed over the ground of one knot or more.
(b) When the vessel deviates from the route plan as previously reported or commences a maneuver which may impede traffic.

§ 161.236 Final report.

When a vessel anchors in, moors in, or departs from the CVTMS Area, the master, pilot, or person directing the movement of the vessel shall report the place of anchoring, mooring, or departure to the CVTMC.

§ 161.238 Calling-in-points; Tofino Zone.

Number	Position description	Geographical description
(1)	A line running north along the meridian 124°40'00"W. from the Washington State Shoreline to the Vancouver Island shoreline.	48°23'21"N 124°40'00"W to 48°34'58"N 124°40'00".W

§ 161.239 Calling-in-points; Seattle Zone.

Number	Position description	Geographical description
(2)	A line joining Sheringham Point Light and Slip Point Light.	A line running from 48°22'42"N, 123°55'10"W to 48°15'54"N, 124°14'54"W.
(3)	A line running 000°(T)-180°(T) through buoy "JA".	A line running 000°(T)-180°(T) through 48°14'12"N, 123°26'54"W.

§ 161.240 Calling-in-points; Vancouver Zone.

Number	Position description	Geographical description
(4)	A line joining Discovery Island Light with Pile Point. Mariners shall indicate whether their course is through Haro Strait or Sidney Channel when northbound.	A line running from 48°25'29"N, 123°13'28"W to 48°28'53"N, 123°05'34"W.
(5)	Approaching Turn Point Light.	A circle centered on 48°41'20"N, 123°14'10"W Radius 3 nautical miles.
(6)	A line joining East Point Light, Saturna Island, with Patos Island.	A line running from 48°47'00"N, 123°02'42"W to 48°47'22"N, 122°58'13"W.
(7)	A line joining the western extremity of the Tsawwassen Ferry terminal breakwater with Active Pass Light.	A line running from 49°00'09"N, 123°07'39"W, to 48°52'24.5"N, 123°17'24.5"W.

Traffic Separation Scheme (TSS) Rules

§ 161.242 Vessel operation in the TSS.

The master, pilot, or person directing the movement of a vessel in the TSS described in §§ 161.262 through 161.266, shall operate in accordance with the TSS rules prescribed in §§ 161.242 through 161.248.

§ 161.244 Direction of traffic.

(a) The master, pilot, or person directing the movement of a vessel proceeding in a traffic lane shall keep the separation zone to port.
(b) The master, pilot, or person directing the movement of a vessel in a precautionary area, except the Port Angeles precautionary area or any temporary precautionary area, shall keep the center of the precautionary area to port.

§ 161.246 Anchoring in the TSS.

No master, pilot, or person directing the movement of a vessel may anchor in the TSS.

§ 161.248 Joining, leaving, and crossing a traffic lane.

(a) The master, pilot, or person directing the movement of vessel may join, leave, or cross a traffic lane only at a precautionary area unless the CVTMC has been notified of the point at which the vessel will join, leave, or cross the traffic lane.
(b) The master, pilot, or person directing the movement of a vessel crossing a traffic lane shall, to the extent possible, maintain a course that is perpendicular to the direction of the flow of traffic in the traffic lane.
(c) A master, pilot, or person directing the movement of a vessel joining or

leaving a traffic lane shall steer a course to converge on, or diverge from, the direction of traffic flow in the traffic lane at as small an angle as possible.

Description and Geographic Coordinates

§ 161.254 CVTMS Area.

For the purpose of these rules, the CVTMS Area consists of the waters from a point in the Pacific Ocean at 48°23'30"N., 124°48'37"W.; thence due east to the Washington State coast at Cape Flattery; thence southeastward along the Washington coastline to New Dungeness Light; thence northerly to Puget Sound Traffic Lane Entrance Lighted Buoy "S"; thence to Rosario Strait Traffic Lane Entrance Lighted Horn Buoy "R"; thence to Hein Bank Lighted Bell Buoy; thence to Cattle Point Light, on San Juan Island; thence along the shoreline to Lime Kiln Light; thence to Kellett Bluff Light on Henry Island; thence to Turn Point Light on Stuart Island; thence to Skipjack Island Light; thence to Sucia Island Daybeacon 1; thence along the shoreline of Sucia Island to a point at latitude 48°46'06"N., longitude 122°53'30"W.; thence to Clements Reef Buoy "2"; thence to Alden Bank Lighted Gong Buoy "A"; thence to Birch Point at latitude 48°56'33"N., 122°49'18"W.; thence along the shoreline to a point where the shoreline intersects the 49° north parallel of latitude; thence due west to the Canadian shoreline at Maple Beach; thence along the shoreline around Point Roberts to a point where the shoreline intersects the 49° north parallel of latitude at Boundary Bluff; thence due west to a point at 49°00'00"N., 123°19'14"W.; thence southerly to Active Pass Light; thence to East Point on Saturna Island; then to Point Fairfax Light on Moresby Island; thence to Discovery Island Light; thence to Trail Island Light; thence to Brotchie Ledge Light; thence to Albert Head Light; thence westward along the Canadian shoreline to the intersection of the shoreline with the 48°35'45"N. near Bonilla Point; thence due west to a point at 48°35'45"N., 124°47'30"W.; thence southerly along a rhumb line to the starting point at 48°23'30"N., 124°48'37"W.

§ 161.256 Tofino Zone.

The Tofino Zone comprises that portion of the CVTMS Area west of 124°40'00"W.

§ 161.258 Seattle Zone.

The Seattle Zone comprises that portion of the CVTMS Area in the Strait of Juan de Fuca, bordered on the west by 124°40'00"W., and on the north and east by lines drawn from the tip of Church Point on the Canadian shoreline to Race Rocks Light; thence easterly to the intersection of the U.S./Canadian border at position 48°17'04"N., 123°14'51"W., thence northeasterly to Hein Bank Lighted Bell Buoy; thence southerly to Rosario Strait Traffic Lane Entrance Lighted Horn Buoy "R"; thence to Puget Sound Traffic Lane Entrance Lighted Buoy "S"; thence to New Dungeness Light.

§ 161.260 Vancouver Zone.

The Vancouver Zone comprises that portion of the CVTMS Area north of line drawn from the tip of Church Point on the Canadian shoreline to position 43°17'04"N., 123°141'51"W.; thence northeasterly to Hein Bank Lighted Bell Buoy; thence northeasterly to Cattle Point.

§ 161.262 Separation Zones.

The United States waters of the CVTMS Area contain traffic separation zones bounded by lines connecting the following geographical positions:

(a) *Juan de Fuca separation zone.*

48°28.8'N., 124°43.8'W.
48°13.4'N., 123°56.9'W.
48°13.4'N., 123°31.7'W.
48°14.7'N., 123°31.8'W.
48°17.8'N., 124°00.6'W.
48°29.6'N., 124°43.6'W.

(b) *Port Angeles separation zone.*

48°10.4'N., 123°26.5'W.
48°12.3'N., 123°27.9'W.
48°12.5'N., 123°27.3'W.
48°10.6'N., 123°25.8'W.

§ 161.264 Traffic lanes.

The traffic lanes, which extend to but do not enter the precautionary areas, are located on both sides of the separation zones and are bounded by lines connecting the following geographical points:

(a) *Juan de Fuca outbound traffic lane.*

The outbound lane is located between the northern boundary of the Juan de Fuca separation zone and:

48°15.8'N., 123°31.0'W.
48°18.6'N., 124°00.2'W.
48°30.7'N., 124°43.5'W.

(b) *Juan de Fuca inbound traffic lane.*

The inbound traffic lane is located between the southern boundary of the Juan de Fuca separation zone and:

48°27.1'N., 124°41.8'W.
48°12.4'N., 123°57.2'W.
48°12.4'N., 123°30.2'W.

(c) *Port Angeles outbound traffic lane.*

The outbound traffic lane is located between the northern boundary of the Port Angeles separation zone and:

48°10.9'N., 123°25.0'W.
48°13.6'N., 123°26.1'W.

(d) *Port Angeles inbound traffic lane.*

The inbound traffic lane is located between the southern boundary of the Port Angeles separation zone and:

48°12.4'N., 123°30.2'W.
48°10.1'N., 123°27.3'W.

§ 161.266 Precautionary Areas.

(a) Precautionary Area "J".

A precautionary area is bounded as follows: from 48°31.9'N., 124°51.3'W., thence south-easterly to 48°30.7'N., 124°43.5'W., thence southerly to 48°27.1'N., 124°43.8'W., thence westerly to 48°27.1'N., 124°45.4'W., thence southwesterly to 48°23.2'N., 124°48.8'W., thence north-westerly and northerly by an arc of 7 nautical miles radius, centered at 48°29.2'N., 124°43.6'W., thence to the point of origin.

(b) Precautionary Area "JA".

A precautionary area of radius two miles is centered upon geographical position: 48°14.2'N., 123°28.9'W.

Dated: June 22, 1983.

R. L. Brown,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 83-22666 Filed 8-17-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[CGD3-83-29]

Security Zone; New London Harbor, CT

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The Coast Guard is considering a proposal to establish a Security Zone, designated "D", in a portion of the Thames River, New London Harbor, New London, CT. The zone is needed to safeguard U.S. Naval and other vessels from sabotage or other subversive acts, accidents, or other incidents of a similar nature while they are moored at Piers Four and Seven at the Naval Underwater Systems Center (NUSC), New London, CT. Only those persons or vessels associated with United States Naval or Coast Guard operations or those vessels authorized by Captain of the Port New London would be allowed to enter or remain within Security Zone "D".

DATES: Comments must be received on or before October 3, 1983.

ADDRESSES: Comments should be mailed to Commander (mpv), Third Coast Guard District, Governors Island, New York, NY, 10004. The comments will be available for inspection and copying at the Port and Vessel Safety Branch office, Building 301, Governors Island, New York, NY. Normal office

hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant (junior grade) K. L. KING, Commander (mpv), Third Coast Guard District, at (212) 668-7179.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule making by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD3-83-29) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are Lieutenant (junior grade) K. L. KING, Project Officer for Commander (mpv), Third Coast Guard District, and Lieutenant Commander J. J. D'ALESSANDRO, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Proposed Regulation

This regulation is necessary since there are presently no rules which limit access by water to vessels moored at Piers Four and Seven at the Naval Underwater Systems Center (NUSC), New London. NUSC is the primary Department of Defense development, test, and evaluation center for underwater acoustic research. Its piers berth vessels such as Naval surface ships/submarines (including the new Trident-class submarines), Coast Guard Cutters, and research ships. These vessels are periodically outfitted with sensitive military research and test equipment; weapons loading/unloading is accomplished; or other support functions of military operations are carried out. The waters adjacent to the NUSC piers are frequently traversed by commercial vessels, both domestic and foreign, and by pleasure craft. Unauthorized vessels could, through intent or ignorance, come very close to vessels moored there, and pose a threat to the safety and security of military interests of the United States.

Economic Assessment and Certification

This proposed regulation is considered to be nonsignificant in accordance with DOT Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5). Its economic impact is expected to be minimal since this proposed Security Zone "D" does not encroach upon the shipping channel and only encompasses a relatively small water area around Piers Four and Seven at NUSC. Based upon this assessment, it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulations and has been determined not to be a major rule under the terms of that order.

Lists of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 165 of Title 33, Code of Federal Regulations, by adding a new paragraph (a)(4) to § 165.302 to read as follows:

§ 165.302 New London Harbor, Connecticut-security zone.

(a) * * *

* * * * *

(4) Security Zone D. The waters of the Thames River east of the Naval Underwater Systems Center, New London, enclosed by a line beginning at 41°20'36.0"N, 72°05'34.1"W; then to 41°20'36.0"N, 72°05'20"W; then to 41°20'41"N, 72°05'20"W; then to 41°20'43.7"N, 72°05'25.9"W; then to 41°20'41.6"N, 72°05'35.0"W; then along the shoreline to the point of beginning.

(50 U.S.C. 191; E.O. 10173; and 33 CFR 6.04-6)

Dated: August 5, 1983.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard Commander, Third Coast Guard District.

[FR Doc. 83-22671 Filed 8-17-83; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 111

Amendment of Regulations on Mailing Unsolicited Advertisements for Contraceptives

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: Postal regulations dealing with nonmailable written, printed, and graphic matter currently reflect the provisions of 39 U.S.C. 3001(e)(2), a statute prohibiting the mailing of certain advertisements for contraceptives (123.434, Domestic Mail Manual). A recent Supreme Court decision held the statute unconstitutional. The proposed revision necessitated by this decision would delete the current provisions, note the reason therefor, and advise addressees who find such mail objectionable of an alternative remedy.

DATE: Comments must be received on or before September 17, 1983.

ADDRESSES: Written comments should be directed to the Assistant General Counsel, Consumer Protection Division, Law Department, U.S. Postal Service, Washington, D.C. 20260-1100. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 9114, U.S. Postal Service Headquarters, 475 L'Enfant Plaza West, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John F. Ventresco, (202) 245-5898.

SUPPLEMENTARY INFORMATION: 39 U.S.C. 3001(e)(2) declares unsolicited advertisements for contraceptives to be nonmailable to consumers. As a consequence of litigation in 1973, its applicability was restricted to mailers with a commercial interest in the items advertised. *See Associated Students* v. *Attorney General*, 368 F. Supp. 11 (C.D. Cal. 1973). Current postal regulations include provisions reflecting this statute and the restriction resulting from the *Associated Students* case. These provisions appear in 123.434 of the *Domestic Mail Manual*.

On May 7, 1980, Youngs Drug Products Corp. ("Youngs"), a manufacturer of contraceptives, instituted an action in the U.S. District Court for the District of Columbia to enjoin the application of 3001(e)(2) to the mailing of various unsolicited advertisements for its contraceptives to consumers and to have the statute declared unconstitutional. Youngs contended that the statute unconstitutionally denied use of the mails for commercial

communication protected by the First Amendment. The district court held the statute unconstitutional as applied to the types of advertisements plaintiff wished to mail. *Youngs Drug Products Corp.* v. *Bolger*, 526 F. Supp. 823 (D.D.C. 1981). This decision was appealed directly to the U.S. Supreme Court, which affirmed the district court's judgment. *Bolger* v. *Youngs Drug Products Corp.*, 51 U.S.L.W. 4961 (U.S. June 24, 1983).

In view of the Supreme Court's decision, it is no longer necessary for postal regulations to include provisions implementing this statute.

Both the Supreme Court and district court decisions noted that the "pandering advertisements statute," 39 U.S.C. 3008, could be used to prevent the receipt of advertising for contraceptives by persons who avail themselves of the statute. Accordingly, our revised regulations indicate that any postal customer who receives an advertisement for contraceptives, and considers the advertised matter "erotically arousing or sexually provocative" (39 U.S.C. 3008(a)), may seek an order prohibiting the sender of the advertisement from making further mailings to him.

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

List of Subjects in 39 CFR Part 111

Postal Service.

PART 123—NONMAILABLE MATTER—WRITTEN, PRINTED, AND GRAPHIC

Revise 123.434 to read as follows:

.434 The statute making unsolicited advertisements for contraceptives nonmailable to consumers (39 U.S.C. 3001(e)(2)) has been held unconstitutional by the U.S. Supreme Court. Any addressee of such an advertisement sent through the mails, who considers the matter which it offers for sale to be "erotically arousing or sexually provocative," may seek a prohibitory order to prevent receipt of any further mail from the sender (*See* 123.6).

An appropriate amendment to 39 CFR 111.3 to reflect this change will be published if the proposal is adopted.

(39 U.S.C. 401)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-22676 Filed 8-17-83; 8:45 am]

BILLING CODE 7710-12-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 5b

Privacy Act; Exempt Record System

AGENCY: Office of the Secretary, Department of Health and Human Services.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office for Civil Rights of the Department of Health and Human Services maintains a system of records entitled "Complaint Files and Log, HHS/OS/OCR." The Department intends to exempt this system from certain provisions of the Privacy Act, 5 U.S.C. 552a. The proposed exemption is authorized by subsection (k)(2) of the Privacy Act, which applies to investigative materials compiled for law enforcement purposes. The Office for Civil Rights (OCR) is authorized to gather information for civil and administrative law enforcement purposes pursuant to several statutes requiring nondiscrimination in programs or activities receiving Federal financial assistance. In order to maintain the integrity of the OCR investigative process and to assure that OCR will be able to obtain access to complete and accurate information, the Department proposes to exempt this system, under subsection (k)(2), from the notification, access, correction and amendment provisions of the Privacy Act. The Department is requesting public comments on the proposed exemption.

ADDRESS: Comments should be addressed to James Fukumoto, Director, Office of Policy and Special Projects, Office for Civil Rights, Department of Health and Human Services, Room 5410 North Building, 330 Independence Avenue, SW., Washington, D.C. 20201. Comments received will be available for inspection at the above address.

DATES: Comments must be received by October 17, 1983.

FOR FURTHER INFORMATION CONTACT: Larry Velez, Telephone (202) 472-4256.

SUPPLEMENTARY INFORMATION: The Office for Civil Rights is responsible for enforcing Title VI of the Civil Rights Act of 1964, (nondiscrimination on the basis of race, color, or national origin), Section 504 of the Rehabilitation Act of 1973 (nondiscrimination on the basis of handicap), the Age Discrimination Act of 1975 (nondiscrimination on the basis of age), and other statutes which prohibit discrimination in programs or activities which receive Federal financial assistance. This responsibility includes investigation of discrimination complaints filed against recipients of Federal financial assistance.

Under the Privacy Act, individuals generally have a right to access to information pertaining to them in government files. However, the Act permits agencies, by regulation, to exempt from the general access provision records which are investigative material compiled for law enforcement purposes. This exemption is qualified in that if the material results in the denial of any right, privilege, or benefit to the individual, the individual will have access to the material (except to the extent necessary to protect confidential sources).

OCR investigative files are records compiled for law enforcement purposes. In the course of investigations, OCR often has a need to obtain confidential information involving individuals other than the complainant. In these cases it is necessary for OCR to preserve the confidentiality of this information to avoid unwarranted invasions of personal privacy and to assure recipients of Federal financial assistance that such information provided to OCR will be kept confidential. This assurance is often central to resolving disputes concerning access by OCR to the recipient's records, and is necessary to facilitate prompt and effective completion of the investigations.

Unrestricted disclosure of confidential information in OCR files can impede ongoing investigations, invade the personal privacy of individuals, reveal the identities of confidential sources, or otherwise impair the ability of the Office for Civil Rights to conduct investigations. For these reasons, the Department proposes to exempt this system, under subsection (k)(2) of the Privacy Act, from the notification, access, correction and amendment provisions of the Privacy Act.

The proposed exemption does not meet the standards set forth in Executive Order 12291 for classification as a major rule, and no regulatory impact analysis is required.

The Secretary certifies that the proposed exemption will not have a significant impact on any substantial number of small entities as defined by

the Regulatory Flexibility Act, Pub. L. 96-354.

List of Subjects in 45 CFR Part 5b

Privacy.

Dated: July 29, 1983.

Margaret M. Heckler,

Secretary.

For the reasons set out in the preamble it is proposed that the Department's Privacy Act Regulations, Part 5b of 45 CFR Subtitle A, be amended as follows:

PART 5b—PRIVACY ACT REGULATIONS

By adding paragraph (b)(2)(ii)(E) as follows:

§ 5b.11 Exemptions.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(E) Complaint Files and Log. HHS/OS/OCR.

* * * * *

[FR Doc. 83-22706 Filed 8-17-83; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 50, 52, 53, 54, 63, and 162

[CGD 81-079]

Marine Engineering Regulations for Merchant Vessels; Acceptance of ASME S, E, A and H Symbol Stamps for Power and Heating Boilers

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposed regulations would replace the current Coast Guard requirements for plan approval and shop inspection of boilers with requirements that they be inspected and stamped in accordance with the American Society of Mechanical Engineer's Boiler and Pressure Vessel Code. The proposal will bring Coast Guard requirements for boilers in line with current industry practice and will take maximum advantage of an industry safety standard which is recognized throughout the world and an inspection system already in existence. Several pressure vessel manufacturers have requested a changeover to ASME inspection and stamping because of frequent delays involved in having plan approval and shop inspections performed by the Coast Guard. ASME inspectors are more readily available to perform shop inspections in a timely manner, and the use of registered professional engineers to certify plans would minimize the time needed for Coast Guard installation inspections.

DATES: Comments on these proposed rules must be received on or before October 3, 1983.

ADDRESSES: Comments should be mailed to Commandant (G-CMC/44), (CGD 81-079), U.S. Coast Guard, Washington, D.C. 20593. The comments, draft evaluation, and materials referenced in this notice will be available for examination and copying between 8 a.m. and 5 p.m., Monday through Friday, except holidays, at the Marine Safety Council (G-CMC/44), Room 4402, Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593. Comments may also be delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Howard L. Hime, Office of Merchant Marine Safety, (202) 426-2160.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their name and address, identify this notice (CGD 81-079) and the specific section of the proposal to which each comment applies, and give the reason for the comment. The proposal may be changed in view of the comments received. All comments received will be considered before final action is taken on this proposal. No public hearing is planned, but one will be held at a time and place to be set in a later notice in the Federal Register if requested in writing and it is determined that the opportunity to make an oral presentation will aid the rulemaking process. If acknowledgement of receipt of a comment is desired, a stamped, self-addressed postcard or envelope must be enclosed.

Drafting Information

The principal persons involved in drafting this document are Mr. Howard Hime, Project Manager, Office of Merchant Marine Safety, and Lieutenant Walter J. Brudzinski, Project Attorney, Office of Chief Counsel.

Discussion of Proposed Rules

General

1. Parts 52 and 53 of Title 46, Code of Federal Regulations, contain design, construction, and inspection requirements for boilers installed on merchant vessels. Parts 52 and 53 adopt the requirements of sections I and IV, respectively, of the ASME (American Society of Mechanical Engineers) Code with certain modifications that provide for specific marine application. These modifications are concerned with (1) the hostile marine environment, (2) the forces acting on the boiler foundations when the boilers are mounted on a marine platform and (3) the repetitive low frequency vibrations transmitted through the hull to the boiler proper. Further, Parts 52 and 53 require that detailed plans be submitted for Coast Guard review and approval and that each boiler be inspected during fabrication by a Coast Guard inspector.

2. Part 162 of Title 46, Code of Federal Regulations, contains specifications for engineering equipment which is required to be Coast Guard approved. Specifically, Subparts 162.001, 162.002, 162.012, and 162.013 contain specifications for the design, construction, and testing of safety valves intended for use on boilers.

3. The proposed regulations would require boilers to be inspected and stamped in accordance with ASME Code requirements and would eliminate the existing requirements for boilers to be shop inspected and have their plans approved by the Coast Guard. The proposed regulations would require safety valves used on boilers to meet the ASME Code and would eliminate the requirement that they be Coast Guard approved. These regulations would apply to propulsion boilers, auxiliary boilers, fired thermal fluid heaters, exhaust gas boilers, heating boilers, hot water supply boilers, and certain unfired steam boilers. The ASME Code requires the inspector to be an independent "third party" inspector employed by a state, municipality, or insurance company that underwrites boiler and pressure vessel insurance. The inspector cannot be employed by the manufacturer of the boiler. In lieu of Coast Guard plan approval and shop inspection, the proposal would also require (1) certification of plans by a registered professional engineer for boilers required to meet Part 52, (2) Coast Guard inspection of completed boilers and their safety valves after installation, and (3) continued compliance with design and construction requirements in Part 52 or Part 53 that are optional under the ASME Code. Further, the proposal would bring Coast Guard requirements for high and low pressure boilers in line with current industry practice of separating these at 103 kilo-Pascals (kPa) gage (15 psig) steam in lieu of our present requirement of 206 kPa gage (30 psig) steam.

Discussion of Specific Sections in the Proposal

4. Section 50.05–5. This paragraph defines existing equipment as equipment which has previously met all Coast Guard requirements for installation aboard a vessel certificated by the Coast Guard. In the past there has been some confusion concerning the application of this section to equipment installed on existing vessels that did not receive Coast Guard inspection while being constructed, e.g. conversion of foreign flag vessels to U.S. flag vessels. This paragraph eliminates this confusion by defining existing equipment to include only items which previously met all Coast Guard requirements for design, fabrication, testing, and inspection at the time the equipment was new.

5. Sections 50.20–1(b), 52.01–1(a), 52.01–5(a), 52.01–35(b), 52.01–135, 52.01–140, 52.01–145, 52.05–55, 53.01–1, 53.01–10(b), 53.10–3, 53.10–10, 53.10–15, and 53.15–1(a). These provisions contain the basic proposal to convert from Coast Guard plan approval and shop inspection to ASME inspection and stamping. The proposed amendments to §§ 50.20–1(b), 52.01–5(a), and 53.15–1(a) eliminate the requirement for boiler plans to be submitted for Coast Guard approval. The amendments would require the plans for boilers built in accordance with Part 52 to be certified by a registered professional engineer and be submitted to the Coast Guard for review only. These plans are required to be submitted because they contain vital information necessary to assure that steam piping and other equipment are adequately designed for the boiler steam generating capacity and safety valve capacity. Further, since these boilers get repaired frequently, the plans are required to be submitted so they will be readily available for review. The proposed amendments to §§ 52.01–1(a), 52.01–135(b), 52.01–140, 52.05–55, 53.01–1, 53.10–3(a), and 53.10–10 eliminate Coast Guard shop inspection of boilers and require boilers to be designed, constructed, inspected, tested, and stamped in accordance with the ASME Code. Proposed amendments to §§ 52.01–135(c), 52.01–140(b), 52.01–145, 53.10–3, and 53.10–15 would maintain requirements for Coast Guard inspection of new boilers after they are installed. The inspections include a visual examination of the completed boiler, witnessing operating tests, and reviewing manufacturers' data reports. As provided in proposed § 52.01–140, the marine inspector would stamp the boiler with the Coast Guard symbol; however, the Coast Guard number would not be required. Proposed amendments to §§ 52.01–35(b) and 53.01–10(b) would separate the requirements for high and low pressure boilers at 103 kPa (15 psig) steam in lieu of 206 kPa (30 psig) steam. This amendment would bring the scopes of Parts 52 and 53 in line with sections I and IV, respectively, of the ASME Code.

6. Sections 52.01–120, 54.15–10(a), and Subparts 53.05, 162.001, 162.002, 162.012, and 162.013. These provisions contain the basic proposal to eliminate Coast Guard approval of safety valves installed on boilers and accept the requirements of the ASME Code and certification by the National Board of Boiler and Pressure Vessel Inspectors. The National Board of Boiler and Pressure Vessel Inspectors is the organization designated by ASME to certify the capacities of safety valves. The amendments to § 52.01–120 and Subpart 53.05 would require safety valves to be in accordance with either section I or section IV of the ASME Code, as applicable and meet certain additional requirements. These additional requirements, such as size limitations and restrictions on the use of cast iron, are required by existing Subparts 162.001, 162.002, 162.012, and 162.013. With these amendments, Subparts 162.001, 162.002, 162.012, 162.013 are removed.

7. Sections 52.01–3(b)(9)(i), 52.01–3(b)(9)(ii), and 52.01–3(b)(9)(iii), and Figure 52.20–10. Existing Figure 52.20–10 is renumbered Figure 52.01–3 and moved under § 52.01–3 concerning definitions of terms. References to Figure 52.20–10 in §§ 52.01–3(b)(9)(i), 52.01–3(b)(9)(ii), and 52.01–3(b)(9)(iii) are changed accordingly.

8. Sections 52.01–50(a) and 52.01–50(1). Proposed § 52.01–50(a) would require fusible plugs to be installed only on certain boilers if they are fired with solid fuel not in suspension or if they are not equipped for unattended waterbed operation. Fusible plugs would not be required for watertube boilers, boilers operating at pressures less than 206 kPa (30 psig), or oil fired boilers. The requirement for fusible plugs in existing § 52.01–50(1) has been incorporated in proposed § 52.01–50(a). Therefore, existing § 52.01–50(1) would be deleted.

9. Section 52.01–95(b)(2). Existing § 52.01–95(b)(2) requires controls and alarms to be provided to ensure that the maximum temperature at the superheater outlet, under all normal operating conditions, does not exceed the allowable temperature limit of the material used in the steam piping. The words "normal operating conditions" has confused some designers resulting in the prediction of lower superheater outlet temperatures than would be obtained if worst case conditions were considered. The intent of § 52.01–95(b)(2) is to include worst case operating conditions which could normally be encountered, such as, boiler overload. The proposed changes to § 52.01–95(b)(2) clarify this intent.

10. Sections 52.01–100(c), 52.01–100(f), 52.01–105, 52.01–115, 52.05–45, 52.05–50, and 52.20–17. Existing §§ 52.01–100(f), 52.01–105, 52.01–115, 52.05–45, 52.20–17 refer to Part 56 for the design, construction, testing, and inspection of piping systems. In section I of the ASME Code, piping is divided into three categories: boiler proper, boiler external piping, and non-boiler external piping. The ASME Code has jurisdictional authority for boiler and boiler external piping, but not for non-boiler external piping. Since the ASME Code includes boiler proper and boiler external piping within its jurisdiction, several changes are proposed to maintain consistency between requirements for the various piping systems. These proposed changes are not an increase in requirements, but either maintain or delete existing requirements for these piping systems. Proposed § 52.01–100(c) would require butt welding flanges and fittings to be installed at boiler openings when full radiography of the circumferential welds is required. Proposed § 52.01–105 would require boiler external piping to meet the requirements of the ASME Code and certain design, inspection, and joint requirements of Part 56. Proposed § 52.01–115 would require feedwater supply piping to meet PG–61 of the ASME Code and § 56.50–30. Proposed § 52.05–45 (b) and (c) would require circumferential joints in pipes, tubes, and headers to meet the non-destructive examination requirements of the ASME Code and § 56.95–10. Proposed § 52.20–17 would require safety valve discharge pipe to meet the requirements of proposed § 52.01–105. Existing § 52.05–50, which requires welded boiler appurtenances to meet Part 56, is removed.

11. Sections 52.05–5, 52.05–10, 52.05–35, 52.05–40, and Subparts 52.10 and 53.13. These sections and Subpart contain requirements for the welding of boilers. Existing §§ 52.05–5, 52.05–40, and Subpart 52.13 require the qualification of welders and welding procedures to be in accordance with Part 57. It is proposed to require the qualification of welders and welding procedures to be in accordance with the ASME Code, thereby removing §§ 52.05–5, 52.05–40, and Subpart 53.13. Also, the requirements for welded-in staybolts, § 52.05–35, are removed.

12. Subpart 52.10. Existing Subpart 52.10 contains requirements for boilers fabricated by riveting and modifies Part PR of the ASME Code. Since boilers are no longer fabricated by riveting and Part PR has been deleted from the ASME Code, it is proposed to delete Subpart 52.10.

13. Section 52.25–3. Proposed § 52.25–3 requires feedwater heaters to meet the requirements in Part 52 or Part 54 in addition to the requirements in Part PFH of the ASME Code. Part PFH of the ASME Code permits feedwater heaters to be constructed in accordance with either section I or section VIII, division 1 of the ASME Code. Proposed § 52.25–3 is added to assure that feedwater heaters comply with the ASME Code as modified by Coast Guard regulations in Parts 52 or 54 as applicable.

14. Sections 52.25–20, 53.01–10(d), and Table 54.01–5(a). Exhaust gas type boilers are presently listed in Table 54.01–5(a) as unfired pressure vessels and are required to meet either Part 52 or Part 54 depending on their operating pressure and temperature. Exhaust gas type boilers are considered by the ASME Code to be fired steam boilers. Therefore, proposed §§ 52.25–20 and 53.01–10(d) have been added. These sections require exhaust gas type boilers with working pressures greater than 103 kPa gage (15 psig) or operating temperatures greater than 454°C (850°F) to meet Part 52 and exhaust gas type boilers operating at lower pressures and temperatures to meet Part 53. Table 54.01–5(a) is amended to reflect these proposed changes. Further, proposed §§ 52.25–20 and 53.01–10 require the design temperatures of parts exposed to the exhaust gas to be the maximum temperature that could normally be produced by the source of the exhaust gas.

15. Sections 53.01–10(c), 63.15–5, and 63.15–35(a). Existing § 53.01–10(c) exempts certain hot water supply boilers, which are listed and approved by Underwriters' Laboratories (UL) Standard 174, from the requirements in Part 53. Existing § 63.15–5 exempts from Coast Guard plan approval the automatic control systems of heating boilers which are listed by UL–174. Also, existing § 63.15–35(a) requires certain details of the automatic control systems to meet UL–174. Since its adoption in Coast Guard regulations, the scope of UL–174 has been revised to include only small household type hot water supply boilers. The large boilers were included in a new UL Standard 1453. Proposed §§ 53.01–10(c), 63.15–5, and 63.15–35(a) adopt UL–1453 in addition to UL–174.

16. Section 53.01–10(e) and 53.10–5(a). Proposed § 53.01–10(c) would permit heating boilers to be constructed in accordance with section I of the ASME Code in lieu of section IV of the ASME Code. These heating boilers would be required to be stamped with the appropriate ASME Code Symbol, have safety valves which meet § 52.01–120, and if automatically controlled, meet the requirements in Part 63. Also, hot water supply boilers would be required to have a temperature relief valve or a pressure-temperature relief valve in accordance with § 53.05–2(c). Proposed § 53.01–10(e) replaces existing § 53.10–5(a) which exempts from Coast Guard shop inspection heating boilers which are constructed and stamped in accordance with section I of the ASME Code.

17. Section 58.01–15. The proposed amendment to § 58.01–15 would prohibit boiler fuel oil, which does not need to be heated for transfer, to be conveyed in piping systems which have heaters or are interconnected with other piping systems which have heaters. Ordinarily, boilers use two kinds of fuel. A light oil is used to get started, then the boiler is switched to a heavier oil for operation. This heavier oil is generally heated for easier flow. Currently, these fuels are required to be transferred in two independent piping systems. The proposal reflects this current practice.

18. Section 63.15–30. Existing § 63.15–30 requires hot water supply boilers to have a pressure-temperature relief valve. Proposed § 63.15–30 would permit the option of either a pressure-temperature relief valve or a safety relief valve and a temperature relief valve. These valves would be required to meet Subpart 53.05, except pressure-temperature valves meeting the requirements of American National Standards Institute (ANSI) Z 21.22 would be permitted for electric hot water supply boilers which are listed and approved under UL–174.

19. Section 63.15–40(b). Existing § 63.15–40(b) permits the operating test for heaters not listed by UL to be conducted at either the factory or aboard the vessel after installation. Proposed § 63.15–40(b) would require the operating test for these heaters to be conducted aboard the vessel after installation since the marine inspector will no longer be available at the factory.

20. Miscellaneous changes: Several of the proposed changes are necessary to avoid conflicting requirements with the ASME Code or to avoid redundancy and to provide a clearer presentation of existing requirements. For example, existing § 52.01–90(i) would be deleted since it conflicts with the requirements of the ASME Code, existing §§ 52.01–95(e) and 52.01–125 would be deleted since the ASME Code adequately addresses the same requirements, and § 53.01–5(c) would be deleted since it is included in proposed § 53.01–10(b)(2). The remaining provisions affected are: § 50.15–5(c); § 50.30–1(a); § 50.30–5; Table 52.01–1(a); § 52.01–50(g); § 52.01–50(j); § 52.01–90 (c) through (f), and –90(h); § 52.01–95(b)(1), –95(b)(2), –95(f), and –95(g); § 52.01–100 (b) through (e), –100(g), and –100(h); § 52.01–105(b); § 52.01–110(b) and, –110(h), § 52.01–120 (a)(6) and (d)(2); § 52.01–135(c); § 52.05–20; § 52.15–1; § 52.15–5(c) and –5(e); Figure § 52.15–5; § 52.20–5; § 52.20–10; § 52.20–15; § 52.20–20; § 52.25–5(a); § 52.25–7; § 52.25–10(a); § 52.25–25; Table 53.01–1(a); § 53.01–5(a); § 53.10–5; § 53.15–5; Table 54.01–5(a); and § 54.01–10. To aid the reader in identifying changes, specific additions and deletions are set forth in this proposal except where a general revision to a section is being made. In the final rule, the complete revised text will be printed.

Draft Evaluation

These proposed regulations have been reviewed under Executive Order 12291 and the Department of Transportation's Order 2100.5 "Policies and Procedures for Simplification, Analysis and Review of Regulations" dated May 22, 1980, and have been determined to be neither major nor significant. A draft evaluation has been prepared and placed in the public docket. As stated in the draft Evaluation, these proposed rules would result in an estimated annual savings of 3,848 staff hours and $126,690.00 for manufacturers plus 3,976 staff hours and $99,400.00 for the Coast Guard.

This proposal has been evaluated in accordance with the Regulatory Flexibility Act (94 Stat. 1164). It is certified that these regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities. For the purposes of this rulemaking, "small entities" consist of small boiler manufacturers. As explained in the draft evaulation, most manufacturers, both large and small, already hold the ASME stamp. The cost to obtain this stamp ($5,000 for small manufacturers up to approximately $20,000 for large manufacturers) is marginal compared to overall business costs. Also, some small manufacturers who, unlike large concerns, do not have a registered professional engineer (PE) in their organization will incur some increased costs to hire a registered PE to review and certify design drawings in accordance with these regulations.

However, the total time and dollar costs for manufacturers, both large and small, resulting from these regulations is expected to be less than the time and money involved to obtain Coast Guard plan approval and shop inspection under the old requirements.

Paperwork Reduction Act. An analysis of the recordkeeping requirements in these proposed regulations was conducted under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). The analysis shows that 475 documents were required to be submitted annually to the Coast Guard under the old requirements. These reporting and recordkeeping requirements have been approved by the Office of Management and Budget and issued OMB control number 2115–0142. The requirements as revised in this proposed rulemaking would reduce the annual reporting burden from 475 documents down to 400 documents.

List of Subjects 46 CFR Parts 50, 52, 53, 54, 63, and 162

Vessels, Marine safety.

In consideration of the foregoing, the Marine Engineering Regulations in Subchapter F of Title 46, Code of Federal Regulations, are amended as follows:

PART 50—GENERAL PROVISIONS

1. The authority citation for Part 50 reads as follows:

Authority: Sec. 5, 49 Stat. 1384 (46 U.S.C. 369); R.S. 4405, as amended (46 U.S.C. 375); sec. 3, 70 Stat. 152, as amended (46 U.S.C. 390b); sec. 5, Pub. L. 95–474, 92 Stat. 1480 (46 U.S.C. 391a); sec. 1, Pub. L. 85–739, 72 Stat. 833, as amended (46 U.S.C. 404); Pub. L. 93–370, 88 Stat. 423 (46 U.S.C. 411); R.S. 4462, as amended (46 U.S.C. 416); sec. 1, Pub. L. 86–244, 73 Stat. 475 (46 U.S.C. 481); sec. 17, 54 Stat. 166 (46 U.S.C. 526p); sec. 2, Pub. L. 96–453, 94 Stat. 207 (46 U.S.C. 1295F(e)(2)); sec. 4, 67 Stat. 462 (43 U.S.C. 1333(d)); sec. 3, 68 Stat. 675 (50 U.S.C. 198); sec. 6, 80 Stat. 938 (49 U.S.C. 1655(b)); E.O. 12234, 45 FR 58801; 49 CFR 1.46(b), unless otherwise noted.

2. In § 50.05–5 add a new paragraph (d) to read as follows:

§ 50.05–5 Existing boilers, pressure vessels or piping systems.

* * * * *

(d) For the purpose of this section, existing equipment includes only items which have previously met all Coast Guard requirements for installation aboard a vessel certificated by the Coast Guard, including requirements for design, fabrication, testing, and inspection at the time the equipment was new.

§ 50.15–5 [Amended]

3. In § 50.15–5(c), insert the citations "§ 52.01–1(a), § 52.01–120(a)(2), and "after the words "required in".

4. Revise § 50.20–1(b) by removing the word "boilers" and adding a new sentence at the end to read as follows:

§ 50.20–1 General.

* * * * *

(b) * * * Manufacturers of boilers which must meet the requirements of Part 52 of this subchapter shall submit the applicable construction plans for review prior to installation.

§ 50.30–1 [Amended]

5. In § 50.30–1(a), remove the words "boilers or".

§ 50.30–5 [Removed]

6. Remove § 50.30–5.

PART 52—POWER BOILERS

7. The authority citation for Part 52 reads as follows:

Authority: R.S. 4405, as amended, 4462, as amended, sec. 633, 63 Stat. 545, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 375, 416, 14 U.S.C. 633, 49 U.S.C. 1655(b); 49 CFR 1.46(b); R.S. 4417, as amended, 4417a, as amended, 4418, as amended, 4426–4431, as amended, 4433, as amended, 4434, as amended, 4491, as amended, sec. 14, 29 Stat. 690, as amended, sec. 10, 35 Stat. 428, as amended, 41 Stat. 305, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 17, 54 Stat. 166, as amended, sec. 3, 54 Stat. 347, as amended, sec. 3, 70 Stat. 152, sec. 3, 68 Stat. 675; 46 U.S.C. 391, 391a, 392, 404–409, 411, 412, 489, 366, 395, 363, 367, 526p, 1333, 390b, 50 U.S.C. 198; E.O. 11239, July 31, 1965, 30 FR 9671, 3 CFR 1965 Supp., unless otherwise noted.

§ 52.01–1 [Amended]

8. In § 52.01–1(a) remove the words "and tested" and insert in their place the words "inspected, tested, and stamped".

9. Revise Table 52.01–1(a) to read as follows:

TABLE 52.01–1(A)—LIMITATIONS AND MODIFICATIONS IN THE ADOPTION OF SECTION I OF THE ASME CODE

Paragraphs in section I, ASME Code [1] and disposition	Unit of this part
PG–1 replaced by	54.01–5(a)
PG–5 through PG–13 modified by	52.01–90
PG–16 through PG–31 modified by	52.01–95
PG–32 through PG–39 modified by	52.01–100
PG–42 through PG–55 modified by	52.01–100
PG–58 and PG–59 modified by	52.01–105
PG–60 modified by	52.01–110
PG–61 modified by	52.01–115 (56.50–30)
PG–67 through PG–73 modified by	52.01–120
PG–90 through PG–100 modified by	52.01–135 (52.01–95)
PG–91 modified by	52.01–135(b)
PG–99 modified by	52.01–135(c)
PG–100 modified by	52.01–95(e)
PG–104 through PG–113 modified by	52.01–140(a)
PG–112 and PG–113 modified by	52.01–145
PW–1 through PW–54 modified by	52.05–1
PW–10 modified by	52.05–15
PW–11.1 modified by	52.05–20
PW–16 modified by	52.05–30
PW–41 modified by	52.05–20, 52.05–45
PWT–1 through PWT–15 modified by	52.15–1
PWT–9 modified by	52.15–5
PWT–9.2 replaced by	52.15–5(b)
PWT–11 modified by	52.15–5
PWT–11.3 replaced by	52.15–5(b)
PFT–1 through PFT–49 modified by	52.20–1
PFT–44 modified by	52.20–17
PFT–46 modified by	52.20–25
PFH–1 modified by	52.25–3
PMB–1 through PMB–21 modified by	52.25–5
PEB–1 through PEB–19 modified by	52.25–7
PVG–1 through PVG–12 modified by	52.25–10
A–19 through A–21 replaced by	52.01–50

[1] The references to specific provisions in the ASME Code are coded. The first letter "P" refers to section I, which the letter "A" refers to the appendix to section I. The letter or letters following "P" refer to a specific subsection of section I. The number following the letter or letters refers to the paragraph so numbered in the text.

§ 52.01–3 [Amended]

10. In § 52.01–3(b)(9)(i) remove the citation "Figure 52.20–10" and insert in its place the citation "Figure 52.01–3." Also, amend "Figure 52.20–10—Furnaces" by renumbering it "Figure 52.01–3—Furnaces".

11. In § 52.01–3(b)(9)(ii) remove the citation "Figure 52.20–10(f)" and insert in its place the citation "Figure 52.01–3(f)".

12. In § 52.01–3(b)(9)(iii) remove the citation "Figure 52.20–10(g)" and insert in its place the citation "Figure 52.01–3(g)".

13. In § 52.01–5(a) remove the word "riveted" and add a new sentence at the end to read as follows:

§ 52.01–5 Plans.

(a) * * * The plans, including design calculations, must be certified by a registered professional engineer to meet the design requirements in this Part and in section I of the ASME Code.

§ 52.01–35 [Amended]

14. In § 52.01–35(b), remove the words "30 pounds per square inch gage" and insert in their place the words "103 kPa gage (15 psig)".

15. In § 52.01–50 revise the heading and paragraph (a) as follows:

§ 52.01–50 Fusible plugs (replaces A–19 through A–21).

(a) All boilers, except watertube boilers, with a maximum allowable working pressure in excess of 206 kPa gage (30 psig), if fired with solid fuel not in suspension, or if not equipped for unattended waterbed operation, must be fitted with fusible plugs. Fusible plugs

must be from acceptable heats manufactured in accordance with Subpart 162.014 of Subchapter Q (Specifications) of this chapter. Fusible plugs shall not be permitted where the maximum steam temperature to which they are exposed exceeds 218°C (425°F).

* * * * *

16. Revise § 52.01–50(g) removing the words "in the judgment of the marine inspector".

17. Remove §§ 52.01–50(j) and 52.01–50(l).

§ 52.01–90 [Amended]

18. Section 52.01–90 is amended as follows:

a. Remove paragraphs (c), (e), and (i).

b. Redesignate paragraphs (d), (f), and (h) as paragraphs (c), (d), and (e) respectively.

19. Section 52.01–95 is amended as follows:

a. Paragraphs (b) (1) and (2) are revised.

b. Paragraph (e) is removed.

c. Paragraphs (f) and (g) are redesignated as paragraphs (e) and (f) respectively.

As revised, the text of paragraphs (b)(1) and (b)(2) read as follows:

§ 52.01–95 Design (modifies PG–16 through PG–31 and PG–100).

* * * * *

(b) *Superheater.* (1) The design pressure of a superheater integral with the boiler shall not be less than the lowest setting of the drum safety valve.

(2) Controls shall be provided to insure that the maximum temperature at the superheater outlets does not exceed the allowable temperature limit of the material used in the superheater outlet, in the steam piping, and in the assoicated machinery under all operating conditions including boiler overload. Controls need not be provided if the operating superheater characteristic is demonstrated to be such that the temperature limits of the material will not be exceeded. Visible and audible alarms indicating excessive superheat shall be provided in any installation in which the superheater outlet temperature exceeds 850°F. The setting of the excessive superheat alarms must not exceed the maximum allowable temperature of the superheater outlet, which may be limited by the boiler design, the main steam piping design, or the temperature limits of other equipment subjected to the temperature of the steam.

* * * * *

20. In § 52.01–100 remove paragraphs (b), (c), (d), (f), (g), (h), and (i), redesignate paragraph (e) as paragraph (b), and revise the heading and add a new paragraph (c). As revised, § 52.01–100 reads as follows:

§ 52.01–100 Openings and compensation (modifies PG–32 through PG–39, PG–42 through PG–55).

(a) The rules for openings and compensation shall be as indicated in PG–32 through PG–55 of the ASME Code except as noted otherwise in this section.

(b) (Modifies PG–39.) Pipe and nozzle necks shall be attached to vessel walls as indicated in PG–39 except that threaded connections shall not be used under any of the following conditions:

(1) Pressures greater than 600 pounds per square inch gage;

(2) Nominal diameters greater than 2 inches; or

(3) Nominal diameters greater than three-fourths inch and pressures above 150 pounds per square inch gage.

(c) (Modifies PG–42). Butt welding flanges and fittings must be used when full radiography is required by § 56.95–10.

21. In § 52.01–105 revise the heading and paragraph (a) to read as follows:

§ 52.01–105 Piping, valves and fittings (modifies PG–58 and PG–59).

(a) Boiler external piping within the jurisdiction of the ASME Code must be as indicated in PG–58 and PG–59 of the ASME Code except as noted otherwise in this section. Piping outside the jurisdiction of the ASME Code must meet the appropriate requirements of Part 56 of this subchapter.

* * * * *

22. In § 52.01–105 redesignate paragraphs (b), (c), and (d) as paragraphs (d), (e), and (f) respectively and add new paragraphs (b) and (c) to read as follows:

§ 52.01–105 Piping, valves and fittings (modifies PG–58 and PG–59).

* * * * *

(b) In addition to the requirements in PG–58 and PG–59 of the ASME Code, boiler external piping must:

(1) Meet the design conditions and criteria in §56.07–10 of this subchapter, except § 56.07–10(b);

(2) Be included in the pipe stress calculations required by § 56.31–1 of this subchapter;

(3) Meet the nondestructive examination requirements in § 56.95–10 of this subchapter;

(4) Have butt welding flanges and fittings when full radiography is required; and

(5) Meet the requirements for threaded joints in § 56.30–20 of this subchapter.

(c) Steam stop valves, in sizes exceeding 6 inch NPS, must be fitted with bypasses for heating the line and equalizing the pressure before the valve is opened.

* * * * *

23. In § 52.01–105(b)(1) (new § 52.01–105(d)(1)) remove the words "or close to a riveted joint".

24. Revise § 52.01–110(b)(1) to read as follows:

§ 52.01–110 Water level indicators, water columns, gage glass connections, gage cocks, and pressure gages (modifies PG–60).

* * * * *

(b) *Water level indicators (modifies PG–60.1).* (1) Each boiler, except those of the forced circulation type with no fixed water line and steam line, shall have two independent means of indicating the water level in the boiler connected directly to the head or shell. One shall be a gage lighted by the emergency electrical system (See Subpart 112.15 of Subchapter J (Electrical Engineering) of this chapter) which will insure illumination of the gages under all normal and energency conditions. The secondary indicator may consist of a gage glass, or other acceptable device. Where the allowable pressure exceeds 250 pounds per square inch, the gage glasses shall be of the flat type instead of the common tubular type.

* * * * *

25. Remove § 52.01–110(h).

26. In § 52.01–115 revise the heading and text to read as follows:

§ 52.01–115 Feedwater supply (modifies PG–61).

Boiler feedwater supply must meet the requirements of PG–61 of the ASME Code and § 56.50–30 of this subchapter.

27. Section 52.01–120 is amended as follows:

a. The heading and paragraphs (a) (1) and (2) are revised.

b. Paragraph (a)(6) is amended by removing the words "the approved plans or".

c. Paragraph (a)(7) is revised by inserting, after the second sentence, the sentence: "The safety valve size for auxiliary boilers must be between ¾ and 4 inches NPS."

d. Paragraph (a)(9) is revised by adding at the end of the paragraph the sentence: "* * * Gagging a safety valve by means of a set screw thru the cap or by screwing down the compression or adjusting screw to hold the valve on its seat is prohibited."

e. A new paragraph (a)(10) is added.

f. Paragraphs (b)(3) and (d)(2) are revised.

As revised, the heading, paragraph (a)(1), (2), and (10), Paragraph (b)(3), and paragraph (d)(2) read as follows:

§ 52.01–120 Safety valve and safety relief valves (modifies PG–67 through PG–73).

(a)(1) Boiler safety valves and safety relief valves shall be as indicated in PG–67 through PG–73 of the ASME Code except as noted otherwise in this section.

(2) A safety valve must:

(i) Be stamped in accordance with PG–110 of the ASME Code;

(ii) Have its capacity certified by the National Board of Boiler and Pressure Vessel Inspectors;

(iii) Have a drain opening tapped for not less than ¼ inch NPS; and

(iv) Not have threaded inlets for valves larger than 2 inch NPS.

* * * * *

(10) (*Modifies PG–73.2*). Cast iron may be used only for caps and lifting bars. When used for these parts, the elongation must be at least 5 percent in 50 mm (2 inch) gage length. Nonmetallic material may be used only for gaskets and packing.

(b) * * *

(3) Drum pilot actuated superheater safety valves are permitted provided the setting of the pilot valve and superheater safety valve is such that the superheater safety valve will open before the drum safety valve.

(d)(1) * * *

(2) (Modifies PG–73.) The lifting device required by PG–73.1.3. of the ASME Code shall be fitted with suitable relieving gear so arranged that the controls may be operated from the fireroom or engineroom floor.

§ 52.01–125 [Removed]

28. Remove § 52.01–125.

29. Revise § 52.01–135(b) to read as follows:

§ 52.01–135 Inspection and tests (modifies PG–90 through PG–100.

* * * * *

(b) The inspections required by PG–90 through PG–100 of the ASME Code shall be performed by the "Authorized Inspector" as defined in PG–91 of the ASME Code. After installation, boilers will be inspected for compliance with this Part by the "Marine Inspector" as defined in § 50.10–15 of this subchapter.

* * * * *

30. Revise § 52.01–135(c) by inserting the words "by the marine inspector" after the word "examined".

31. In § 52.01–140 revise paragraphs (a) and (b) to read as follows:

§ 52.01–140 Certification by stamping (modifies PG–104 through PG–113).

(a) All boilers built in accordance with this part must be stamped with the appropriate ASME Code symbol as required by PG–104 through PG–113 of the ASME Code.

(b)(1) Upon satisfactory completion of the tests and Coast Guard inspections, boilers must be stamped with the following:

(i) Manufacturer's name and serial number;

(ii) ASME Code Symbol;

(iii) Coast Guard symbol, which is affixed only by a marine inspector (see § 50.10–15 of this subchapter);

(iv) Maximum allowable working pressure ——— at ——— °C (°F); and

(v) Boiler rated steaming capacity in kilograms (pounds) per hour (rated joules (B.T.U.) per hour output for high temperature water boilers).

(2) The information required in subparagraph (1) of this paragraph must be located on:

(i) The front head or shell near the normal waterline and within 610 mm (24 inches) of the front of firetube boilers; and

(ii) The drum head of water tube boilers.

(3) Those hearing boilers which are built to section I of the ASME Code, as permitted by § 53.01–10(e) of this subchapter, do not require Coast Guard stamping and must receive full ASME stamping including the appropriate code symbol.

* * * * *

§ 52.01–140 [Amended]

32. § 52.01–140 is amended as follows:

a. Amend paragraph (c) by removing the sentence "The Coast Guard symbol shall be used instead of the ASME symbol on such plates and may be affixed in the presence of a marine inspector."

b. Remove paragraphs (d)(1), (d)(2), and (e).

c. Revise paragraph (f) by renumbering it paragraph (d) and remove the words "as modified by Subpart 162.001 of Subchapter Q (Specifications) of this chapter."

33. Revise § 52.01–145 to read as follows:

§ 52.01–145 Manufacturers' data report forms (modifies PG–112 and PG–113).

(a) The manufacturers' data report forms required by PG–112 and PG–113 of the ASME Code must be made available to the marine inspector for review.

§§ 52.05–5 and 52.05–10 [Removed]

34. Remove §§ 52.05–5 and 52.05–10.

§ 52.05–20 [Amended]

35. Amend § 52.05–20 by removing the citation "Table 56.95–10 and inserting in its place the citation "§ 56.95–10".

§§ 52.05–35 and 52.05–40 [Removed]

36. Remove §§ 52.05–35 and 52.05–40.

37. Revise § 52.05–45(b) to read as follows:

§ 52.05–45 Circumferential joints in pipes, tubes and headers (modifies PW–41).

* * * * *

(b) (Modifies PW–41.1) Circumferential welded joints in pipes, tubes, and headers of pipe material must be nondestructively examined as required by § 56.95–10 of this subchapter and PW–41 of the ASME Code.

38. Revise § 52.05–45(c) by removing the citation "Table 56.95–10," and inserting in its place the citation "§ 56.95–10". Also, remove the last sentence in § 52.05–45(c).

§§ 52.05–50, 52.05–55 and Subpart 52.10 [Removed]

39. Remove § 52.05–50, § 52.05–55, and Subpart 52.10.

40. Revise § 52.15–1 to read as follows:

§ 52.15–1 General (modifies PWT–1 through PWT–15).

Watertube boilers and parts thereof shall be as indicated in PWT–1 through PWT–15 of the ASME Code except as noted otherwise in this subpart.

§ 52.15–5 [Amended]

41. § 52.15–5 is amended as follows:

a. Remove paragraphs (c) and (e) and Figure 52.15–5.

b. Redesignate paragraph (d) as paragraph (c).

c. Redesignate paragraph (f) as paragraph (d), remove the citation "Table 56.95–10" and insert in its place the citation "§ 56.95–10".

§§ 52.20–5, 52.20–10, 52.20–15, and 52.20–20 [Removed]

42. Remove §§ 52.20–5, 52.20–10, 52.20–15, and 52.20–20.

§ 52.20–17 [Amended]

43. Amend § 52.20–17 by removing the words "Part 56 of this chapter" and inserting in their place the citation "§ 52.01–105".

44. Subpart 52.25 is revised to read as follows:

* * * * *

Subpart 52.25—Other Boiler Types

Sec.

Subpart 52.25—Other Boiler Types

§ 52.25-1 General.

(a) Requirements for fired boilers of various sizes and uses are referenced in Table 54.01-5(a) of this subchapter.

§ 52.25-3 Feedwater heaters (modifies PFH-1).

(a) In addition to the requirements in PFH-1 of the ASME Code, feedwater heaters must meet the requirements in this Part or the requirements in Part 54.

§ 52.25-5 Miniature boilers (modifies PMB-1 through PMB-21).

(a) Miniature boilers must meet the applicable provisions in this Part for the boiler type involved and the mandatory requirements in PMB-1 through PMB-21 of the ASME Code.

§ 52.25-7 Electric Boiler (modifies PEB-1 through PEB-19).

(a) Electric boilers required to comply with this Part must meet the applicable provisions in this Part and the mandatory requirements in PEB-1 through PEB-19 except PEB-3 of the ASME Code.

§ 52.25-10 Organic fluid vaporizer generators (modifies PVG-1 through PVG-12).

(a) Organic fluid vaporizer generators and parts thereof shall meet the requirements of PVG-1 through PVG-12 of the ASME Code except as noted otherwise in this section.

(b) The application and end use of organic fluid vaporizer generators shall be approved by the Commandant.

§ 52.25-15 Fired thermal fluid heaters.

(a) Fired thermal fluid heaters shall be designed, constructed, inspected, tested, and stamped in accordance with the applicable provisions in this Part.

(b) Each fired thermal fluid heater must be fitted with a control which prevents the heat transfer fluid from being heated above its flash point.

(c) The heat transfer fluid must be chemically compatible with any cargo carried in the cargo tanks serviced by the heat transfer system.

§ 52.25-20 Exhaust gas boilers.

(a) Exhaust gas type boilers with a maximum allowable working pressure greater than 103 kPa gage (15 psig) or an operating temperature greater than 454°C (850°F) shall be designed, constructed, inspected, tested, and stamped in accordance with the applicable provisions in this Part. The design temperature of parts exposed to the exhaust gas must be the maximum temperature that could normally be produced by the source of the exhaust gas. This temperature shall be verified by testing or by the manufacturer of the engine or other equipment producing the exhaust.

PART 53—HEATING BOILERS

45. The authority citation for Part 53 reads as follows:

Authority: R.S. 4405, as amended, 4462, as amended, sec. 633, 63, Stat. 545, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 375, 416, 14 U.S.C. 633, 49 U.S.C. 1655(b); 49 CFR 1.46(b); R.S. 4417, as amended, 4417a, as amended, 4418, as amended, 4426-4431, as amended, 4433, as amended 4434, as amended, 4491, as amended, sec. 14, 29 Stat. 690, as amended, sec. 10, 35 Stat. 428, as amended, 41 Stat. 305, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 17 54 Stat. 166, as amended, sec. 3, 5, 54 Stat. 347, as amended, sec. 3, 70 Stat. 152, sec. 3, 68 Stat. 675; 46 U.S.C. 391, 391a, 392, 404-409, 411, 412, 489, 366, 395, 363, 367, 526p, 1333, 390b, 50 U.S.C. 198; E.O. 11239, July 31, 1965, 30 FR 9671, 3 CFR, 1965 Supp., unless otherwise noted.

§ 53.01-1 [Amended]

46. In § 53.01-1 remove the words "and inspected" and insert in their place the words "inspected, tested, and stamped".

47. Revise Table 53.01-1(a) to read as follows:

TABLE 53.01-1(a)—LIMITATIONS AND MODIFICATIONS IN THE ADOPTION OF SECTION IV OF THE ASME CODE

Paragraphs in section IV, ASME code [1] and disposition	Unit of this part
HG-100 modified by	53.01-5(b)
HG-101 replaced by	53.01-10
HG-400 modified by	53.05-1
HG-400.2 modified by	53.05-2
HG-401 modified by	53.05-1
HG-401.2 modified by	53.05-3
HG-500 through HG-540 modified by	53.10-3
HG-600 through HG-640 modified by	53.12-1

[1] The references to specific provisions in the ASME Code are coded. The first letter "H" refers to section IV. The letter following "H" refers to a part or subpart in section IV. The number following the letters refers to the paragraph so numbered in the text of the part or subpart in section IV.

§ 53.01-5 [Amended]

48. In § 53.01-5(a) add a period after the word "code".

49. Remove § 53.01-5(c).

50. In § 53.01-10 revise paragraphs (b) (1) and (2) to read as follows:

§ 53.01-10 Service restrictions and exceptions (replaces HG-101).

* * * * *

(b) *Service restrictions.* (1) Boilers of wrought materials shall be restricted to a maximum of 103 kPa gage (15 psig) for steam and a maximum of 689 kPa (100 psig) or 121°C (250°F) for hot water. If operating conditions exceed these limits, design and fabrication shall be in accordance with Part 52 of this subchapter.

(2) Boilers of cast iron materials shall be restricted to a maximum of 103 kPa gage (1 5psig) for steam and to a maximum of 206 kPa gage (30 psig) or 121°C (250°F) for hot water.

* * * * *

51. In § 53.01-10(c) add the words "or 1453" after the words "Underwriters' Laboratories Standard 174".

52. In § 53.01-10 redesignate paragraph (d) as paragraph (f) and insert new paragraphs (d) and (e) to read as follows:

§ 53.01-10 Service restrictions and exceptions (replaces HG-101).

* * * * *

(d) Exhaust gas types boilers shall be restricted to a working pressure equal to or less than 103 kPa gage (15 psig) and an operating temperature equal to or less than 454°C (850°F). The design temperature of parts exposed to the exhaust gas must be the maximum temperature that could normally be produced by the source of exhaust gas. This temperature shall be verified by testing or by the manufacturer of the engine or other equipment producing the exhaust.

(e) Heating boilers whose operating conditions are within the service restrictions of § 53.01-10(b)(1) may be constructed in accordance with section I of the ASME Code. In addition, these heating boilers must:

(1) Be stamped with the appropriate ASME Code symbol in accordance with PG-104 through PG-113 of the ASME Code;

(2) Meet the service restrictions of § 53.01-10(b)(2) if made of cast iron;

(3) Have safety valves which meet the requirements of § 52.01-120 of this subchapter;

(4) If a hot water supply boiler, has a temperature relief valve or a pressure-temperature relief valve in accordance with § 53.05-2(c);

(5) If automatically controlled, meet the applicable requirements in Part 63 of this subchapter; and

(6) Meet the inspection and test requirements of § 53.10-3.

* * * * *

53. Revise Subpart 53.05 to read as follows:

* * * * *

Subpart 53.05—Pressure Relieving Devices (Article 4)

Sec.

Subpart 53.05—Pressure Relieving Devices (Article 4)

§ 53.05–1 Safety valve requirements for steam boilers (modifies HG–400 and HG–401).

(a) The pressure relief valve requirements and the safety valve requirements for steam boilers shall be as indicated in HG–400 and HG–401 except as noted otherwise in this section.

(b) Each steam boiler shall have at least one safety valve.

§ 53.05–2 Relief valve requirements for hot water boilers (modifies HG–400.2).

(a) The relief valve requirements for hot water boilers shall be as indicated in article 4 of section IV of the ASME Code except as noted otherwise in this section.

(b) *Hot water heating boilers.* Each hot water heating boiler must have at least one safety relief valve.

(c) *Hot water supply boilers.* Each hot water supply boiler must have at least one safety relief valve and a temperature relief valve or a pressure-temperature relief valve. The valve temperature setting must not be more than 99°C (210°F).

§ 53.05–3 Materials (modifies HG–401.2).

Materials for valves must be in accordance with HG–401.2 of the ASME Code except nonmetallic materials may be used only for gaskets and packing.

§ 53.05–5 Discharge capacities and valve markings.

The discharge capacities and valve markings must be as indicated in HG–402 of the ASME Code. The discharge capacities shall be certified by the National Board of Boiler and Pressure Vessel Inspectors.

54. Section 53.10–3 is revised to read as follows:

§ 53.10–3 Inspection and tests (modifies HG–500 through HG–540).

(a) After installation, heating boilers must be inspected for compliance with this part by a marine inspector.

(b) Automatically controlled boilers shall be subjected to such operating tests as prescribed in Part 63 of this subchapter.

(c) All heating boilers shall have the operation of their pressure relieving devices checked after final installation.

§ 53.10–5 [Removed]

55. Remove § 53.10–5.

56. § 53.10–10 is revised to read as follows:

§ 53.10–10 Certification by stamping

Stamping of heating boilers shall be as indicated in HG–530 of the ASME Code.

57. Revise § 53.10–15 to read as follows:

§ 53.10–15 Manfacturers' data report forms.

The manufacturers' data report forms required by HG–520 of the ASME Code must be made available to the marine inspector for review.

Subparts 53.13 and 53.15—[Removed]

58. Remove Subparts 53.13 and 53.15.

PART 54—PRESSURE VESSELS

59. The authority citation for Part 54 reads as follows:

Authority: Sec. 5, 49 Stat. 1384 (46 U.S.C. 369); R.S. 4405, as amended (46 U.S.C. 375); sec. 3, 70 Stat. 152, as amended (46 U.S.C. 390b); sec. 5, Pub. L. 95–474, 92 Stat. 1480 (46 U.S.C. 391a); sec. 1, Pub. L. 85–739; 72 Stat. 833, as amended, (46 U.S.C. 404); Pub. L. 93–370, 88 Stat. 423 (46 U.S.C. 411); R.S. 4462, as amended (46 U.S.C. 416); sec. 1, Pub. L. 86–244, 73 Stat. 475 (46 U.S.C. 481); sec. 17, 54 Stat. 166 (46 U.S.C. 526p); sec. 2, Pub. L. 96–453, 94 Stat. 207 (46 U.S.C. 1295F(c)(2)); sec. 4, 67 Stat. 462 (43 U.S.C. 1333(d)); sec. 3, 68 Stat. 675 (50 U.S.C. 198; sec. 6, 80 Stat. 938 (49 U.S.C. 1655(b)); E.O. 12234, 45 FR 58801; 49 CFR 1.46(b), unless otherwise noted.

§ 54.01–5 [Amended]

60. Revise Table 54.01–5(a) to read as follows:

TABLE 54.01–5(A).—REGULATION REFERENCE FOR BOILERS, PRESSURE VESSELS, AND THERMAL UNITS

Service	Pressure temperature boundaries	Part of subchapter regulating mechanical design	Part of subchapter regulating automatic control
Main (power) boiler.	All	52	
Pressure vessel	All	54	NA
Fired auxiliary boiler [1] (combustion products or electricity):			
(a) Steam	More than 103 kPa (15 psig).	52	63
	Equal to or less than 103 kPa (15 psig).	53	63
(b) Hot water heating.	More than 689 kPa (100 psig) or 121° C (250° F).	52	63
	Equal to or less 689 kPa (100 psig) and 121° C (250° F).	53	63
Other:			
(a) Fired thermal fluid heaters.	All	52	63
(b) Unfired steam boiler.	More than 206 kPa (30 psig) or 454° C (850° F)[2].	52	NA
	Equal to or less than 206 kPa (30 psig) and 454° C (850° F)[2].	54	NA
(c) Evaporators and heat exchangers.	More than 103 kPa (15 psig)[3].	54	NA
(d) Unfired hot water supply or heating boiler.	More than 103 kPa (15 psig)[3].	54	NA

[1] Including exhaust gas types.
[2] Temperature of working fluid.
[3] Relief device is required even if designed for less than 103 kPa (15 psig).

§ 54.01–10 [Amended]

61. In § 54.01–10 remove the words "waste heat boilers and" in the first sentence and the words "including exhaust gas types" in the fourth sentence.

62. § 54.15–10(a) is revised to read as follows:

§ 54.15–10 Safety and relief valves (modifies UG–126).

(a) All safety and relief valves for use on pressure vessels or piping system shall be designed to meet the protection and service requirements for which they are intended and shall be set to relieve at a pressure which does not exceed the "maximum allowable working pressure" of the pressure vessel or piping system. Relief valves are not required to have huddling chambers for other than steam service. In addition, safety valves used on vessels in which steam is generated shall meet § 52.01–120 of this subchapter except § 52.01–120(a)(9). For steam service below 206 kPa (30 psig), bodies of safety valves may be made of cast iron. Safety relief valves used in liquified compressed gas service shall meet Subpart 162.017 or 162.018 in

Subchapter Q (Specifications) of this chapter as appropriate.

* * * * *

PART 58—MAIN AND AUXILIARY MACHINERY AND RELATED SYSTEMS

63. The authority citation for Part 58 reads as follows:

Authority: Sec. 5, 49 Stat. 1384 (46 U.S.C. 369); R.S. 4405, as amended (46 U.S.C. 375); sec. 3, 70 Stat. 152, as amended (46 U.S.C. 390b); sec. 5, Pub. L. 95–474, 92 Stat. 1480 (46 U.S.C. 391a); sec. 1, Pub. L. 85–739, 72 Stat. 833, as amended (46 U.S.C. 404); Pub. L. 93–370, 88 Stat. 423 (46 U.S.C. 411); R.S. 4462, as amended (46 U.S.C. 416); sec. 1, Pub. L. 86–244, 73 Stat. 475 (46 U.S.C. 481); sec. 17, 54 Stat. 166 (46 U.S.C. 526p); sec. 2, Pub. L. 96–453, 94 Stat. 207 (46 U.S.C. 1295F(c)(2)); sec. 4, 67 Stat. 462 (43 U.S.C. 1333(d)); sec. 3, 68 Stat. 675 (50 U.S.C. 198); sec. 6, 80 Stat. 938 (49 U.S.C. 1655(b)); E.O. 12234, 45 FR 58801; 49 CFR 1.46(b), unless otherwise noted.

§ 58.01–15 [Amended]

64. In § 58.01–15 add the following sentence at the end of the paragraph: "* * * piping for fuel oil transfer or service systems conveying oil that does not need to be heated for service must not have fuel oil heaters installed and must not be interconnected in such a manner that the oil can be heated in other fuel oil systems."

PART 63—CONTROL SYSTEMS FOR AUTOMATIC AUXILIARY HEATING EQUIPMENT

65. The authority citation for Part 63 reads as follows:

Authority: R.S. 4405, as amended, 4462, as amended, sec. 633, 63 Stat. 545, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 375, 416, 14 U.S.C. 633, 49 U.S.C. 1655(b); 49 CFR 1.46(b); R.S. 4417, as amended, 4417a, as amended, 4418, as amended, 4426–4431, as amended, 4433, as amended, 4434, as amended, 4488, as amended, 4491, as amended, sec. 14, 29 Stat. 690, as amended, sec. 10, 35 Stat. 428, as amended, 41 Stat. 305, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 17, 54 Stat. 166, as amended, sec. 3, 54 Stat. 347, as amended, sec. 3, 70 Stat. 152, 46 U.S.C. 404–409, 411, 412, 481, 489, 366, 395, 363, 367, 526p, 390b, 43 U.S.C. 1333(d), 50 U.S.C. 198; E.O. 11239, July 31, 1965, 30 FR 9671, 3 CFR, 1965 Supp., unless otherwise noted.

§ 63.15–5

[Amended]

66. In § 63.15–5 add the words "or UL 1453" after the words "UL 174"

67. Revise § 63.15–30 to read as follows:

§ 63.15–30 Temperature—pressure relief devices.

(a) Electric hot water supply boilers must have at least one safety relief valve and a temperature relief valve or a pressure—temperature relief valve. These pressure and temperature relief valves must meet Subpart 53.05 of this chapter. Electric hot water supply boilers listed by Underwriters Laboratories as meeting UL 174 may have temperature—pressure relief valves meeting the requirements of ANSI Standard Z 21.22 in lieu of Subpart 5305 of this chapter.

§ 63.15–35 [Amended]

68. In § 63.15–35(a) add the following words at the end of the paragraph "or UL–1453—Electric Booster and Commercial Storage Tank Water Heaters as applicable".

§ 63.15–40 [Amended]

69. In § 63.15–40(b) remove the words "may be conducted at the factory or" and insert in their place the words "shall be conducted".

PART 162—ENGINEERING EQUIPMENT

70. The authority citation for Part 162 reads as follows:

Authority: R.S. 4417a, as amended, 4418, as amended, 4426, as amended, 4433, as amended, 4488, as amended, 4491, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 3, 54 Stat. 347, as amended, sec. 3, 68 Stat. 675; 46 U.S.C. 391a, 392, 404, 411, 481, 489, 367, 43 U.S.C. 1333(d), 50 U.S.C. 198; E.O. 11239, July 31, 1965, 30 FR 9671, 3 CFR, 1965 Supp.

Subparts 162.001, 162.002, 162.012, 162.013—[Removed]

Remove Subparts 162.001, 162,002, 162.012, and 162.013.

Clyde T. Lusk, Jr.

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

May 31, 1983.

[FR Doc. 83-22670 Filed 8-17-83; 8:45 am]

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Maritime Administration

46 CFR Part 295

Suspension of Operating-Differential Subsidy Agreements for all or a Portion of the Vessels Included Therein

AGENCY: Maritime Administration, DOT.

ACTION: Proposed rulemaking.

SUMMARY: New Part 295 sets forth regulations necessary to implement section 1603 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), which amends the Merchant Marine Act, 1936, by adding a new section 614. It provides that in operator receiving subsidy may elect to suspend its operating-differential subsidy (ODS) agreement for all or a portion of its vessels, subject to certain conditions. Suspension of the ODS agreement results in termination of all attendant statutory and contractual restrictions (in the OSD agreement), except those pertaining to operation in the domestic trade. The obligation for vessel replacement is among the restrictions that are suspended.

DATE: All written comments by interested persons received on or before October 17, 1983 will be considered in the formulation of final regulations.

ADDRESS: Send six sets of comments to the Secretary, Maritime Administration, Department of Transportation, Washington, DC 20590. Any commentor who wishes an acknowledgement of receipt by MARAD should include a stamped, self-addressed post card or envelope. All comments will be made available for inspection during normal business hours in Room 7300–B Department of Transportation, Nassif Building.

FOR FURTHER INFORMATION CONTACT:

Mr. Gregory V. Sparkman, (202) 382-0402
Division of Subsidy Contracts

or

Mr. Raymond Barberesi, (202) 382–0382, Division of Trade Studies, Maritime Administration, Department of Transportation, Washington, DC 20590

SUPPLEMENTARY INFORMATION: The regulations describe the conditions under which an operator may elect to suspend its operating-differential subsidy agreement, for all or a portion of its vessels, in accordance with section 614 of the Merchant Marine Act, 1936, provided by section 1603 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35). Briefly, the conditions are that the affected vessels must be less than 10 years of age; the suspension period must not be less than 12 months; the operator's financial condition must be maintained at a level acceptable to the Secretary of Transportation, and the owner must agree to the repayment of a prorated amount of construction-differential subsidy for such time during the suspension period that a vessel is employed in a preference trade from which the vessel would otherwise be excluded by law or contract.

The regulations provide that the operator, to assure the maintenance of its financial condition, shall adhere to the requirements of Article II–21, Paragraphs (a) and (b) of its operating-differential subsidy agreement in the same manner as if the agreement had not been subspended, and shall include voyage results of all subspended vessels in any financial reports that may be

submitted to the Maritime Administration. The regulations also provide, in the case of liner vessels, for the adjustment of minimum/maximum sailing requirements with respect to those subsidized services from which vessels are removed. Procedures are set forth for the repayment of CDS and inclusion of that repayment in the calculation of fair and reasonable rates, if appropriate, when the vessel participates in preference trade. Notification requirements with respect to the suspension and reinstatement of vessels are also set forth, together with the rights of the operator as to reinstatement.

Certain procedures for terminating eligibility for subsidy for a vessel after a section 614 election has been made have been formulated, in conformity with standard bulk and liner cargo vessel ODS agreements. If the vessel is operated in the preference trade on a voyage charter basis, the procedure for CDS repayment specifies that the DCS repayment amount will be calculate at the beginning of each preference voyage, based on the estimated nuber of days necessary to complete the round voyage. The owner is required to make full payment of the estimated CDS repayment amount within 20 days of billing. The final CDS repayment amount will be determined after the voyage termination, based on the actual voyage days the vessel operates in the preference trade, with any adjustments to the repayment amount made immediately thereafter. If the vessel is operated in the preference trade on a time charter basis, the procedure for CDS repayment specifies that CDS will be repaid monthly within 20 days of billing. Such procedures conform to standard MARAD guidelines for partial repayment of CDS.

A provision for interest on the CDS repayment amount is not included in the calculation unless such repayment becomes delinquent. The rationale for exclusion of interest conforms with the procedure followed with respect to CDS repayment for short-term domestic operations pursuant to section 506 of the Act.

The suspension of an ODS contract pursuant to section 614 offers several significant benefits to the Government. ODS outlays will be reduced considerably and Government regulatory involvement in the private sector will be reduced as well. In addition, an owner must repay a pro rata amount of CDS when operating its vessel in the preference trades, which is deposited in the Treasury as miscellaneous receipts. There are presently six vessels operating under section 614 suspensions, resulting in an average annual ODS savings to the Government of approximately $15.2 million. The total amount of CDS repaid on these vessels to date is approximately $3.4 million.

Even though there has been no interest expressed by other operators in suspending ODSA's, the possibility that section 614 suspensions may become more feasible in the future does exist. In such an event, the Government would expect annual ODS savings of approximately $2.8 million on the average bulk vessel and approximately $2.9 million on the average liner vessel.

Information on the negative impact that vessels operating under section 614 suspensions will have on unsubsidized competition has not been submitted for analysis. Such data has been requested in the **Federal Register** Notice from those parties who consider themselves adversely affected.

Point Shipping Corporation (Point) has petitioned the Maritime Subsidy Board to consider requiring the repayment of CDS for a suspended vessel before that vessel is allowed to compete for preference cargo. According to Point, arrangements for prepayment could be made through the establishment of a letter of credit by the vessel owner for the total CDS amount applicable to a twelve month suspension period, allowing the Government to withdraw appropriate amounts before each preference voyage. As an alternative Point suggests that CDS could be repaid on a quarterly basis in advance. The public is invited to comment on these alternative requirements suggested by Point and not proposed in this notice of proposed rulemaking as well as on the procedure for CDS repayment, (§ 295.6), and other provisions of these proposed regulations.

Further comments are invited from those operators who have contended in the past that the ensuing regulations will have a detrimental effect on their operations. Such comments should include a lost opportunity and revenue analysis as well as a discussion of alternative cargoes available and any other factors that may be relevant to such contentions.

E.O. 12291. Statutory and DOT Requirements

The Maritime Administrator has determined that the new Part 295 is not a major rule is defined by E.O. 12291 nor a significant rule as defined by DOT Order 2100.5. Because of its minimal economic impact, further economic evaluation is not necessary.

The Maritime Administrator certifies pursuant to the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) that this rule would affect only large subsidized operators, and therefore, that the rule would not exert a significant economic impact on a substantial number of small entities. This rulemaking does include one minor new reporting requirement for the collection of information within the scope of the Paperwork Reduction Act of 1980 (Pub. L. 96-511). Section 295.6(b) requires that the operator notify the Maritime Administration by telex or other means of the commencement and termination of a preference voyage. This proposed information collection requirement has been submitted to the Office of Management and Budget for review. Comments and/or requests for further information on the proposed requirement should be addressed to Wayne Leiss, Office of Management and Budget, New Executive Office Building, Room 3001, Washington, D.C. 20503.

Lists of Subjects in 46 CFR Part 295

Maritime carriers, Grant programs—Transportation, Reporting and recordkeeping requirements, Cargo vessels.

It is proposed to add a new Part 295 to 46 CFR to read as follows:

PART 295—SUSPENSION OF OPERATING-DIFFERENTIAL SUBSIDY AGREEMENTS FOR ALL OR A PORTION OF THE VESSELS INCLUDED THEREIN

Sec.

Authority.—Pub. L. 97-35; Secs. 204(b) and 614, Merchant Marine Act, 1936, as amended (46 U.S. 1114(b) and 1184); Pub. L. 97-31 (August 6, 1981); 49 CFR 1.66 (46 FR 47458, Sept. 28, 1981).

§ 295.1 Purpose

The purpose of this part is to prescribe regulations to implement the provisions of section 1603 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35), which amends the Merchant Marine Act, 1936, by adding new section 614. That section provides that an operator receiving operating-differential subsidy funds, subject to specified conditions, may elect, for all or a portion of its vessesls, "to suspend its operational-differential subsidy agreement with all attendant statutory and contractual

restrictions, except those pertaining to the domestic intercoastal or coastwise service, including any agreement providing for the replacement of vessels".

§ 295.2 Definition.

For the purposes of this part:

(a) *Act* means the Merchant Marine Act, 1936, as amended (46 U.S.C. 1101—1294).

(b) *Board* means the Maritime Subsidy Board of the Maritime Administration, Department of Transportation.

(c) *CDS* means construction-differential subsidy.

(d) *ODS* means operating-differential subsidy.

(e) *ODSA* means the operating-differential subsidy agreement entered into by the operator and the United States Government for the payment of ODS.

(f) *Operator* means any individual, partnership, corporation, or association that has contracted with the United States Government under Title VI of the Act to receive ODS.

(g) *Preference Trade* means the operation of a vessel under a suspended ODSA in a trade in which it carries cargo subject to the cargo preference statutes of the United States, including, but no limited to, 10 U.S.C. 2631, 46 U.S.C. 1241 and 15 U.S.C. 616a, from which trade it is excluded by the terms of its ODSA.

(h) *Secretary* means the Secretary of Transportation, acting by and through the Maritime Administrator or any official of the Maritime Administration or Board to whom is duly delegated, from time to time, authority of the Secretary of Transportation or the Maritime Administrator.

(i) *Subsidized Service* means the operation of a vessel in accordance with the terms and conditions of the ODSA.

(j) *Suspension* means the suspension by an operator, for all or a portion of its vessels, of its ODSA, with all attendant statutory and contractual restrictions, except those pertaining to the domestic intercoastal or coastal service, including any agreement providing for the replacement of vessels.

(k) *Suspension Period* means a period of not less than twelve months during which the operator elects to suspend its ODSA.

§ 295.3 Eligibility Requirements.

Pursuant to section 614 of the Act, an operator may elect, for all or a portion of its vessels, to suspend its ODSA with all attendant statutory and contractual restrictions, except as to those pertaining to the domestic intercoastal or coastwise service, including any agreement providing for the replacement of vessels, if the following eligibility requirements are met:

(a) The vessel with respect to which the ODSA is to be suspended is less than 10 years of age as of the effective date of suspension;

(b) The suspension period is not less than 12 months;

(c) The operator's financial condition is maintained at a level acceptable to the Secretary, as provided in § 295.4(a) of this part; and

(d) The owner agrees to repay CDS to the Secretary, as provided in § 295.6 of the part.

§ 295.4 Suspension period requirements.

Upon suspension of an operator's ODSA, all attendant statutory and contractual restrictions are suspended with respect to the affected vessel or vessels, except for those pertaining to domestic operation and those that are necessary to assure that an operator will maintain its financial condition at a level acceptable to the Secretary.

(a) *Financial requirements.* The operator shall agree to the following:

(1) Comply with Article II–21(b) of the ODSA requiring the prior approval of the Maritime Administration for the acquisition and disposition of assets, including those relating to the suspended vessel;

(2) Comply with Article II–21(a) of the ODSA regarding the payment of dividends as if the suspended vessel were still included in the ODSA; and

(3) Include in any financial reports that may be submitted to the Maritime Administration the operating results of any vessel that has been suspended.

(b) *Minimum/maximum sailing requirements for liner operators.* Upon suspension of an operator's ODSA, an adjustment in the minimum/maximum sailing requirement will be made for liner operators. If the vessel subject to the ODSA suspension is assigned to a specific subsidized service under the ODSA, and the ODSA contains no provision for transfer of that vessel to another subsidized service or ODSA of the operator, the annual minimum/maximum sailing requirements with respect to said subsidized service will be reduced by the number of sailings that the vessel could perform annually thereon, as calculated by the Maritime Administration. If the operator, however, is authorized to transfer the vessel between or among subsidized services, then the operator shall designate the subsidized service on which the vessel would have operated if the ODSA had not been suspended with respect to the vessel. The minimum/maximum sailing requirements on the designated service will then be reduced by the number of sailings that the vessel could perform annually thereon, as calculated by the Maritime Administration. Upon reinstatement of the suspended vessel to the ODSA, annual minimum/maximum sailing requirements shall be increased by the number of sailings by which the requirements had been reduced for the suspension period.

§ 295.5 Suspension and reinstatement procedures.

The following procedures shall be applicable to suspension and reinstatement of the ODSA:

(a) Prior to the suspension date, an operator shall notify the Board of its election to suspend its ODSA for all or a portion of its vessels, and shall specify the effective suspension date.

(b) An operator shall notify the Board prior to the date that it intends to reinstate a suspended ODSA with respect to any vessel.

(c) An operator shall be entitled to full reinstatement of the suspended vessel(s) in its ODSA, on request, at any time after the minimum 12 months suspension period.

(d) An operator shall not be eligible to engage in the carriage of preference cargoes, pursuant to section 614 of the Act, until the operator has notified the Board in writing of its election to suspend its ODSA with respect to all or a portion of its vessels and has agreed to comply with regulations found in this Part.

(e) The suspension period shall begin and end on the dates specified by the operator, as provided in paragraphs (a) and (b) of this section. However, eligibility for subsidy for each bulk cargo vessel or liner vessel, respectively, shall be determined as follows:

(1) Bulk cargo vessels. (i) *Termination of Eligibility.* Eligibility for subsidy shall terminate either at midnight of the day prior to the commencement of the suspension period or upon completion of the final subsidized voyage, whichever is earlier. The final subsidized voyage shall be considered to have terminated at midnight, as follows:

(A) For a vessel operating on a subsidized voyage immediately prior to the suspension period, in a U.S. port, on the day of arrival in ballast, or on the day of completion of discharge of cargo;

(B) For a vessel operating on a subsidized voyage immediately prior to the suspension period, in a foreign port, on the day of completion of discharge of cargo, if the vessel loads preference cargo in such port of discharge, or on the day of arrival in ballast at the first

loading port to be utilized during the suspension period.

(C) For a vessel operating on a nonsubsidized voyage immediately prior to the suspension period, termination shall be governed in accordance with 46 CFR 252.20(b)(1).

(ii) *Delay in Discharge.* In the event that unforeseen circumstances cause delay in the scheduled discharge, the Secretary will establish the time of termination of the final subsidized voyage.

(iii) *Reinstatement of Eligibility.* Eligibility for subsidy following termination of the suspension period shall commence at 12:01 a.m. of the day when the vessel is in all respects ready to lift cargo and/or commences to load cargo at a U.S. or foreign port.

(2) *Liner vessels.* (i) *Termination of Eligibility.* Eligibility for subsidy shall terminate at midnight of the day of completion of final discharge of cargo or passengers (if other than a cargo vessel) at an authorized United States or foreign port of discharge in the Operator's subsidized service.

(ii) *Delay in Discharge.* If unforeseen circumstances cause delay in the scheduled discharge, the Secretary will establish the time of termination of the final subsidized voyage.

(iii) *Reinstatement of Eligibility.* Eligibility of subsidy following termination of the suspension period shall commence at 12:01 a.m. of the day when the vessel commences to load cargo or passengers (if other than a cargo vessel) on its first authorized loading berth at a U.S. or foreign port included in the Operator's subsidized service to which such vessel is assigned, provided that if the Operator elects to commence subsidized service on its inbound berth, the voyage must adequately serve the inbound berth, and provided further that the voyage shall count towards the maximum sailing requirement on the service but shall count towards the minimum sailing requirement oly if the Operator's ODSA provides for separate counting of inbound and outbound sailings.

(f) Once an operator has suspended its ODSA for all or a portion of its vessels, the termination date of the suspended ODSA shall remain unchanged. Under no circumstances shall an ODSA exceed 20 years, as required by section 603 of the Act.

§ 295.6 Operation in Preference Trade.

If, during any part of the suspension period a vessel is operated in any preference trade, the owner shall pay to the Secretary an amount which bears the same proportion to the CDS paid by the Secretary as the portion of the suspension period during which the suspended vessel is operated in any such preference trade bears to the entire economic life of the vessel.

(a) The applicable CDS repayment amount will be determined on the following basis when a vessel is to be operated pursuant to a voyage charter:

(1) The owner of the vessel shall pay to the United States an amount equal to the aggregate CDS repayment required for the voyage, based upon the number of voyage days estimated for the round voyage, as determined by the Maritime Administration.

(2) The Maritime Administration, when requested by a shipper agency, will calculate a fair and reasonable rate with respect to a suspended vessel when the vessel is offered to engage in a preference trade. This calculation will include the estimated CDS repayment amount as determined in accordance with paragraph (a)(1) of this section.

(3) The Operator shall notify the Office of Trade Studies and Subsidy Contracts, Maritime Administration, Washington, D.C. 20590, by telex or other appropriate means:

(i) of the commencement of a preference voyage, immediately upon such commencement, and

(ii) of the termination of a preference voyage, immediately upon such termination, as defined in accordance with paragraph (a) (8) of this section.

(4) When a suspended vessel operates in any preference trade the owner of the suspended vessel shall pay to the United States, within 20 days of receipt of an invoice, an amount equal to 100 percent of the aggregate CDS repayment amount as determined in accordance with paragraph (a)(1) of this section. However, within 10 days of the termination of the preference voyage, the operator shall notify the Maritime Administration of any adjustment which must be made to the aforementioned CDS repayment as necessitated by determination of the length of the preference voyage for purposes of CDS repayment in accordance with paragraphs (a)(5) and (6) of this section.

(5) If the preference voyage length exceeds the number of pro forma voyage days established in accordance with paragraph (a)(1) of this section, an owner shall remit the additional CDS repayment due within 10 days of the termination of the preference voyage.

(6) Coversely, if the preference voyage length is less than the number of pro forma voyage days established in accordance with paragraph (a)(1) of this section, the United States shall refund to the owner that portion of the CDS repayment attributable to the difference between the actual number of preference voyage days and the pro forma number of voyage days.

(7) The United States will not refund any interest paid, or relieve the owner of its obligation to remit any interest still payable as established in accordance with paragraph (a)(9) of this section, which may have resulted from the deliquency of the entire CDS repayment as established in accordance with paragraph (a)(1) of this section.

(8) A voyage of a suspended vessel in a preference trade, for purposes of CDS repayment, shall commence at 12:01 A.M. of the day when the vessel commences loading. The voyage shall be deemed to terminate at midnight of the day that the suspended vessel arrives at a port of call in the country where the voyage commenced, provided that if the suspended vessel returns to a port of call other than that at which it loaded the preference cargo, the voyage in the preference trade shall terminate at the time the vessel would nomally have returned to the port of loading, if that time is earlier.

(9) In the event that the suspended vessel engaged in a preference voyage carries cargo on a voyage not in the preference trade prior to returning to a port of call in the country where the voyage commenced, the voyage in the preference trade shall terminate for CDS repayment purposes at midmight of the day prior to commencement of loading of such cargo.

(10) The United States will advise an owner by invoice of the CDS repayment amount due as soon as possible after the commencement of the voyage.

(b) The applicable CDS repayment amount will be determined on the following basis when a vessel is to be operated pursuant to a time charter:

(1) The operator shall notify the Office of Trade Studies and Subsidy Contracts, Maritime Administration, Washington, D.C. 20590, by telex or other appropriate means:

(i) of the commencement of the vessel's performance on the time charter, immediately upon such commencement, and

(ii) of the termination of the vessel's performance on the time charter, immediately upon such termination.

(2) The owner of the vessel shall pay to the United States monthly, within 20 days of receipt of an invoice, an amount equal to 100 percent of the aggregate CDS attributable to the number of days during the month which the vessel was operated in the preference trade.

(c) If the entire CDS repayment due is not remitted by the specified due dates, the owner shall pay interest on the amount of CDS repayment due. The

amount of interest payable shall be calculated in accordance with the periodic bulletin issued by the Treasury Department, pursuant to I Treasury Fiscal Requirements Manual (TFRM) 6–8020.20 "Charges for Late Payment", which determines an interest percentage rate for delinquent payments based on the current value of funds to the Treasury Department. This interest rate shall be applied to the outstanding CDS repayment amount on the first day of delinquency.

§ 295.7 Determinations and questions of interpretation.

(a) The Board shall have the discretion, where unusual circumstances in any particular case so required or where it may be in the mutual interest of the operator and the Government, to authorize a departure from or modification of any of the conditions of this part.

(b) The decision of the Board shall be final with respect to all determinations and questions of interpretation arising under this part.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies (ODS))

By Order of the Maritime Subsidy Board.

Date: August 9, 1983.

Georgia P. Stamas,

Secretary.

[FR Doc. 83-22324 Filed 8-17-83; 8:45 am]

BILLING CODE 4910-81-M

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46 CFR Part 298

Obligation Guarantees

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: 46 CFR Part 298 is a regulation that implements provisions of Title XI of the Merchant Marine Act, 1936, as amended (Act) (46 U.S.C. 1271–1279), prescribing conditions, terms and procedures for applying for and administering Federal ship financing assistance in the form of "obligation guarantees." [An "obligation guarantee" is a pledge of the full faith and credit of the United States to the payment of the unpaid principal and interest on the guarantee of a note, bond, debenture, or other evidence of indebtedness as defined in section 1101(c) of the Act (46 U.S.C. 1271(c)).] The amendments proposed in this rulemaking are intended to (1) streamline procedures for processing applications for assistance under Title XI of the Act and make those procedures more efficient and responsive; (2) clarify the criteria that the Maritime Administration (MARAD) will apply in evaluating Title XI applications; (3) provide more detailed financial requirements; and (4) establish specific criteria and procedures for reviewing and evaluating requests by Title XI obligors for advances for debt service, insurance payments and other vessel-related expenses. The proposal would also make certain technical changes to the existing regulation.

DATE: MARAD will consider all written comments by the public received on or before October 17, 1983.

ADDRESS: Send the original and one copy of the comments to the Secretary, Maritime Administration, Room 7300, Department of Transportation, 400 Seventh Street, SW. Washington, D.C. 20590. Any commentor who wishes an acknowledgment of receipt by MARAD should include a stamped, self-addressed post card or envelope. All comments will be made available for inspection during normal business hours in Room 7300, Department of Transportation, 400 Seventh Street SW., Washington, D.C. (Nassif Building).

FOR FURTHER INFORMATION CONTACT: Edmond J. Fitzgerald Director, Office of Ship Financing, Maritime Administration, 400 Seventh Street, SW., Washington, D.C. 20590, telephone number (202) 382–0389.

SUPPLEMENTARY INFORMATION:

Background

Title XI of the Act authorizes the Maritime Administrator, based upon delegation of authority by the Secretary of Transportation (Secretary), upon application by a United States citizen, to enter into a commitment to guarantee, and to guarantee the payment of the interest and the unpaid balance of principal on any obligation that is eligible to be guaranteed. The Act limits obligation guarantees to 87.5 percent of the actual cost of a certain vessel constructed, reconstructed or reconditioned without construction-differential subsidy (CDS), or 75 percent of the actual cost of a vessel built with the aid of CDS. [A "vessel" includes a cargo or passenger vessel, tanker, tug, towboat, barge or special purpose vessel, as defined in section 1101(b) of the Act (46 U.S.C. 1271(b)). The "actual coat" of a vessel is the aggregate of all amounts paid by or for the account of the obligor and all amounts which the obligor is obligated to pay for the construction, reconstruction, or reconditioning of the vessel, inclusive of designing, inspecting, outfitting or equipping, as defined in sections 110 (f) and (h) of the Act (46 U.S.C. 1271 (d), (f) and (h)).] Presently, MARAD is issuing obligation guarantees in an amount not to exceed 75 percent of the actual cost of a vessel constructed, reconstructed or reconditioned entirely in U.S. shipyards, with or without CDS, and from U.S. materials and components, where practicable. Each guaranteed obligation contains the statement that "the full faith and credit of the United States" is pledged to the payment of the unpaid principal and interest on the obligation.

The regulation implementing this authority is published at 46 CFR Part 298, and was substantially revised in 1978 to implement earlier amendments to the Act. The existing regulation contains an application procedure, eligibility requirements for the applicant and the project, a description of the types of financing contemplated, a provision for discretionary advances for principal payments on the obligations, the prescribed manner of amortization of obligations, a description of required documentation, a procedure for defaults and remedies therefor, and reporting requirements.

Decision to Revise the Regulation

The decision to revise the existing regulation was based on: (1) MARAD's program administration experience; (2) recommendations by the Department of Transportation Title XI Task Force (Task Force); and (3) recommendations by the President's Private Sector Survey on Cost Control (PPSSCC).

MARAD Program Administration Experience

Since the last major revision of the Title XI regulation in 1978, the program has experienced a substantial increase in the number of Title XI applications, in the amount of guarantees outstanding and in the number of requests for Title XI advances. Further, the maritime sector of the economy has changed dramatically. Experience from coping with these changes indicates the need for streamlining the processing of applications for obligation guarantees; establishing decision criteria to assure uniformity of evaluation of applications; obtaining additional information in order to more closely scrutinize the applicant's financial condition and the economic soundness of the project; establishing decision criteria to assure a uniform procedure for handling applications for advances; and making certain technical changes to the regulation.

Task Force Review and Recommendation

A task force was established within DOT to review the Title XI regulation to

determine if any revisions were necessary to improve the administration of the program. The Task Force focused on the need to reduce the backlog of applications, to provide clear and concise procedures for processing and reviewing Title XI applications, evaluating the merits of each application and the financial qualifications and credentials of the applicant, operator or other participants in the proposed project, and establishing comprehensive financial criteria and a procedure for evaluating each application. The Task Force recommended that the regulation be revised to deal with the increasing number of requests for advances by Title XI obligors and to provide a specific procedure for considering and approving such requests. The Task Force also recommended that MARAD conduct market studies that would include the level of capacity utilization in each segment of the marine industry as a basis for evaluating Title XI applications. Finally, the Task Force recommended that guidance be developed for the length of time pending applications would be kept on file before being returned.

PPSSCC Review and Recommendation

The PPSSCC made an analysis of MARAD's Title XI obligation guarantee program to ascertain how to effect more prudent program management that would allow the agency to meet its statutory and policy objectives. In examining the Title XI program objectives and MARAD's practices in accomplishing those objectives, the PPSSCC decided that the obligation guarantees were not being issued in a manner that would sufficiently implement MARAD's then stated priorities for vessel type, i.e., oceangoing vessels (tankers, cargo liners, and bulk carriers) and river barges and inland waterway vessels for the domestic trade. The PPSSCC recommended that the award of guarantees be linked to national security requirements, market needs and improvement of the Title XI program's financial posture. It was recommended, among other things, that MARAD: (1) Allocate Title XI guarantees in a manner consistent with priorities (i.e., "promoting construction of priority vessels and encouraging business to be performed in shipyard mobilization yards"); (2) structure financing terms to implement priorities by continuing to grant its most attractive terms to the highest priority vessels and developing a sliding scale of guarantees for all other projects; and (3) increase the investigation and annual guarantee fees to the maximum extent permitted by the Act.

Section-by-Section Analysis of Proposed Rulemaking

Section 298.3—Applications.

Problems have arisen in the administration of the Title XI program regarding the length of time needed to process an application and the substantial backlog of applications on file. MARAD believes that application processing can be accomplished more effectively and expeditiously if specific time requirements are adopted and requirements are imposed for submission of additional information by applicants. By estabilshing clear procedures for processing application, MARAD believes the backlog can be eliminated.

The existing language of section 298.3(b) contains only a general statement that an application usually takes at least 120 days to process and that at least six weeks should be expected for review by MARAD of the required documentation. There are no specific requirements regarding the treatment of deficient applications.

MARAD has proposed that applications must be submitted to the Secretary at least six months prior to the date by which the applicant anticipates it will require a letter commitment. The first 30 days period after submission will be used by the Secretary to perform a preliminary review of the application for adequacy and completeness. If the application is incomplete or if additional data were required, the applicant would be notified promptly and would be required to comply with requests for additional information in a timely manner. At the end of nine months from the submission date, the applicnt would be notified in writing that the application will be dismissed without prejudice if the applicant has not cured the deficiencies or made substantial progress toward correcting them. If the application is not approved, for any reason, within one year from the submission date, the applicant would be notified in writing that the application is terminated. Thereafter, the applicant may reapply. The proposed regulation provides the Secretary discretion to extend any of these time periods. It is also proposed that the applicant, to whom a letter commitment has been issued, must submit four sets of closing documents to the Secretary at least six weeks prior to the anticipated date of the guarantee closing to give the Secretary adequate time to complete review of the documentation.

MARAD's experience, while administering the Title XI program, has proven that: (1) Six months is necessary to allow it to perform an in-depth review of the material submitted by the applicant, and to allow the applicant time to file all supporting material; and (2) nine months is ample time for an applicant to correct any deficiency in its application. Therefore, one year is usually sufficient to process an application and notify applicants of a final decision. At least six weeks is necessary for MARAD to review documentation prior to the anticipated closing in order to allow adequate time for review and making and approving any necessary changes in the documents.

MARAD has identified two other concerns from processing Title XI applications that span the spectrum of potential profitability adequate to assure payment of Title XI debt service. First, there is a need for collateral or financial assurances beyond normal requirements from certain applicants. For instance, these might be needed from new applicants entering a market, applicants not well established in a market, or applicants with marginal financial resources. Second, it believes that priority should be given to the processing of applications for guarantees: (1) For vessels that either perform militarily useful services or that are to be built in shipyards identified as tied to the national security; (2) for initial financing of vessels just delivered or under construction as opposed to the refinancing of existing and older vessels; (3) for financing acquisition of current Title XI vessels through the assumption by financially strong companies of obligations owed by financially troubled obligors; and (4) for those willing to take guarantees for less than the normal term for that class of vessel. Presently there is no provision in section 298.3 that addresses these concerns.

For these reasons, the proposed § 298.3(e) would permit the Secretary to require from newly established firms additional financial assurances. These assurances may include firm charter commitments, parent company guarantees, greater equity or private financing participation, additional collateral, or similar arrangements. Another provision in the same section would give application processing priority to vessels useful in times of war or national emergency, vessels to be built in national defense mobilization base shipyards, vessels under construction or less than one year old, and vessels currently financed under Title XI and being purchased by another company.

In addition, a factor to be considered would be the shipyard chosen by the applicant.

Section 298.12 Applicant and Operator Qualifications.

In the past, MARAD elicited necessary information on the basic qualifications of prospective applicants through the Title XI application form. The existing language of section 298.12 contains only a very brief and general paraphrase of the relevant statutory provisions and no specific information on qualification requirements. Therefore, prospective applicants were unable to refer to a central, codified source for specific information concerning qualification requirements.

Proposed § 298.12 retains in paragraph (a) the repetition of the statutory requirements that the applicant possess the necessary experience, ability and other qualifications to properly operate and maintain its vessels, as well as an admonition to the applicant to comply with all the requirements of the Part. A new paragraph (b) requires information on the identity and ownership of the applicant with separate requirements for: (1) Incorporated companies; (2) partnerships, joint ventures, associations and unincorporated companies; and (3) individuals. New paragraphs (c) through (f) require information on the applicant's business and affiliations, management, property ownership and use, and operating ability.

Section 298.13 Financial Requirements.

There is no existing regulatory provision specifying the financial information and documentation that applicants have to provide in support of their requests for Title XI guarantees. Presently, only the application form indicates to applicants the information they have to provide to establish that they have adequate financial resources to support the proposed project. MARAD also believes that the application form fails to elicit information on the extent of private financial involvement, including co-financing. (Co-financing involves a blending of Title XI and private financing for the 75 percent debt portion.) Therefore, it needed to develop financial information requirements, and incorporate them in a regulation, that would reveal not only the total financial condition of the applicant but that also would allow assessment of other financial involvement in the project. Another concern was that, in the past, in some cases, MARAD allowed the use of borrowed funds as part of the applicant's equity requirement. (These funds were borrowed from outside sources and were distinct from "subordinated debt," as defined and permitted under § 298.13(g) of the existing regulations.) This resulted in approval of applicants with minimal financial qualifications. Finally, certain revisions need to be made to the existing regulation to conform with the closer scrutiny of financial requirements and with the policy of issuing obligation guarantees in an amount not be exceed 75 percent of actual cost.

Present § 298.13(a) only requires, in very general terms, that the applicant submit information demonstrating that financial resources are or will be available to support the proposed Title XI project. Present § 298.13(e) allows alternative financial requirements at closing for an applicant that cannot meet the more rigorous working capital and equity (net worth) primary financial requirements at the closing as stipulated in § 298.13(d).

Under the proposed regulations, applicants and participants, with a significant financial or contractual relationship to the applicant, would have to submit information on their financial condition. Applicants would have to submit detailed statements on, among other things, the estimated actual cost of construction, reconstruction or reconditioning of their vessels, including a copy of any written contracts under which the actual costs have been incurred, such as shipyard contracts and management or operating agreements. In certain cases, the shipyard with which the applicant is contracting may have to submit additional cost details and technical data. The applicant would also have to submit a detailed statement that would include the actual cost of any shore facilities, cargo containers, and miscellaneous costs associated with the project, such as legal and accounting fees, underwriting fees, and printing costs, etc. Applications involving refinancing of projects would be required to include documents providing information on actual costs and reimbursement of the project. Most important, the applicant would have to submit its most recent financial statement, its three most recent audited financial statements, such items as a pro forma balance sheet reflecting the assumption of the obligations to be guaranteed, a schedule of amortization of all existing debt for the period for which the guarantees are to be outstanding, and a "sources and uses" statement (an accounting statement that accompanies a balance sheet and income statement to identify the source of funding for the payment of all debts when due) for the first full year of operation and the following four years. In addition, the proposed regulation would require the applicant to demonstrate through financial statements that at least 25 percent of the construction cost of the vessel(s) would be in the form of equity, to additional debt.

Finally, the *alternative* financial requirements at Closing are designated *special* financial requirements, with no change in the requirements but restricting the application of those requirements to projects involving leverage leases, parent company guarantees and "hell or high water" charters which finance the project debt service for the term of the guarantees and that involve a party that meets the primary financial requirements at the closing.

Section 298.14 Economic Soundness.

Existing § 298.14 provides that no letter of commitment for an obligation guarantee would be issued without finding that the proposed project to be financed would be economically sound. It also provides that economic soundness be determined by considering factors including, but not limited to, the long-term or short-term market potential for employment of the vessel(s) over the life of the guarantee, projected revenues and expenses of the operation, the length of the guarantee period and any charters, contracts of affreightment, or similar transportation agreements that would assure employment of the vessel(s).

MARAD's experience in evaluating the economic soundness of proposed projects based on the existing regulation is that it failed to indicate the weight to be given each factor. In addition, the factors were very generally stated and were, therefore, subject to subjective interpretation within and outside the agency resulting in the potential for non-uniform and inconsistent economic soundness determinations. The problem has been exacerbated by the general economic downturn in the maritime industry and it has emphasized the importance of establishing, by regulation, a more stringent, more objective criteria for determining economic soundness.

Certain questions have also been raised as a result of the lack of objective criteria for determining economic soundness: (1) How should an application be treated when the vessel to be financed with guarantees is similar to existing vessels in a segment of the industry with excess capacity? (2) To what extent should longer term charters, contracts of affreightment, or similar agreements be deemed essential

to the economic soundness determination? (3) What weight should be given to the applicant's existing market share?

Proposed section 298.14 would add certain "objective criteria" and clarify the factors listed in the existing regulation. Five basic factors for evaluating the feasibility of the applicant's proposed project are listed: (1) The need in the particular segment of the maritime industry for new or additional capacity; (2) the market potential for employment of the vessels over the life of the guarantees (such market potential analysis to include a statement of the assumptions used in that analysis); (3) projected revenue (including assumed utilization rates) and expenses of the operation; (4) the length of the guarantee period; and (5) any charters, contracts of affreightment, transportation agreements or similar agreements or undertakings which would assure revenue or the employment of the vessels.

It is proposed that the applicant would submit detailed information sufficient to demonstrate the economic feasibility of the project ("project feasibility") over the guarantee period by describing: (1) The relevant market, including information on the potential for purchasing exisiting equipment of a reasonable condition and age that may be available from existing owners; (2) revenues to be earned from the project; (3) estimated expenses for daily vessel operation; (4) estimated voyage expenses; and (5) owner's annual expenses. In addition, MARAD would require the applicant to submit a cash flow analysis statement encompassing: (1) the internal rate of return analysis and (2) the net present value of the cash flow for the project. A discount rate of ten percent should be used for the net present value calculation. In each case, the applicant would perform a sensitivity analysis, which is an analysis of the impact of changes in major variables on cash flow.

Finally, each project would have to meet four "objective criteria" to be considered economically sound: (1) The projected long-term demand for the particular vessels to be financed must exceed the supply of vessels with similar capacity in the applicable markets, based, among other things, on MARAD's analysis of supply and demand; (2) the projected cash flow for the project must be sufficient to meet the projected Title XI debt service requirements and any other debt obligations of the company; (3) the present value of the projected cash flow (with consideration given to the sensitivity analysis of the projected cash flow) must be positive using a ten percent discount rate; and (4) the internal rate of return analysis must provide a minimum return of ten percent.

In addition, the effect of the project in the short-term will also be considered.

The proposed regulation informs the public of the information that applicants would have to provide and of the specific factors and criteria that would be considered and applied in determining economic soundness. It is MARAD'S position that Title XI guarantees should not be issued when it is determined that the projected long-term demand in the market will not exceed the supply of vessel(s). It is unreasonable to expect such projects to be viable. The requirement that cash flow for the project must be adequate to meet projected Title XI debt service and other debts and the requirement that the project demonstrate a positive cash flow are threshold requirements for any economically sound project. The requirement that applicants provide an internal rate of return of at least ten percent would aid MARAD in evaluating the relative merits of competing applications. An internal rate of return analysis shows the relative profitability of the proposed project. The Federal Railroad Administration's Title V loan guarantee program regulations (49 CFR 260) contain definitions, which may be adapted for use in these analyses. Comments are specifically invited with respect to the relative merits of the use of either an internal rate of return analysis or present value cash flow analysis, or both, in evaluating Title XI applications.

Section 298.15 Investigation Fee.

Investigation fees are required by the Act and are charged to defray the costs to MARAD of the investigation of new applications. Over the past several years, the collection of these fees has not been sufficient to cover the costs associated with review of new applications.

The existing regulations set a maximum fee of ½ of one percent of the aggregate amount of obligations to be issued. The fee currently charged is comprised of: (1) A base fee of $1,000 for the first $300,000 of obligations plus one-eighth of one percent of the balance of the obligations; and (2) additional charges for amendments of applications.

The proposed regulations would charge a set fee of ½ of one percent of the aggregate amount of obligations to be issued without additional charges for amendments. This fee structure is designed to simplify the fee calculation and to recover more of the expenses associated with review of new applications.

Section 298.17 Evaluation of Applications.

After a review of its Title XI program administration, MARAD believes that five additional factors for overall evaluation of applications are necessary for several reasons: to reflect the national security aspect of the Title XI program; and to increase the likelihood that outstanding Title XI debt will be paid as it comes due. The existing regulation does not address this concern.

Therefore, proposed section 298.17 would provide that in evaluating project applications, the Secretary would also consider whether the application concerns: (1) Vessels capable of serving as a naval and military auxiliary in time of war or national emergency; (2) construction of vessels in mobilization base shipyards; (3) financing of vessels within one year after delivery; (4) acquisition of vessels currently financed under Title XI, or (5) an applicant willing to take a guarantee for less than the normal term for that class of vessel. Use of these evaluation factors would not deny eligibility for guarantees under Title XI solely on the basis of vessel type.

Section 289.23 Refinancing.

This section is being revised to correct an error in the citation in the existing regulation to the controlling section of the Act, which was cited as section 1104(a)(1) through (3) instead of section 1104(a)(1) through (4) of the Act (46 U.S.C. 1274(a)(1)-(4)) and to include express reference to section 1104(a)(1) (46 U.S.C. 1274(a)(1)). These are purely technical changes.

Section 298.28 Advances.

With the prolonged economic decline in the U.S. maritime industry, some obligors have been experiencing severe financial difficulties and have been unable to meet their Title XI debt service payments (principal and interest) as well as other expenses or fees. (Other expenses or fees, necessary to protect the Government's interest, and which would be vessel related and which might include discharge of liens, repairs, fleeting costs and lien filing fees.) As a result, requests for short-term assistance in the form of advances (loans) to cover Title XI debt service, marine insurance and other vessel-related expense payments with respect to Title XI guaranteed obligations have shaply increased. MARAD has

approved the advances in order to preclude defaults on guarantee obligations and to allow the obligor to weather its short-term financial problems and become financially stable. As of June 1 in fiscal year 1983, MARAD has made approximately $30 million in advances to 19 obligors and has honored its guarantee in a default in the amount of $13 million. In addition, as of the same date, requests were pending for $12.9 million in advances from 24 obligors with respect to $310.9 million in guaranteed obligations. It is anticipated that additional requests for advances will be received during the remainder of the fiscal year. This increased volume of requests for advances has caused MARAD to reassess the criteria under which advances should be made, the processing time necessary to properly consider each request, and the documentation required to support each application. MARAD believes the regulation should be revised to reflect this reassessment.

The existing regulation provides for discretionary advances of principal payments on outstanding obligations where the obligor has insufficient cash flow or other access to capital to make such payments and there is a reasonable expectation that such advances will be repaid. This regulation was based on the general discretionary authority of the Secretary under section 207 of the Act (46 U.S.C. 1117) to make disbursements necessary to "protect, preserve, and improve" the collateral held to secure an indebtedness. In addition, the existing regulations set forth terms under which an advance must be made concerning the interest rate, maturity date, repayment schedule, proscription on dividends and collateral.

Proposed section 298.28 provides that requests for an advance of principal and interest or insurance payment shall be filed at least 30 days prior to the initial payment date. Requests for an advance must be supported by data stating the need for the advance, steps the obligor is taking and has taken in a good faith effort to meet its financial obligations, financial projections for the obligor's project, proposed terms of repayment, current and projected market conditions, (including utilization and charter rates) information on other available collateral, and a statement of the liens and all other outstanding debts of the obligor. The proposed regulations give the Secretary the discretion to consider requests filed with less notice where the extenuating circumstances causing the request to be late have been documented in writing. Whether to make or commit to make the advance is within the discretion of the Secretary as long as the advance will serve to protect, preserve, or improve the collateral held as security for the existing Title XI guarantees.

It is proposed that the applicant making the request for an advance must demonstrate (with market and cash flow analyses and other projections) that its problems are of short-term duration (less than two years) and that with the help of an advance the applicant would be assisted over its temporary difficulties. It is proposed that the determination of whether to make the requested advance(s) involve evaluation of: (1) The financial condition of the company, including whether the applicant has insufficient cash flow or working capital to make the payment, has made a good faith effort to obtain the funds necessary to make the payment from other sources, has a reasonable expectation that its operations will recover, and has instituted measures to alleviate its financial difficulties; (2) the adequacy of collateral offered and available; (3) the benefit of preserving the existing obligations on the collateral; and (4) the prospects for timely repayment of the advance.

MARAD believes that thirty days notice before a payment is due (excluding any grace period) provides the time period necessary to process a requested advance and reach a final decision. The proposal recognizes that there may be occasional extenuating circumstances under which lesser notice should be permitted but only on written request supported by proper justification. Extensive financial information would be requested of an applicant for an advance principally because of the difficulty in distinguishing between those companies that will remain in business with the short-term aid of an advance(s) and those that will not survive even with an advance(s). MARAD believes than an advance(s) on behalf of obligors is an unjustified expenditure of government funds if the obligor's inability to meet its Title XI debt service payments extends beyond the short-term, and if the advance(s) will not assist the obligor successfully through its short-term financial difficulties. Similarly, MARAD believes that an advance is not justified if the obligor, through a good faith effort, could arrange to meet its financial obligation through private arrangement. "Good faith effort" would be demonstrated by written requests for loan, written proposals to sell, written solicitations for additional equity, among other acceptable efforts.

Paragraphs (a) though (e) of existing section 298.28 set forth the terms of the advance. These terms have been incorporated in proposed § 298.8(b) as paragraphs (1) through (5). Proposed paragraph (6) would provide, as an additional condition of an advance, that the guarantee fee to be paid on the outstanding Title XI obligation relating to the advance shall be increasd to one percent.

Section 298. Mortgage.

The Federal bankruptcy law (11 U.S.C. 547(c)(3)(B) now provides that perfection of a security interest must take place within 10 days after such security interest attaches in order that such interest will date from the time it is given. Present § 298.31(a) requires endorsement (for purposes of perfection) of the preferred mortage to secure the Secretary's interest in a vessel within 21 days of recordation. Proposed § 298.1 would substitute 10 days, in conformance with the Federal bankruptcy law, in lieu of 21 days as the time period following mortgage recording within which the security interest must be perfected by the endorsement of the lien on the vessel's documents.

Further, situations have arisen and continue to arise in which security in addition to a first preferred mortgage on the vessel may be necessary. For instance, for inland barges, MARAD has requested security, in addition to the first preferred mortgage, even from some established operators, prior to issuing a letter commitment. The existing regulation provides requirements and procedures only for the taking of a first preferred mortgage.

Proposed § 298.31(c) would provide that, under normal circumstances, a first preferred mortgage will be adequate security for the guarantees. If it is determined that such mortgages are insufficient, however, the Secretary may, as a condition to approving the letter commitment, require additional collateral, such as a mortgage on other vessels and other property, special escrow funds, pledges of stock, charters, contracts, notes, letters of credit, accounts receivable assignments, and guarantees. (In administering this provision, MARAD would consider, in determining whether to require additional security, among other things, the financial condition of the applicant, the strength of the relevant market, and the utility of the vessel.)

The proposed regulation more accurately reflects the extent of the Secretary's authority under section 1103(b) of the Act (46 U.S.C. 1273(b)),

which permits the Secretary to take "such security interest, which may include a mortgage or mortgages on a vessel or vessels, as the Secretary of Transportation may reasonably require to protect the interests of the United States."

Section 298.36 Annual Gurantee Fee.

The studies of the Title XI program that have been conducted internally and externally indicate that the assets of the Federal Ship Financing Fund (Fund) may not be sufficient to cover potential defaults in relation to the total amount of Title XI guaranteed obligations outstanding. The Fund is a revolving fund into which all money appropriated by Congress under section 1107 of the Act (46 U.S.C. 1279) or collected by MARAD (including application, investigation and guarantee fees) are deposited. It is the primary source of money to pay guarantee obligations after an obligor defaults and it is the source of funds used to make advances. There are outstanding Title XI guarantees approximating $8.1 billion while the Fund's liquid assets total under $200 million.

The existing sections 298.36(c) and (d) set forth requirements for an annual guarantee fee based on variable rates for before and after vessel delivery (¼ to ½ percent before delivery; ½ to 1 percent after delivery). The rates depend on variations in the obligor's long-term debt/equity ratio and the amount of obligations outstanding during the particular annual period.

Proposed § 298.36(c) would fix the guarantee fee rate for annual periods before vessel delivery at ½ of 1 percent. For annual periods after vessel delivery, it is proposed, under § 298.36(d), that a flat rate of one percent be charged for all applicants regardless of the debt/equity ratio.

A flat rate would help cover, to a greater extent, potential defaults and would be simple to administer. The resulting increase in cost would be marginal in comparison to the total project costs.

Section 298.38 Partnership Agreements.

Partnerships represent a significant portion of Title XI obligors. In order to inform the public of the requirements which MARAD intends to uniformly impose in considering applications involving partnerships, the regulation needs to be revised to specify partnership agreement requirements. The existing regulation does not contain specific requirements pertaining to this subject.

Proposed § 298.38 would require that partnership agreements be in form and substance satisfactory to the Secretary prior to any guarantee closing, especially relating to four areas: (1) Duration of the partnership; (2) adequate partnership funding requirements and mechanisms; (3) dissolution of the partnership and withdrawal of a general partner; and (4) termination, amendment, or othe modification of the partnership agreements.

Section 298.39 Waiver and Mofifications.

The existing regulation does not contain a provision for waiver or modification. Circumstances could arise under which a waiver of regulatory requirement would be justified, *e.g.*, projects for Title XI financing involving unique vessels with design characteristics that have a high utility as a naval and military auxiliary in time of war or national emergency. Such projects may be in full compliance with all statutory requirements, but not in conformance with a particular section of the regulation. In such instance, it may be in the government's interest to grant a waiver of certain provisions of the regulation. A waiver provision would also allow administration of the program to be responsive to changing market conditions and unforeseen circumstances, such as changes in tax laws.

Proposed § 298.39 gives the Secretary the discretion to, upon good cause shown, waive or modify any requirements of Part 298 not required by the statute or make any additional requirements deemed necessary. This would allow the Secretary the necessary discretion in administering the Title XI program to meet all unforeseen circumstances. This proposal provides the Secretary with the same kind of discretionary authority to waive and modify requirements as is vested in the Secretary under the Federal Railroad Administration's Title V guarantee program regulations (49 CFR 260.15).

Section 298.41 Remedies after Default.

Existing § 298.41(d) provides that the obligor is entitled to collect the proceeds received from a sale or other disposition of the security after default to the extent that those proceeds exceed both the amounts owed the U.S. government under the guarantee and the expenses incurred by the U.S. government for collection. This section conflicts with existing section 298.41(c) because it may be interpreted to permit the obligor to recover proceeds from the sale or disposition of the security before the U.S. government has recovered all the amounts it is authorized to collect from the proceeds under subparagraphs 1 through 6 of paragraph (c), to the extent not specified in the guarantee documents.

Proposed section 298.41(d) would provide that the obligor will only be entitled tothe proceeds from the sale or other disposition of the security, as described in § 298.41(c), if and to the extent that the proceeds realized are in excess of the amounts described in subparagraphs 1 through 6 of paragraph (c). The purpose of this proposed change is to insure that all amounts that the U.S. government is authorized to recover from the proceeds of a sale or other disposition of the security are recovered before any proceeds are recovered by the obligor. The change does not affect the amount of proceeds the government would collect.

Regulatory Evaluation and Regulatory Flexibility Act Determination

This proposed rulemaking has been evaluated under Executive Order 12291, "Federal Regulation," dated February 17, 1981, and the Department of Transportation's Regulatory Policies and Procedures, dated February 26, 1979 (DOT Order 2100.5). The proposal is not considered to be a major rule because it would not: have an annual effect on the economy of $100 million or more; cause a major increase in costs or prices for consumers, individual industries, government agencies or regions or have a significant adverse effect on competition or any other aspects of the economy. The proposal is considered to be significant under DOT Order 2100.5 because it concerns a natter on which there is substantial public interest. Since the great majority of applicants for Title XI obligation guarantees have revenues far in excess of the existing Small Business Administration criteria for a small business under the classification of "transportation and warehousing" (13 CFR 121.3–3–10(f)), the Maritime Administrator certifies that this rulemaking would not, under the Regulatory Flexibility Act of 1980 (Pub. Law 96–354), expert a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This proposed rule does include expanded requirements for the collection of information within the scope of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and those requirements have been submitted to OMB for approval.

These additional information collection requirements in brief are an

estimated increase in incremental cost to the Federal government of $87.90 per application, with an estimate of 40 applications filed per year. It was estimated that the increase in incremental cost to the public would be $3,224 annually. Comments on the proposed information collection requirements may be submitted to Wayne Leiss, New Executive Office Building, Room 30001, Washington, D.C. 20503, in addition to submitting them to MARAD.

Pursuant to DOT Order 2100.5, a draft regulatory evaluation has been prepared and will be made available for public review in the file established for this rulemaking. The draft regulatory evaluation concludes that the proposed revision to the regulation will not have a significant adverse impact upon the maritime industry; and that by streamlining and clarifying Title XI procedures the revision will be an overall benefit to the maritime industry.

The regulatory evaluation does not indicate a number of areas in which MARAD is lacking complete data on costs and benefits of the proposed regulation. Commentors wishing to provide such data, which is generally only in the custody of those subject to the regulation, should submit those comments to the rules docket.

List of Subjects in 46 CFR Part 298

Martime carriers, Vessels.

Accordingly, it is proposed that 46 CFR Part 298 be amended as follows:

1. Section 298.3 would be amended by revising paragraph (b) and adding a new paragraph (e), to read as follows:

§ 298.3 Application.

* * * * *

(b)(1) *Time requirements for application.* Each application shall be submitted to the Secretary at least six months prior to the anticipated date by which the applicant requires a Letter Commitment. The Secretary may consider applications with less notice prior to the anticipated date by which the applicant requires a Letter Commitment, upon written documentation of extenuating circumstances. During the first 30 day period after submission, the Sectetary shall perform a preliminary review of the application for adequacy and completeness. If the application is found to be incomplete, or if additional data are required, the Secretary shall notify tha applicant promptly in writing. The applicant shall meet requests for additional information in a timely manner. If at the end of nine months from the submission date, unless such time period is extended by the Secretary, the applicant has not corrected the deficiencies, or made substantial progress toward correcting them, the Secretary shall notify the applicant in writing that the application will be dismissed without prejudice. If an application is not approved within one year from the submission date, unless such time period is extended by the Secretary, the Secretary shall notify the applicant in writing that processing of the application is terminated and that the applicant may reapply.

(2) *Time requirements for documentation.* An applicant to whom a Letter Commitment has been issued shall submit four sets of the documentation to the Secretary for review. The documentation shall be submitted to the Secretary for review at least six months prior to the anticipated closing to afford the Secretary time to complete an adequate review of the documentation. The applicant shall utilize the standard form of documentation which will be provided by the Secretary.

* * * * *

(e) *Processing applications.* In processing applications, the Secretary shall consider the different degrees of risk involved with different applications.

(1) *Additional assurances.* For those applications not involving well established firms with strong financial qualifications and strong market shares, seeking financing guarantees for replacement vessels in an established market, in which projected demand exceeds supply, the Secretary may require additional assurances prior to approval, such as firm charter commitments, parent company guarantees, greater equity participation, private financing participation, security interest on other property and similar arrangements.

(2) *Priority.* The Maritime Administration shall give priority for processing applications to vessels capable of serving as a naval and military auxiliary in time of war or national emergency, vessels to be constructed in shipyards within the established mobilization base, and requests for financing construction of equipment or equipment less than one year old as opposed to the financing of existing equipment that is one year old or older. Any applications involving the purchase of vessels currently financed under Title XI will also receive priority consideration for purposes of processing the assumption of the obligations as will applications from those willing to take guarantees for less than the normal term for that class of vessel.

2. Section 298.12 would be amended by changing the title, designating the present paragraph as paragraph (a) and adding a subject heading thereto, and by adding new paragraphs (b), (c), (d), (e) and (f) to read as follows:

§ 298.12 Applicant and operator's qualifications.

(a) *Operator's qualifications.* * * *

(b) *Identity and ownership of applicant.* In order to assess the likelihood that the project will be successful, the Secretary needs information about the applicant and the proposed project. To permit this assessment, each applicant shall provide the following information in its application for Title XI guarantees.

(1) *Incorporated companies.* If the applicant is an incorporated company, it shall submit the following identifying information:

(i) Exact name of applicant and tax identification number;

(ii) State in which incorporated and date of incorporation;

(iii) Address of principal executive offices and of important branch officers, if any;

(iv) The name, address, nationality and number and type of capital shares owned by each officer and director of the corporation.

(v) The name, address, nationality, and number of capital shares owned by each person not named in paragraph (b)(2)(iv) answer, owning of record or beneficially 5 percent or more of any class of capital shares issued by the applicant;

(vi) A brief statement of the general effect of each voting agreement, voting trust or other arrangement whereby the voting rights with respect to any share of the applicant are owned, controlled or exercised, or whereby the control of the applicant is in any way held or exercised, by any person not the holder of legal title to such shares. (Give the name, address, nationality, and business of any such person, including the form of the organization.): and

(vii) A certified copy of the certificate of incorporation, charter and by-laws.

(2) *Partnerships, joint-ventures, associations, unincorporated companies.* If the applicant is a partnership, joint-venture, association, or unincorporated company, it shall submit the following identifying information:

(i) Name of partnership, association, or unincorporated company;

(ii) Business address;

(iii) Date of organization;

(iv) Name of partners (general and special) of the partnership or trustee and

holders of beneficial interest in the association or company;

(v) Equity interest or percent capital contribution of each partner, trustee, or beneficial owner;

(vi) If any partners are individuals, provided:

(A) Date of birth of each;

(B) Place of birth of each; and

(C) Nationality of each;

(vii) If a partner is a corporation, provide information requested in paragraph (b)(1) of this section.

(viii) Certified copy of Partnership or Joint Venture Agreement, as amended; and

(ix) Offering Memorandum of Limited Partnership.

(3) *Individual.* If the applicant is an individual, he (she) shall submit the following identifying information:

(i) Name;

(ii) Address;

(iii) Date of birth;

(iv) Place of birth;

(v) Nationality;

(vi) Principal place of business; and

(vii) Trade name under which business is conducted.

(c) *Applicants: Business and affiliations:* The applicant shall include:

(1) A brief descrtiption of the principal business activities during the past 5 years of applicant and of any predecessor of the applicant. If any change in the principal business activities is presently contemplated (whether in connection with the work to be financed by the guarantees applied for, or otherwise), applicant shall give a brief statement of the nature and circumstances thereof;

(2) A list of all companies or persons (hereinafter referred to as related companies) that directly or indirectly, through on or more intermediaries, control, are controlled by, or are under common control with, the applicant. Also indicate that the nature of the business transacted by each, the relationships between the companies named, and the nature and extent of the control. This information may be furnished in the form of a chart. Specify whether any related companies have previously applied for or received any Title XI assistance;

(3) A statement of whether or not during the past 5 years the applicant, or any predecessor or related company, has been in bankruptcy or in reorganization under the Federal Bankruptcy Act or in any other insolvency or reorganization proceedings, and whether or nor any substantial property of the applicant or a predecessor or related company has been acquired in any such proceedings or has been subject to foreclosure or receivership during such period, and details of all such occurrences; and

(4) A statement of whether or not the applicant or any predecessor or related company is now, or during the past 5 years has been, in default under any agreement or undertaking with others or with the United States or guaranteed or insured by the United States.

(d) *Management of applicant.* The applicant shall include:

(1) A brief description of the principal business activities during the past 5 years of each director and each principal executive officer of the applicant; and

(2) The name and address of each organization engaged in business activities related to those carried on or to be carried on by the applicant with which any person named in answer to paragraph (d)(1) of this section has any present business connection, the name of each such person and, briefly, the nature of such connection.

(e) *Applicant's property and activity.* The applicant shall provide:

(1) A brief description of the general character and location of the principal properties of the applicant employed in its business, other than vessels, describing encumbrances, if any;

(2) A statement with respect to each vessel owned by the applicant, or operated by it under charter, stating name, gross tonnage, net tonnage, deadweight tonnage, age, type speed, registry, cargo capacity and number and type of cargo units (container, trailer, etc.); and

(3) A summary statement which addresses the services, routes, or lines (including ports served) on which the applicant operates any of the vessels owned or chartered by it. Also, a schedule and tonnage of cargo carried by the applicant during the two preceeding years, the units carried (containers, barges, passengers, etc.) and the cargo capacity utilization factor experienced.

(f) *Operating ability.* The applicant shall submit a detailed statement showing its ability to successfully operate the vessel(s), including name, education, background of, and licenses held by all shore management personnel concerned with the physical operation of the ships owned by the applicant or proposed for construction. If not now an operator of vessel(s), the applicant shall indicate a proposed organizational structure of key operating personnel or the name of the proposed operating agent. If not the owner and/or operator of ships, the applicant shall furnish data as to union affiliations and existing contracts necessary to the management and operation of the vessel(s) covering such items as bunkers, repairs, stores and stevedoring, and names of companies (domestic and foreign) for which company acts as agent. If a company other than the applicant is designated to operate the vessel(s), then the above information shall be provided for that company, together with a copy of the proposed operating agreement(s).

3. Section 298.13 would be amended by inserting the paragraph designation "(a)(3)" after the word "paragraphs" and before the paragraph designation "(d)" in paragraph (g) and by revising paragraph (a) and the introductory language of paragraphs (e), (e)(1), and (e)(2) as follows:

§ 298.13 Financial requirements.

(a)(1) *In general.* To be eligible for guarantees, the applicant and/or the parent organization (when applicable), and any other participants in the project having a significant financial or contractual relationship with the applicant shall submit information, respectively, on their financial condition. This information shall be submitted at the time of the application and supplemented as subsequently required by the Secretary. In addition, the applicant shall submit information satisfactory to the Secretary that financial resources are available to support the project which is the subject of the Title XI application.

(2) *Cost of the Project.* Applicant shall submit the following cost information with respect to the project:

(i) A detailed statement of the estimated actual cost of construction, reconstruction or reconditioning of the vessel(s) including those items which would normally be capitalized as vessel construction costs. Net interest during construction is the total estimated construction period interest on non-equity funds less estimated earnings from the escrow fund, if such fund is to be established prior to vessel(s) delivery. Each item of foreign equipment and services shall be excluded from actual cost unless a waiver is specifically granted for the item. If any of the costs have been incurred by written contracts such as the shipyard contract, management or operating agreement, signed copies should be forwarded with the application. The applicant may be required to have the contracting shipyard submit back-up cost details and technical data. This information shall be submitted in the format as prescribed by the Title XI application procedures.

(ii) A detailed statement showing the actual cost of any shore facilities, cargo containers, etc., required to be

purchased in conjunction with the project.

(iii) A detailed statement showing any other costs associated with the project which were not included in paragraphs (a)(2)(i) and (ii) of this section, such as: legal and accounting fees, printing costs, guarantee fees, vessel insurance, underwriting fees, fee to affiliates, etc.

(iv) If the project involves refinancing, the exhibit entitled Request for Actual Cost Approval and Reimbursement, its summary sheet and supplemental schedules shall be submitted at the time of filing the application.

(3) *Financing.* The applicant shall describe, in detail, how the costs of the project (sums referred to in paragraph (a)(2) of this section) are to be funded and the timing of such funding. The applicant shall include any vessel trade-ins, related or third party financings, etc. The applicant shall also provide the proposed terms and conditions of all private funding, from both equity and debt sources and clearly identify all parties involved. If the applicant intends to utilize co-financing (involving a blend of Title XI and private financing for the 75% debt portion), the terms and conditions of such financing shall be subject to approval by the Secretary. The applicant shall demonstrate with financial statements that at least 25 percent of the construction costs of the vessel(s) will be in the form of equity, not additonal debt. The applicant shall disclose all of the vessel(s) financing in the format as prescribed by the Title XI application procedures.

(4) *Financial Information.* The applicant shall submit the following additional financial statements with respect to both the proposed Title XI project and the overall operations of the applicant, footnoted to explain the basis used for arriving at the figures:

(i) The most recent financial statement of the applicant, its parent and other significant participants, as applicable (year end or intermediate), and the three most recent audited statements with details of all existing debt. If the applicant is a new entity or is to be funded from or guaranteed by external source(s), it shall provide the above mentioned statements for the funding source(s);

(ii) A pro forma balance sheet of the applicant as of the estimated date of execution of the guarantees reflecting the assumption of the Title XI obligations, including the current liability;

(iii) A schedule of amortization of all existing debt (Title XI or otherwise) of the applicant for the period in which the guarantees are to be outstanding; and

(vi) A sources and uses statement for the first full year of operations and the next four years, including a clear source of funding for the payment of all debt when due.

* * * * *

(e) *Special financial requirements at closing.* If the proposed project involves a leverage lessor, parent company or "hell or high water" charterer committed to financing the debt service for the term of the Guarantees and who meets the primary financial requirement at closing, then with respect to the applicant, the eligibility for Guarantees may be based upon satisfaction of special financial requirements, in which the financial covenants imposed and the requirements for maintenance of a Title XI Reserve Fund shall be as provided for in § 298.35(c) of this part. Special financial requirements are as follows:

(1) *Owner as operator.* Where the owner is the Vessel operator, the special requirements at Closing are as follows:

* * * * *

(2) *Lessee or charterer as operator.* Where the lessee or charterer is the Vessel operator, the special financial requirements at Closing are as follows:

* * * * *

4. Section 298.14 would be revised to read as follows:

§ 298.14 Economic soundness.

(a) *Economic Evaluation.* No Letter Commitment for guarantees shall be given by the Secretary without a finding that the proposed project, with respect to which the Vessel(s) is to be financed or refinanced under Title XI, will be economically sound.

(1) *Basic feasibility factors.* In making the economic soundness findings the Secretary shall consider all relevant factors, including, but not limited to:

(i) The need in the particular segment of the maritime industry for new or additional capacity, including any impact on existing Title XI equipment;

(ii) The market potential for the employment of the vessel(s) over the life of the Guarantees (such market potential analysis to include a statement of the assumptions used in that analysis);

(iii) Projected revenues (including assumed utilization rates) and expenses of the operation, as described in detail in paragraph (b) (Objective Criteria) of this section;

(iv) The length of the Guarantee period; and

(v) Any charters, contracts of affreightment, transportation agreements or similar agreements or undertakings which will assure revenue or employment of the Vessel(s).

(2) *Project Feasibility.* The applicant shall state in detail the purpose for the obligations to be guaranteed and shall supplement the application by exhibits deemed to be necessary. The applicant shall submit the following information to demonstrate the economic feasibility of the project over the Guarantee period.

(i) *Relevant market.* A written narrative of the market (or potential market) for the project including full details on the following, as applicable:

(A) Nature and amount of cargo/passengers available for carriage and applicant's projected share (provide also the number of units; i.e., containers, trailers, etc.);

(B) Services or routes in which the Vessel(s) will be employed, including an itinerary of ports served, with the arrival and departure times, sea time, port time, hours working or idle in port, off hire days and reserve or contingency time, proposed number of annual sailings and number of annual working days for the Vessel(s);

(C) Suitability of the Vessel(s) for their anticipated use;

(D) Significant factors influencing the applicant's expectations for the future market for the Vessel(s), for example, competition, government regulations, alternative uses, and charter rates; and

(E) Particulars of any charters, contracts of affreightment, transportation agreements, etc. The narrative should be supplemented by providing copies of any marketing studies and/or supporting information (for instance, existing or proposed charters, contracts of affreightment, transportation agreements, and letters of intent from prospective customers).

(F) The potential for purchasing existing equipment of a reasonable condition and age that may be available from existing Title XI Obligors, including information regarding—

(*1*) Market assessment concerning the availability and cost of existing equipment that may be an alternative to new construction;

(*2*) The cost of modification, reconditioning or reconstruction of existing equipment to make it suitable for intended use; and

(*3*) Descriptions of any bids or offers which the company had made to purchase existing equipment, especially Vessels which currently are financed with Title XI Obligations including date of offer, Vessels and amount of offer.

(ii) *Revenue.* A detailed statement of the revenues expected, to be earned from the project based upon the information in paragraph (a)(2) of this section. The revenues shall be based on a realistic estimate of the Vessel(s)

utilization rate at a breakdown rate for the project. A justification for the utilization rate shall be supplied and should indicate the number of days per year allowed for maintenance, drydocking, inspection, etc.

(iii) *Expenses.* A detailed statement of estimated daily vessel expense, including the following (where applicable):

(A) Wages, including staffing (submit itemized staffing schedule and wages, identifying the seamen's unions involved), and aggregated as to straight time, overtime and fringe benefits;

(B) Subsistence cost (indicate cost per person per day);

(C) Fuel cost (specify purchase ports), including estimated fuel consumption at design speed loaded and in port;

(D) Cost of stores, supplies and equipment, segregated as to Deck, Engine and Stewards Departments;

(E) Maintenance and repair cost at midlife of ship (specify in years) segregated as to voyage repairs, special surveys, drydocking and tailshaft removal, annual survey and structural renewals;

(F) Insurance costs, Hull and Machinery, Protection and Indemnity, War Risk and other (and insurance broker's estimate based upon current premium rates, if available, is considered preferable); and

(G) Other vessel expense (indicate items included).

(iv) *Estimated voyage expense:* These items shall include:

(A) Port expense segregated by port as to agency fees, wharfage and dockage and other port expenses;

(B) Cargo expense, segregated as to stevedoring and other cargo expense (show average cost per ton for loading and discharging for each port of geographic area);

(C) Brokerage expense, segregated as to freight and passenger; and

(D) Other voyage expense segregated as to canal tolls and other expense (indicate items included).

(v) *Owner's expenses annually.* These expenses shall be segregated as to:

(A) Interest and amortized principal on mortage indebtedness;

(B) Estimated government Guarantee Fee; and

(C) Salaries and other administrative expenses (indicate basis of allocations).

(3) *Cash Flow Analysis.* A detailed statement setting forth the estimated internal rate of return analysis and net present value of the cash flow of the project, computed as set forth below:

(i) Cash flow shall be based on information described in § 298.13(a)(4)(iv).

(ii) Discount rate for net present value shall be 10 percent.

(iii) Supporting statements indicating how any periods with projected negative cash flows would be funded.

(iv) Sensitivity analysis of cash flow shall be included based on the applicant's historical market share, past market fluctuations, availability of long term charters, potential government actions, especially in areas of intended foreign operations, etc.

(v) A net present value cash flow analysis and internal rate of return analysis shall be included for the proposed project and for viable alternative proposals, e.g., different ship design, modification of existing vessels versus new equipment, and analysis of lease financing versus direct ownership.

(b) *Objective Criteria.* The Secretary shall make a finding of economic soundness with respect to each proposed project based on an assessment of the entire project. In order to be considered for approval, a project must meet the following criteria as determined by the Secretary:

(1) The projected long-term demand for the particular Vessel(s) to be financed must exceed the supply of similar vessels in the applicable markets, based on the Secretary's assessment of existing equipment, similar vessels under construction and the projected need for new equipment in that particular segment of the maritime industry. Such an assessment shall be determined by the Secretary's analysis of the following three elements:

(i) Conformity of the company's projections with supply and demand analyses prepared by the Maritime Administration;

(ii) Availability of charters, contracts of affreightment, transportation agreements or similar agreements or undertakings; and

(iii) The applicant's existing market share compared with the market share necessary to meet projected revenues.

(2) A projected cash flow and net income, supported by the findings of paragraph (b)(1) of this section, that is sufficient to meet the projected Title XI debt service requirements and any other debt obligations of the company;

(3) The net present value of the projected cash flow (with consideration given to the sensitivity analysis of the projected cash flow) shall be positive utilizing a 10% discount rate;

(4) The internal rate of return analysis shall provide a minimum return of 10%; and

(5) That all prior Title XI advances shall have been paid.

5. Section 298.15 would be amended by deleting paragraphs (c) and (d) and revising paragraph (b) to read as follows:

§ 298.15 Investigation fee.

* * * * *

(b) *Base Fee.* The investigation fee shall be one-half of one percent of the aggregate amount of obligations to be issued. The $1,000 filing fee previously paid upon filing the original application (described in § 298.3 of this part) shall be credited against the investigation fee.

6. A new § 298.17 would be added to read as follows:

§ 298.17 Evaluation of applications.

In evaluating project applications, the Secretary shall also consider whether the application provides for:

(a) The capability of the Vessel(s) serving as a naval and miliary auxiliary in time of war or national emergency.

(b) The construction of the Vessel(s) in shipyards within the established mobilization base.

(c) The financing of the Vessel(s) within one year after delivery.

(d) The acquisition of Vessel(s) currently financed under Title XI by assumption of the total Obligation(s).

7. Section 298.23 would be revised to read as follows:

§ 298.23 Refinancing.

The Secretary may approve guarantees with respect to Obligations to be secured by one or more Vessels and issued to refinance existing debt, whether or not covered by mortgage insurance or Guarantees, so long as the existing debt has been issued for one of the purposes set forth in Section 1104(a)(1) through (4) of the Act. Section 1104(a)(1) of the Act requires that, if the existing indebtedness was incurred more than one year after the delivery or redelivery of the related Vessel, the proceeds of such Obligations shall be applied to the construction, reconstruction or reconditioning of other vessels or for facilities or equipment pertaining to marine operation (described in § 298.24 of this part). The Secretary may permit the refinancing of existing debt but only if any security lien on the Vessel(s) is discharged immediately prior to the placing of any Mortgage thereon by the Secretary. The applicant shall satisfy all the eligibility requirements set forth in Subpart B of this part.

8. Section § 298.28 would be revised to read as follows:

§ 298.28 Advances.

(a) *In general.* In accordance with the provisions of Section 207 and Title XI of the Act, the Secretary shall have the

discretion to make or commit to make an advance or payment of funds to or on behalf of the owner or operator or directly to any other person or entity for items including, but not limited to, principal, interest, insurance and other vessel-related expenses or fees. Such advances or payments shall be made only to protect, preserve or improve the collateral held as security by the Secretary to secure Title XI debt. The applicant making the request for an advance shall demonstrate (with market and cash flow analyses and other projections) that its problems are of a short term duration (less than two years) and that with the help of an advance(s), the applicant would be assisted over its temporary difficulties. In making or committing to make an advance or payment of funds the Secretary shall evaluate the following:

(1) Company finances. The applicant shall clearly demonstrate that it has insufficient cash flow, working capital or other financial resources to make the payment and has made a good faith effort to arrange for a transaction acceptable to the Secretary to provide the necessary commercial funding for the payment. Further, the Secretary shall consider the following factors, among other:

(i) The existing financial condition of the Obligor, including the likelihood of liens being filed by creditors;

(ii) The reason for the financial difficulties of the Obligor and whether the problems are the result of economic conditions or actions of the Obligor or both;

(iii) The reasonableness of the financial projections for the Obligor and the expectation that the Obligor's operations will recover; and

(iv) The extent to which company management has taken action to alleviate the difficulties leading to the need for advances.

(2) *Collateral.* There shall be adequate security for the advance. In determining adequate security the Secretary shall evaluate, among other things:

(i) The existing and future market conditions for the Vessel(s) held as collateral after consideration of all potential liens and claims;

(ii) The benefit of preserving the existing Obligations on the collateral; and

(iii) Any other available collateral (i.e., mortgages on other vessel(s) special escrow funds, pledge of stock, charters, contracts, notes, letters of credit, accounts receivable assignments and guarantees)

(3) *Repayment.* The company must have the capacity to repay the advances in a timely manner as well as meeting the other financial obligations imposed as a condition of the advance. The terms of repayment of an advance shall be satisfactory to the Secretary. In determining the Obligor's ability to meet the foregoing the Secretary shall evaluate, among other things:

(i) The expectation of repayment of the advance;

(ii) The ability and willingness of the Obligor to repay the advance on a short-term basis; and

(iii) The Obligor's experience in repaying any prior advance.

(b) *Terms of advance.* The terms of an advance shall be satisfactory to the Secretary and shall include, but not necessarily be limited to:

(1) The interest rate shall be equal to the greater of—(i) the sum of the effective interest rate borne by the Obligations and a Guarantee Fee computed in accordance with § 298.36; or (ii) the sum of the interset rate the Treasury would charge the Federal Ship Financing Fund for a similar borrowing of like maturity and a Guarantee Fee computed in acordance with § 298.36 of this part.

(2) The advance may have a maturity date no later than that of the Obligation(s).

(3) Unless the Secretary otherwise requires, the advance shall have periodic payments of principal and interest payable to the extent practicable, on the same dates as that of the Obligation(s) with the right of prepayment at any time without premium.

(4) As long as any advance is outstanding, no dividends can be paid without prior written consent of the Secretary provided, however, that if the Obligation(s) and advance(s) are assumed by a non-affiliated company which was approved by the Secretary, this dividend restriction shall not apply unless it is expressly required by the Secretary.

(5) The advance, both as to principal and the interest relating to the advance of principal, shall be secured by the mortgage and/or other such collateral as the Secretary shall deem appropriate.

(6) As a further condition of the advance the guarantee fee required to be paid by the Obligor on the outstanding Title XI obligations relating to the advance shall be at the rate of one percent.

(c) *Filing requirements.* Any company that desires to request an advance or other payment or a commitment to make an advance or other payment from the Secretary for the purposes stated in § 298.28 of the part shall apply for such assistance as far in advance as reasonably possible. A request for an advance for principal and interest payments shall be received by the Secretary at least 30 days prior to the initial payment date. A request for an advance of insurance payments shall be received by the Secretary at least 30 days prior to a renewal or termination date. The Secretary may consider requests for assistance with less notice, upon written documentation of extenuating circumstances. Any requests for assistance must be accompanied by supporting data with respect to the need for the advance, that financing assistance has been sought from other sources, that the company is taking and has taken measures to alleviate its situation, financial projections, proposed term of the repayment, current and projected market conditions, information on other available collateral, liens and other creditor information, and any other information which may be requested by the Secretary.

9. Section 298.31 would be amended by deleting in paragraph (a) the number "21" and inserting the number "10" in its place and adding a new paragraph (c) to read as follows:

§ 298.31 Mortgage.

* * * * *

(c) *Adequacy of collateral.* Under normal circumstances, a First Preferred Mortgage on the Vessel(s) will be adequate security for the Guarantees. If, however, the Secretary determines that the Mortgage on the Vessel(s) is not sufficient to provide adequate security, the Secretary, as a condition to approving the Letter Commitment, may require additional collateral, such as a mortgage(s) on other vessel(s) or on other assets, special escrow funds, pledges of stock, charters, contracts, notes, letters of credit, accounts receivable assignments, and guarantees.

10. Section 298.36 would be amended by revising paragraphs (c) and (d) to read as follows:

§ 298.36 Annual guarantee fee.

* * * * *

(c) *Rate prior to Vessel delivery.* For annual periods beginning prior to the delivery date of a Vessel being constructed, reconstructed or reconditioned, the Guarantee Fee rate shall be one-half of one percent of the average principal amount of Obligations outstanding during the annual period covered by the Guarantee Fee.

* * * * *

(d) *Flat rate after vessel delivery.* For annual periods beginning on or after the Vessel delivery date the Secretary shall

charge a flat rate of one percent annual guarantee fee to all Obligors.

* * * * *

11. A new § 298.38 would be added to Subpart D to read as follows:

§ 298.38 Partnership agreements.

Partnership agreements shall be in form and substance satisfactory to the Secretary prior to any Guarantee closing especially relating, but not limited to, four basic areas: (a) duration of the partnership, (b) adequate partnership funding requirements and mechanisms, (c) dissolution of the partnership and the withdrawal of a general partner and (d) the termination, amendment, or other modification of the partnership agreement without the prior written consent of the Secretary.

12. A new § 298.39 would be added as to read as follows:

§ 298.39 Waivers and modifications.

The Secretary may, upon good cause shown, waive or modify any requirements of this part not required by law or make any additional requirements deemed necessary and consistent with the Act.

13. Section 298.41(d) would be revised to read as follows:

§ 298.41 Remedies after default.

* * * * *

(d) *Security proceeds to Obligor.* The Obligor shall be entitled to the proceeds from the sale or other disposition of security, described in paragraph (c) of this section, if and to the extent that the proceeds realized are in excess of the amounts described in paragraphs (c) (1) through (6) of this section.

(Secs. 204(b) and 1109, Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b), 1279(b)) P.C. 97.31, Aug. 6, 1981; 49 CFR 1.66)

Dated: August 11, 1983.

Georgia P. Stamas,

Secretary, Maritime Administration.

[FR Doc. 83-22396 Filed 8-17-83; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[Gen. Docket No. 83-841; FCC 83-83-373]

Integrated Services Digital Networks; Inquiry

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry.

SUMMARY: The Notice of Inquiry into integrated services digital networks (ISDN) examines current ISDN developments, reviews existing U.S. telecommunication policies and examines various ISDN implementations within that context. U.S. telecommunications service providers, equipment manufacturers, users and the general public are invited to comment on ISDN and the appropriate role for the FCC to play in ongoing ISDN standard development efforts, to promote their interests and the public interest in this new technology, which will alter the entire telecommunications system.

DATES: Comments are due October 3, 1983. Replies are due September 2, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Sill, Common Carrier Bureau, (202) 632-4047.

Notice of Inquiry

In the matter of Integrated Services Digital Networks (ISDN); GEN Docket No. 83-841.

Adopted: *August 4, 1983.*

Released: *August 10, 1983.*

By the Commission:

I. Introduction

1. Currently, a world-wide telecommunications effort is underway to specify standards for integrated services digital networks (ISDN). An ISDN is a network which is designed and constructed to provide a wide range of telecommunication and information services and to transport electrical signals in digital, rather than analog, form. Participants in this effort include numerous countries, telecommunications entities and professional organizations. It is envisioned that an ISDN or ISDNs will evole in each nation from its existing network(s). In the U.S., several ISDNs could emerge from existing privately-owned telecommunications networks. National ISDNs are expected to emerge and interconnect over the next two decades, as communications signals will be increasingly digital. In recognition of this trend, and also in recognition of the technological trend generally towards the use of digital technology in telecommunications, existing telecommunications providers have increasingly begun to construct and install digital components in their networks.

2. The purpose of this Notice of Inquiry (NOI) is to provide background on ISDN developments to date, and on related telecommunications policy, and to discuss various issues raised by the potential implementation of ISDNs. We shall seek comment on the appropriate role for the FCC to play in the ongoing ISDN standards development effort.[1] In particular, we solicit comment on how the FCC should best continue to promote its pro-competitive policies as ISDN evolves. Furthermore, this NOI is intended as a clearinghouse for comments of U.S. telecommunications service providers, equipment manufacturers, users and the public.[2]

3. As noted, we are cognizant that international and domestic standardization efforts involving the U.S. government, telecommumications providers, large users, and foreign entities are presently underway.[3] We do not intend that this proceeding hinder or conflict with these ongoing efforts, rather, this NOI seeks to complement existing efforts. In addition, the NOI will serve as another vehicle to apprise the Commission and the public of concerns which U.S. service providers, equipment manufacturers, users and the public may have about implementation of ISDN networks.

4. ISDN will emerge from existing telecommunications networks and represent the next stage in the evolution of telecommunications. Initially, telephone networks were designed to transport voice signal information in analog form. As computers began to communicate with one another, computer information which was in digital form was transformed into analog form in order to be transported over existing analog networks intended for voice signals.[4] However, with rapid

[1] In recently released report, the National Telecommunications and Information Administration (NTIA) concluded that: "because of the far-reaching impact of ISDN on competition, equipment and service trade, and U.S. technological leadership, it is important that the U.S. Government provide a reasonable specific policy framework on which future U.S. efforts to develop ISDN standards could be based. Toward this end the FCC, which is presently considering a Notice of Inquiry, should initiate it without delay." National Telecommunications and Information Administration, United States Department of Commerce, Long Range Goals in International Telecommunications and Information, 130 (1983).

[2] The NOI raises and discusses many ISDN-related issues. To facilitate comment, a partial list of issues discussed in the NOI is presented as Attachment I.

[3] These planning efforts are widespread and dynamic. Since 1976 the International Telegraph and Telephone Consultative Committee (CCITT) has been the focal point of international ISDN planning efforts. In the United States, telecommunications companies, private sector organizations and the federal government have participated in ISDN planning activities. *See* Section II for further discussion.

[4] Because the bulk of the network consists of circuits intended for transmission of voice, the transmission of signals in digital form is not as efficient as if the network were originally designed to handle digital signals. Most circuits designed for voice use frequency division multiplex (FDM) to achieve the composite signal necessary to modulate a carrier for the purpose of transmitting multiple conversations over a single path. Circuits intended for digital use usually employ time division multiplex (TMD) which simplifies the encoding of individual bit streams onto a single composite bit

development of digital technology in the past three decades, voice and data communications were transported over both digitial and analog media. During recent years many national networks rapidly moved toward transporting voice and digital signals on digital media. This trend toward digitalization is occurring because it is believed that digital networks may reduce costs, increase service quality and provide new services to the user.

5. ISDN continues the trend towards use of digital transport facilities. An ISDN is characterized by the provision of numerous services, from low speed alarms up to high speed broad-band video services, and end-to-end digital connectivety between users for both the transport of voice signals which have been originated electrically in digital form, and the transmission of digital signals themselves. ISDN will permit users to communicate via the network(s) by interconnecting through a select group of standardized, multi-purpose user access interface arrangements. Currently, technical standards of telecommunications equipment and facilities can vary within a national network and among various nations' networks. This lack of uniformity requires equipment manufacturers to construct, and may require some users to buy, equipment tailored to meet each differing standard. ISDN efforts are aimed at changing this situation. One objective of ISDN planners is the creation of model ISDN interface characteristics after which each nation would pattern its own ISDN or ISDNs. This uniformity would permit national ISDNs to interconnect and form a worldwide system or systems,[5] and would promote ubiquity of terminal equipment used therein. Thus, users in one country could use their telephones and terminals in any country and be able to communicate with users anywhere in the world. Although this uniformity would simplify the interconnection of ISDNs with other countries systems, there is a question as to whether a single standard or set of standards for specialized systems would be appropriate for some users.

II. ISDN Planning Efforts

6. ISDN planning efforts are underway within the United States and internationally. Domestically, several voluntary standards development organizations and federal agencies have been involved in ISDN efforts. Internationally, the International Telegraph and Telephone Consultative Committee (CCITT) and the International Organization of Standardization (ISO) are involved in developing ISDN-related standards.[6] We shall discuss the international efforts first.

A. International Efforts

7. CCITT provides the central forum for international planning and discussion of ISDN.[7] In 1976, the Sixth Plenary Assembly of the CCITT proposed that CCITT begin formally to study ISDN.[8] The Seventh Plenary Assembly met in 1980 and gave Study Group XVIII primary responsibility for establishing general ISDN standards and guidelines. Several other study groups have specific responsibilities. *See* Attachment II. In addition to its ISDN study groups, CCITT is generating and has generated other standards which may have some bearing upon implementation of ISDN.[9]

8. CCITT's ISDN efforts are aimed at specification of uniform ISDN Recommendations. These Recommendations are intended as an outline of an ISDN model which nations can adopt and adapt to meet their individual needs. This CCITT model is expected not only to detail the technical specifications of the ISDN network, but also to encompass all the facilities and equipment required by a user to gain access to the network.

9. In the seven years since CCITT began work on an ISDN model, much progress has been made. CCITT has developed, and continues to refine, its ISDN model. *See* Attachment III. Currently, the model has the user accessing the network through a series of defined interfaces. The user begins its call by using its telephone or terminal (denominated TE1). The call passes through two other interfaces (NT1 and NT2) before it is carried throught the local loop [10] to the local exchange and onto the ISDN. In addition, CCITT has also begun to specify a system of protocols [11] for ISDN based upon the International Organization for Standardization's (ISO) open systems interconnection model (ISO/OSI). *See* Attachment IV.

10. The next CCITT Plenary Assembly will meet in November 1984. Initial recommendations which are submitted for final approval will be reviewed by the Plenary Assembly, and those that are approved will become CCITT Recommendations. It is envisioned that CCITT ISDN Recommendations will be

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stream. While data signals in digital form can be used to directly modulate a carrier via the FDM process, there are distinct advantages to be gained by using TDM. The advantages also extend to voice signals, which are first sampled, then encoded as digital signals by a process such as pulse code modulation (PCM). PCM involves the conversion of an analog signal, such as voice, to a digital format. This is ordinarily accomplished by generating binary-coded pulses to represent the quantized amplitude samples of the analog signals. The process of encoding voice signals by PCM has been used for many years and where bandwidth problems are not too severe is the preferred method of transmission. Thus, many national networks have been gradually shifting to digital transmission.

[5] There appears to be a possibility that separate terrestrial and space satellite worldwide ISDNs could evolve.

[6] In addition, the Conference Europeene des Administrations des Postes et des Telecommuncations (CEPT), the International Federation for Information Processing (IFIP), the European Computer Manufacturers Association (ECMA) and other agencies are also active in ISDN matters. CEPT outlined a common CEPT approach to ISDN in its Special Group ISDN (GSI) 1982 report on Integrated Services Digital Network Studies, Doc. T/CCH (82) 30, Doc. T/GSI (82) 71, Information for Industry, Stockholm, (November 1982).

[7] The CCITT is one of four permanent organs of the International Telecommunication Union (ITU). The ITU has 158 member countries of which the United States is one.

[8] CCITT's activities are structured around a four year cycle known as the "plenary cycle". CCITT establishes Study Groups to develop telecommunications disciplines or services. Study Groups convene, divide their subject into subparts and assign various groups of experts (working groups) questions to study and answer. These working groups meet, study their assigned questions and make recommendations to the Study Group. The Study Group convenes and review these recommendations and may adopt them. If adopted, the recommendations are then presented to the CCITT at the next Plenary Assembly. The CCITT Plenary Assembly convenes to review and approve or disapprove Study Groups' recommendations as well as plan the work to be undertaken during the next plenary cycle. Study Group recommendations which are approved by the Plenary Assembly become CCITT recommendations.

[9] For example, International Telecommunication Union, International Telegraph and Telephone Consultative Committee, Yellow Book, Volume III, Fascicle VIII.2, Data Communication Network Services and Facilities Terminal Equipment and Interfaces [hereinafter ITU Yellow Book Vol. III]. Recommendation X.3 Packet assembly/disassembly (PAD) in a public network, at 10 (1980) outlines the interworking standards for start/stop mode data terminal equipment in a packet network. In addition, ITU Yellow Book Vol. III, Recommendation X.25 Interface between data terminal equipment (DTE) and data circuit equipment (DCE) in the packet mode in public data networks, 100, Geneva 1976, (amended Geneva 1980) describes the interface standards for packet mode data terminal equipment in packet network.

[10] A local loop is a single channel connecting the customer and the local exchange office.

[11] Protocols have been described as: "the rules by which physically separated entities interact." Green, Introduction to Network Architectures and Protocols, IEEE Transactions on Communications, Vol. COM-28, No. 4, at 413 (1980). The Commission has described protocols as: "governing the methods used for packaging the transmitted data in quanta, the rules for controlling the flow of information, and the format of headers and trailers surrounding the transmitted information and of separate control messages." Amendment of Section 67.702 of the Commission's Rules and Regulations (Second Computer Inquiry), 77 FCC 2d 384, 422 n. 37 (1980) (Final Decision), *reconsideration, aff'd sub nom.* CCIA v. FCC, 693 F 2d 198 (D.C. Cir 1982), *cert. denied* 51 U.S.L.W. 3828 (U.S. May 16, 1983) (Nos. 82-1331 and 82-1332) [hereinafter *Computer II*].

relied upon by nations for the design and construction of their ISDN networks.

B. Domestic Efforts

11. In the United States ISDN discussions and planning efforts are being carried on by groups in both the private and public sector. Among these groups are the United States Organization for International Telegraph and Telephone Consultative Committee (U.S. CCITT Committees, including the ISDN Joint Working Party), Federal Communications Commission, National Telecommunications and Information Administration, National Communications System, Defense Communications Agency, Electronic Industries Association, American National Standards Institute, and the Institute of Electrical and Electronics Engineers.

12. The United States Organization for International Telegraph and Telephone Consultative Committee (USCCITT) was established by the Department of State pursuant to the Federal Advisory Committee Act, Pub. L. No. 92-463, 86 Stat. 770 (1972), *as amended* Pub. L. No. 94-409 § 5[c], 90 Stat. 1247 (1976) to discuss and develop U.S. positions on matters before the CCITT. It consists of the U.S. CCITT National Committee (USNC) and four Study Groups. The USNC functions as a steering body over the four Study Groups and the ISDN Joint Working Party. Study Groups "A", "B", "C" and "D" are assigned specific topics. Study Group A is concerned with tariffs and service definitions. Study Group B examines terminal equipment and telex issues; C examines telephone matters; and D examines data networks and data communications matters.

13. In 1981, in response to the increased international ISDN activity, a domestic ISDN Joint Working Party (JWP) was established as an adjunct to the USNC. It was created to develop a domestic forum for discussion of U.S. positions on ISDN issues at CCITT, in view of the relevance of ISDN considerations to all four U.S. study groups. The JWP is chaired by a representative of the National Telecommunications and Information Administration (NTIA). The FCC, National Communications System and the Department of State, among other government agencies, participate in the JWP. In addition, many telecommunications companies and private sector organizations also participate in and make submissions to the JWP. If a contribution is approved by the JWP, it is coordinated with the appropriate Study Group and recommended for approval to the State Department as a U.S. CCITT contribution. If neither the JWP nor the appropriate Study Group approves a given contribution, the contributor may withdraw or revise its contribution or, if the contributor is recognized by the CCITT as a Recognized Private Operating Agency (RPOA) or a Scientific or Industrial Organization (SIO), it may submit its documents to CCITT working Parties on its own motion but without the status of a United States government contribution.[12]

14. In addition to the FCC's involvement in the USNC and the Joint Working Party, the Commission established, in 1981, an intra-agency ISDN Coordinating Committee to monitor ISDN developments. During the last year and a half, observing that international ISDN planning efforts have accelerated rapidly, this Committee stepped up its own efforts to remain abreast of developments by participating more actively in international and domestic meetings.

15. In the private sector, voluntary standards-setting organizations composed of telecommunications professionals have been active. Organizations such as the Electronic Industries Association (EIA), the American National Standards Institute (ANSI), and the Institute of Electrical and Electronics Engineers (IEEE) develop recommendations and may submit documents to the JWP and the ISO.

16. Telecommunications carriers, enhanced service providers, equipment manufacturers and user groups are also involved in the development of ISDN standards both on a national and international level. These businesses often prepare ISDN-related documents that they submit to standards setting organizations. They may also submit their contributions to the JWP for incorporation as a U.S. contribution or, if as previously stated, they are recognized RPOAs or SIOs, they may submit their contributions directly to CCITT.

C. Status of Planning Efforts

17. At least nine CCITT Study Groups are working on ISDN related matters. *See* Attachment II. These study groups prepare Draft Recommendations which are often subject to review and revision. Given the fluidity of the process and the scope of the subject, an overview of important CCITT ISDN actions will be presented.[13]

18. In 1980, the Seventh Plenary Assembly published Recommendation G.705 [14] outlining conceptual principles which would guide the international development of ISDN. These principles mandate, among other things, that the ISDN will contain intelligence for the purpose of providing service features that may be contained in the customer's terminals or distributed throughout the network; that layered sets of protocols for various access arrangements to the ISDN will control the networks and may vary as a function of the services required and the status of the evolution of a nation's ISDN, and that new services should be compatible with 64 kbit/s switched digital connections.

19. Although CCITT's ISDN model will utilize a layered set of protocols, CCITT has not agreed upon a system for categorizing protocols for ISDN purposes. However, ISO's open system interconnection model (ISO/OSI), discussed in para. 9, is being utilized by CCITT as a framework for designing ISDN protocols.[15] The ISO/OSI model identifies seven protocol layers. *See* Attachment IV. The implementation of each protocol layer requires the utilization of each lower layer protocol. Layer one, physical control, is the most fundamental protocol level. It provides the mechanical, electrical, functional, and procedural characteristics needed to establish, maintain and release physical connections between the network termination and the exchange. While layer one establishes physical connections with the network termination and the exchange, layer four protocols provide control signals from user terminal to user terminal across the network, and layer seven protocols permit data to be combined, converted,

[12] There are 18 U.S. companies accorded RPOA status. The American Telephone and Telegraph Company (AT&T) and various IRCs are RPOAs. IBM is recognized as a SIO. In addition to RPOAs and SIOs, CCITT Study Groups are open to International Organizations (*e.g.* ISO), Specialized Agencies (*e.g.* World Meteorological Organization), and any administration of the ITU which wishes to participate.

[13] The following section will discuss various proposed amendments and revisions of CCITT Recommendations and Draft Recommendations. These amendments and revisions are mentioned for illustrative purposes only, and the discussion of these documents is not intended to indicate nor represent the position of the FCC or the U.S.

[14] International Telecommunication Union, International Telegraph and Telephone Consultative Committee, Volume III, Fascicle III.3, Digital Networks Transmission Systems and Multiplexing Equipment, Recommendation G.705, Integrated services digital network (ISDN), at 65-66 (1980). As CCITT ISDN efforts continue draft recommendations which will alter Recommendation G.705 are being developed.

[15] Report of the Meeting of Group of Experts on ISDN matters of Study Group XVIII, Com XVIII, No. R 15-E. [hereinafter Kyoto Meeting of Experts] Draft Recommendation I.311, p. 139 (March 1983).

calculated and processed to become new data.

20. A number of significant ISDN developments have occurred in 1983. Two of the more important CCITT meetings were those of the Kyoto Meeting of Experts in February and the Geneva Meeting of Study Group XVIII in June. These meetings resulted in a detailed outline of ISDN Recommendations which was accepted in draft form. *See* Attachment V. This outline covers a broad range of ISDN characteristics, including many aspects of the network. Various sections deal with terminology, evolutionary principles, service capabilities, protocol models, numbering-addressing-routing principles, performance objectives, user-network and inter-network interfaces as well as other ISDN topics. This outline, if adopted at the November 1984 Plenary Assembly, would serve as the basis for implementing ISDNs and shape future CCITT ISDN work.

III. FCC Statutory Obligations in an ISDN Environment

21. The Commission maintains jurisdiction over U.S. domestic and international common carrier facilities and service providers pursuant to Title I and Title II of the Communications Act of 1934.[14] Under Section 214 of the Communications Act of 1934 as amended, 47 U.S.C. 214 (1976), the FCC authorizes service providers to extend, acquire, and operate facilities, and evaluates Section 214 applications to insure against excessive plant additions which will unduly expand the rate base, thus causing higher revenue requirements. In the last decade, the Commission has initiated international facilities planning processes to examine U.S. carrier traffic forecasts and facility requests prior to the Section 214 authorization process. It had done so to provide overall policy guidance on the complex issues raised by large scale facilities investments, finding this approach preferable to reliance on *ad hoc* Section 214 oversight alone. In addition, the facilities planning process gives service providers the ability to develop long-term facilities plans and removes the uncertainty inherent in *ad hoc* authorizations.

22. A further basis for institution of this inquiry is the potential that our equipment registration rules (47 CFR Part 68) may require amendment to accommodate digital interconnection with the telephone network in an ISDN environment. Since 1976, then the registration program initially became effective, most terminal equipment connected with the network has been registered as conforming with technical specifications to prevent harm, or has been used with registered protective apparatus. In some cases, we have considered use of tariff alternatives to registration of equipment under our rules, *see, e.g., Third Notice of Proposed Rulemaking*, Docket No. CC 81-216, FCC 83-268, —— FCC 2d —— (1983). While we do not decide here whether rule or tariff procedures would be appropriate for ISDN, it is fair to inquire in this proceeding, at least initially, whether such procedures may prove necessary or useful.

23. The Commission's jurisdiction over networks and service providers will remain unchanged by the evolution of ISDN. ISDN will require additional construction of facilities and service offerings. Thus, the Commission will continue to address policy issues and authorize facilities in an ISDN environment. While we do not seek to plan ISDN facilities, we here seek to review the large policy issues raised by ISDN at an early stage in the facilities planning cycle, rather than only acting on an *ad hoc* basis.

IV. FCC Telecommunications Policies

24. The FCC was established to foster efficient nationwide and worldwide communications, and we have promulgated policies, discussed below, to meet that goal. We are faced with the challenge of ensuring that ISDN and other subsequent technological innovations are implemented on a national level in a manner that comports with our policies.

25. In response to dramatic technological change, the Commission has, over the last fifteen years, increasingly relied on the forces of the marketplace to complement traditional common carrier regulation, and to ensure that such regulation is not inappropriately or unnecessarily extended. The Commission, therefore, has promulgated procompetitive policies and has begun to deregulate competitive telecommunications services. In a series of decisions the FCC has fostered competition in the provision of customer premises equipment,[17] promulgated policies fostering new common carrier entrants,[18] permitted domestic resale and shared use[19] and authorized COMSAT to provide end-to-end service.[20] Although each of these decisions relates to a different aspect of common carrier operations, a single regulatory philosophy is common to them—a desire to foster competition while reducing governmental involvement.

26. In the last three years we have taken several significant steps to deregulate service providers such as resellers of domestic "basic" service[21] and "enhanced" service providers.[22] In *Computer II* the Commission classified communications services as being either basic services or enhanced services. Basic service is a common carrier offering of transmission capacity for the transport of information. Enhanced services are defined in § 64.702(a) of our rules as:

> • • • services offered over common carrier transmission facilities used in interstate communications, which employ computer processing applications that act on format, content, code, protocol or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different, or restructured information; or involve subscriber interaction with stored information.

In *Computer II*, the Commission retained Title II jurisdiction over basic service (including underlying basic services that support enhanced services), but found that enhanced services are not subject to Title II regulation. Thus, while the provision of basic services remained within Title II jurisdiction, the provision of enhanced services was deregulated.

27. Before deregulating enhanced services, the Commission considered the potential effect of such deregulation on competition and structured its decision to ensure that unregulated provision of enhanced service by common carriers would be fair. Tariff conditions were placed on all common carriers to assure that basic service providers that offered enhanced services would not gain unfair competitive advantage over enhanced service providers that did not own underlying transmission facilities.

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[14] Title III of the Act, 47 U.S.C. 301 (1976), *et seq.*, extends the Commission's jurisdiction to radio and satellite facilities, covering common carriers to the extent that they hold radio licenses.

[17] Carterfone, 13 FCC 2d 420 (1968); *see also*, Part 68 of the Rules and *Computer II*, *supra* note 11.

[18] *See* Second Report and Order in Domestic Communications, Satellite Facilities, 35 FCC 2d 844 (1972); Specialized Common Carrier Services, 29 FCC 2d 870, 920 (1971); *aff'd sub. nom.*, Washington Utilities Transportation Comm'n v. FCC, 513 F2d 1142 (9th Cir.), *cert. denied*, 423 U.S. 836 (1975); MCI Telecommunications Corporation v. FCC, 188 U.S. App. D.C. 327, 580 F.2d (1978), *cert. denied*, 439 U.S. 980 (1978).

[19] Resale and Shared Use of Common Carrier Services, 60 FCC 2d 261 (1976). Resale and Shared Use, 83 FCC 2d 187 (1980).

[20] Authorized User Modification, 90 FCC 2d 1394 (1982). Authorized Entities and Users, 4 FCC 2d 421 (1966).

[21] Competitive Carrier, 91 FCC 2d 59 (1982), *recon. denied*, —— FCC 2d —— (adopted February 17, 1983).

[22] Computer II, *supra* note 11.

Common carriers which seek to offer enhanced services may do so subject to conditions which ensure that: (a) costs of unregulated enhanced service offerings are not borne by ratepayers of carriers' regulated basic service; and (b) a common carrier which provides enhanced services does not gain unfair advantage over an enhanced service provider that must purchase basic service from a common carrier.

28. All facilities-owning carriers must continue to offer such transmission facilities pursuant to tariff, and must take basic facilities to support their own offerings of enhanced services on the same tariffed basis as other competing enhanced service providers.[23] Thus, carriers owning underlying transmission facilities and providing enhanced services must "unbundle" their basic and enhanced service offerings. Since enhanced services are not subject to Title II regulation, carrier may not include their enhanced service offerings in their tariffs. Thus, the *Computer II* decision was designed to assure that basic services would be available to all enhanced service providers on the same tariffed basis, while establishing a dichotomy between the two types of services.

29. Under *Computer II*, American Telephone & Telegraph Company (AT&T) is subject to an additional structural requirement. Due to its market dominance, AT&T must establish a separate corporation to offer enhanced services and terminal equipment and must maintain structural separation between the separate corporation and the parent.[24]

30. The pro-competitive philosophy outlined above is also embodied in judicial and congressional actions. In the Modification of Final Judgment (hereafter *MFJ*) entered on August 24, 1982 in *U.S.* v. *American Telephone and Telegraph Co.*, 552 F. Supp. 131 (D.D.C. 1982), *aff'd sub nom. Maryland* v. *U.S.*, 103 S. Ct. 1240 (1983), AT&T was required to alter fundamentally the structure and scope of its operations. Before the *MFJ*, AT&T owned and operated the long distance telephone interexchange facilities as well as twenty-one Bell Operating Companies (BOCs) which provide local exchange service. However, under the terms of the entered *MFJ*, AT&T consented to divest the BOCs. The BOCs will be limited to provision of exchange service, exchange and information access, provision of other natural monopoly services actually regulated by tariff, and the provision, but not manufacture, of terminal equipment (unless these restrictions are subsequently modified by the court). The Commission is examining the divestiture under its Section 214 aegis.

31. In 1981 Congress passed the Record Carrier Competition Act of 1981 (RCCA), Pub. L. 97–130, 95 Stat. 1687 (to be codified in —— U.S.C. 222) which increased competition by eliminating the statutory bar preventing Western Union Telegraph Company from providing overseas services and by mandating full interconnection of domestic and international record carrier facilities to provide universal customer access to any carrier network. Pursuant to the terms of the RCCA, the Commission has prescribed interconnection arrangements for international and domestic record carriers which require carriers to grant all other carriers equal interconnection with their respective networks. *Interconnection Arrangements*, 89 FCC 2d 928 (1982), *see* also, *MTS and WATS Market Structure Phase III*, C.C. Docket No. 78–72, FCC 83–178, Transmittal No. 33184 (released May 31, 1983).

V. ISDN Planning Efforts and FCC Telecommunications Policies

32. The concept of an integrated services digital network and CCITT's ISDN planning efforts present the U.S. public and private sectors with a host of issues. In order to facilitate identification and discussion of the issues, this section will describe the international ISDN planning environment, examine the interaction between international ISDN design and U.S. ISDN(s) structure,[25] explore the effects ISDNs could have on U.S. groups and discuss what role, if any, the FCC should have in this area.

33. As outlined in Part IV, the FCC, the Courts and Congress have promulgated pro-competitive policies to guide our nation's telecommunications structure as it evolves in the new technological era. While the Commission has no intention of unnecessarily regulating the development of implementation of U.S. ISDNs, we believe it essential that we should monitor the progress of various specification efforts which are underway to ensure that our pro-competitive policies are furthered and not inadvertently frustrated. To that end, we are of the tentative view that we must monitor and participate in the international specification efforts which are now underway.

A. The International ISDN Planning Environment

34. The international scope of ISDN planning efforts will naturally reflect the telecommunications policies and market structures of each of the participant countries. These participants have quite disparate domestic market structures.

35. Most telecommunications systems are owned and operated by national governments. Usually, these telecommunications systems are owned and operated by a ministry or Department of Post, Telegraph and Telephone (PIT). Countries relying on this system believe that telecommunications services can be most efficiently provided through a centralized adminstration-owned network. However, there are variations in this organizational structure. Recently, the United Kingdom's administration-owned telecommunication system was restructured and augmented with another telecommunication carrier. Other countries are also reviewing their telecommunications systems. While several countries have more than one entity involved in operating telecommunications networks, only the U.S., Canada and the United Kingdom have, or are considering, competitive entities. Some countries restrict provision of customer premises equipment to the entity or entities responsible for the provision of services while others permit multiple suppliers of equipment.

36. The United States is one of the world's leading users and exporters of telecommunications and data services, and the largest producer of telecommunications equipment.[26] Our telecommunications system consists of numerous service providers, including AT&T, the Bell System, Independents, international service carriers and a vibrant customer premises equipment market. Approximately $21.1 billion worth of U.S.-produced telecommunications and computer

[23] Computer II Reconsideration, *supra* note 11, at 75, n. 19.

[24] And the separate corporation must take transmission facilities under tariff. Furthermore, *Computer II* policies developed prior to divestiture impose separation requirements on the Bell Operating Companies (BOCs) in their entirety. However, post divestiture, as a result of the consent decree, AT&T will divest itself of its operating companies. The Commission recently released a Notice of Proposed Rulemaking to determine whether and to what extent the structural separation conditions established in *Computer II* should be applied to BOCs after divestiture. *Bell Operating Companies*, 48 Fed. Reg. 13056 (March 29, 1983).

[25] "U.S. ISDNs" refers to ISDNs which evolve from privately owned U.S. telecommunications networks and service providers. It is not meant to suggest governmental ownership or control.

[26] Grabhorn, Changes Ahead in World Telecommunications, Telephone Engineer & Management, vol. 87, no. 2, at 71 (1983).

merchandise was exported in 1982.[27] The United States has long followed a private enterprise approach to the provision of public telecommunications services, and it promotes competition among telecommunications service providers in the belief that the resultant competition will benefit users in the form of decreased costs and increased choices and technological innovation.

37. Each nation involved in the ISDN planning process can be expected to work towards shaping ISDN to reflect its telecommunications market structure and philosophy. From the point of view of countries which promote a single, universal telecommunications system, ISDN could be considered and extension of existing centralized telecommunications systems. Viewed from this perspective, it appears logical for ISDN to support most, if not all, services. However, the United States' reliance on numerous telecommunications service providers that are subject to varying degrees of regulation for the provision of basic and enhanced telecommunications services, and for belief that competition among them benefits the public, requires that ISDNs operating in the United States be designed to accommodate our multiple service providers while still attempting to achieve the asserted benefits that ISDN promises.

38. This potential disparity in underlying policy necessitates that competing interests be accommodated in the CCITT's planning activities. Both the Kyoto Meeting of Experts and the Geneva Meeting of Study Group XVIII have produced documents that appear to take into account the different requirements of many countries.[28]

B. The Interaction Between the CCITT's ISDN Design and U.S. ISDNs

39. To date, much of CCITT's specification efforts have been directed toward defining and outlining the ISDN and related user interfaces. The issues of how telecommunications functions will be apportioned between the ISDN and the user have begun to be addressed in international forums. However, these issues are closely related to the architecture of an ISDN, since the design of an ISDN and the services it will perform are interdependent.

40. The CCITT is seeking in its ISDN efforts to produce and adopt a set of ISDN specifications through a series of recommendations. If the CCITT continues to pursue its present course, these Recommendations will outline performance specifications and will apportion telecommunications functions between the ISDN network and the user. For example, performance standards such as bit speed and bit error rates will have to be specified so that information can be efficiently sent from a terminal through the ISDN and to a designated terminal. In addition, CCITT's ISDN planning efforts will include the adoption of a protocol model and the apportionment of protocol handling between the network and the user. The CCITT may also recommend the degree of control the network users have to select and use network and non-network services according to a consensus on what functions the ISDN network should be allowed to perform and which are the best left outside the network.

41. The recommendations CCITT formulates will directly affect U.S. ISDNs, service providers, equipment manufacturers and users. In order to interface with the ISDNs of other nations, a nation's ISDN(s) must be compatible with them at the point of interface. ISDNs will have to be designed to transmit data through interfaces with other nations' ISDNs in formats which are compatible with, or convertible to, internationally agreed upon specifications, to permit interworking. If the technical specifications, of one nation's ISDN(s) vary from those of other nations, it might require translation in order to interface with other ISDNs. Absent such translation, non-conforming ISDNs would probably be unable to interface with other ISDNs.

42. CCITT ISDN planning efforts are designed to produce a uniform set of technical specifications which extend from the network down to customer premises equipment. However, in the U.S., competitive market forces could result in some deviation from these standards. If, in the U.S., customer premises equipment were to operate at standards which were technically incompatible with or inferior to CITT adopted standards, it could result in traffic being restricted to domestic termination points, unless an additional layer of hardware and/or software could be added. Some CCITT schematics recognize this possibility by including a terminal adapter for this purpose. *See*, Attachment III. We invite comment on the relationship between the CCITT's ISDN planning efforts and the design of U.S. ISDNs. In addition, we solicit comment on whether this hardware and/or software is technically and economically feasible. Further, we request comment on whether specifications of this adapter, if done through voluntary standard setting activities, would as a practical matter be adhered to absent governmental involvement and/or whether Commission involvement in this area is necessary.

43. As discussed in para. 28, *Computer II* divided telecommunications services into two categories, basic and enhanced services. At the Geneva Meeting of Study Group XVIII, Draft Recommendation I.200, Temporary Doc. No. 38–E, p. 11 (June 1983) [hereinafter Draft Recommendation I.200] created two categories of services that ISDNs would perform or support: (1) bearer services; and (2) telecommunications services. Bearer services may generally be described as those services that provide the capability for information transfer between ISDN interfaces (transport services) and defined in protocol layers 1–3. *See* Attachment IV. Telecommunications services are those that provide the capability for communications between users of specific user terminals. Both types of services may be provided within or outside an ISDN. We solicit comment on whether the bearer/telecommunications services approach can readily accommodate our market structure (which is comprised of multiple service providers offering regulated and unregulated services in an unbundled manner) and telecommunications policies.

44. The most practical approach to planning an ISDN model would seem to be one that accommodates the interests of U.S. telecommunications service providers, equipment manufacturers and users during the international planning phase.[29] In particular, it would appear important to U.S. telecommunications service providers and users that

[27] *See* U.S. Dept. of Commerce, Bureau of Industrial Economics 1982 U.S. Industrial Outlook, chs 24–28 (Jan. 1982). These exports brought a positive balance of trade of approximately $10.5 billion in 1982. The export and balance of trade figures cited above have been derived by aggregating industry statistics from the following Standard Industrial Classification (SIC) codes: SIC 3573 Electronic Computing Equipment; SIC 3661 Telephone and Telegraph Equipment; SIC 3662 Radio and Television Electronic Communications Equipment, and SIC 367 Electronic Communications Components.

[28] The Kyoto Meeting of Experts, Draft Recommendation I.120, p. 218, 219 (March 1983) explicitly recognized that: "Other arrangements corresponding to national variants may comply partly or wholly with CCITT Recommendations on ISDN." Although this particular language was omitted in Geneva, many other draft recommendations acknowledge that nations may implement various portions of national ISDNs differently.

[29] As discussed in para. 38, various draft recommendations appear to recognize the need to accommodate varying national implementations of ISDN.

CCITT's technical ISDN standards not preclude or restrict service providers' ability to interface with the other nations' ISDNs nor adversely affect users' ability to select among numerous service providers.[50] Unless an ISDN model is designed with sufficient flexibility, both U.S. and foreign users could be precluded from, or limited in, their ability to specify the service providers and services they wished to utilize. Also, users might register concern over whether ISDN will be designed to technically and economically accommodate private leased lines. If ISDNs cannot or are not designed to meet the needs of private leased line users, the question then becomes whether a circuit and/or packet switched network could provide suitable alternatives. For instance, would the substition of permanent virtual circuits for private lines, satisfy current private line users? Is there some reason for the U.S. to seek, as a policy objective, the continued availability of dedicated leased channels in an ISDN environment? In addition, are there any ISDN developments which the Commission should be aware of that have, or could, raise issues of U.S. national security? We request comment on these issues. In addition, we solicit comment identifying other possible areas of U.S. concern; how U.S. interest can be affected by international ISDN standards, and how our interests can best be accommodated.

C. Impact of Various Types of ISDNs on U.S. Service Providers, Equipment Manufacturers and Users

45. Competition among service providers and unrestricted user access to their basic service offerings are the cornerstone of our procompetitive policies and goals. As indicated in paragraphs 24–31 *Supra*, the Commission, Congress and the courts have established the framework for how these goals can be attained through initiatives such as *Computer II*, the *MFJ*, the RCCA and the *Interconnection Arrangements* decision.

46. As discussed in para. 28 *Supra*, *Computer II* requires all facilities-owning carriers to continue to offer basic services under tariff. Common carriers owning underlying transmission facilities are required to offer their basic services as discrete services separate from their enhanced service offerings. Thus, under the regulatory framework of *Computer II*, users may obtain a carrier's pure transmission capability unencumbered by any enhanced services the carrier may offer. Maintenance of this transmission capability is the cornerstone of our efforts to foster the provision of numerous services on a competitive basis.

47. It is important, therefore, that ISDNs be implemented in the U.S. in a fashion which is consistent with our *Computer II* decision and other competitive policies. Pursuant to *Computer II*, basic services may be provided over ISDNs and ISDNs may also form the building blocks for provision of enhanced services.

48. *Computer II* and the *MFJ* will militate toward implementation of ISDNs in the U.S. which provide solely basic services and SIDNS which provide the user with the option of selecting its unbundled basic and enhanced service offerings. Pursuant to *Computer II*, AT&T may only provide enhanced services through a separate subsidiary. Thus, AT&T's interexchange facilities will function as an ISDN providing basic services alone, rather than supplying basic and enhanced services within its ISDN. Provisions in the *MFJ* may restrict the ability of the BOCs to support fully a non-basic ISDN. *See MFJ* Sections II.D and IV.I–J, 552 F. Supp. At 227–29. Furthermore, as noted, we are considering whether *Computer II* conditions now applicable to the BOCs should continue to be applied after divestiture. Other carriers will be able to establish ISDNs which provide both basic and enhanced service providing they comply with the service unbundling requirements outlined *Computer II*.

49. U.S. ISDNs must evolve under a structure which accommodates our multiple vendor telecommunications market and our procompetitive policies. Our regulatory framework is sufficiently flexible to permit existing carriers and enhanced service providers the ability to develop ISDN configurations with minimal additional capital investment and disruption of service, and would permit new telecommunications entities the option to provide a variety of services to user. In addition, users will retain their ability to select among basic service providers, determine which, if any, enhanced services they require, and decide which enhanced service providers they will use. This degree of selection will result from the users' ability to use an ISDN(s) for basic services and to supplement these basic services to meet their enhanced service needs. Users will be the ultimate beneficiaries of an ISDN environment which accommodates the multivendor/multi-service environment fostered by our competitive policies.

50. As ISDNs evolve, the entire U.S. telecommunications market—service providers, equipment manufacturers and user—will be affected. We solicit comment on the potential impact of SIDN, as discussed in para. 49 *supra*, and request comment on additional ways in which ISDN could affect U.S. service providers, equipment manufacturers and users. These comments will help clarify various U.S. interests, which is essential if our interests and policies are to be effectively communicated internationally.

51. The challenge that confront both the U.S. public and private sectors is the need to communicate our interests and policies effectively in international forums so that our needs can be accommodated during the planning phase in the design of an ISDN model. Section D will discuss what role, if any, the FCC should have in furthering our pro-competitive policies in an ISDN environment.

D. Furthering Pro-Competitive Policies in an ISDN Environment

52. As discussed in para. 35 *supra*, most foreign countries' telecommunications systems are government owned and they are operated by PTTs. Many of these nations do not place the same importance on competition as does the United States. Those countries may not have the same incentives to design an ISDN capable of accommodating interconnection by multiple service providers. If U.S. interests are to be taken into account in the international planning process, it would seem that the U.S. service providers, equipment manufacturers, users and the federal government would have to identify areas of concern and then make U.S. interests known.

53. This process of identification of U.S. interests and concerns on ISDN

[50] The United States, with our diversity of service providers, might not be able to conform to a technical specification that nations with a centralized telephone network could meet. For example, in the United States, the users' ability to utilize numerous service providers and the geographic span of the U.S. network often result in calls being routed over a higher number of connections than in other countries. Each connection adds to the time which it takes to complete a call. Thus, a specification, such as timing, which could be conformed to over a limited number of connections might prove impossible to conform to in our country. In addition, satellite common carriers could be precluded from relaying traffic from national satellite systems if restrictive time specifications were adopted which would have the effect of prohibiting "double hop" situations. Thus, if CCITT were to adopt a standard that might be too restrictive, and if U.S. service providers were to be bound by such a standard, they could be limited in the number of services they could provide, and users could be restricted in the routing and number of service providers they might utilize.

requires both public and private sector participation. As outlined in Part II, numerous groups from both sectors are actively involved in ISDN-related matters, and in particular, the Department of State's ISDN Joint Working Party provides a public forum for service providers and users to discuss their views.

54. One of the purposes of this NOI is to discuss the appropriate role of the FCC in ISDN matters. The Communications Act of 1934 charges the FCC with the responsibility for ensuring that construction of new facilities and the provision of regulated services are in the public interest. Pursuant to the Act, the Commission has adopted pro-competitive communications policies which mandate that marketplace forces be allowed to determine, to the maximum extent possible, the best methods of providing service to users. Thus, we believe that any FCC involvement in ISDN specification activities should be designed to complement existing planning efforts, with the objective of fostering our domestic and international United States telecommunications policies, and not directed to the design considerations involved in the ISDN specification process as such. For example, it is not our intention to hinder the progress of international activities or unilaterally impose standards in lieu of CCITT's efforts. Rather, it is our tentative view that the public interest would best be seved by assuring that U.S. policy is understood by all participants in the ISDN specification process, to the end that it will be accomodated in this process.

55. In order for the Commission effectively to continue to faster its pro-competitive policies, it appears necessary for us more actively to monitor and participate in international and domestic ISDN specification activities, with the focus noted above. Correspondingly, it would also be necessary for the Commission to become increasingly aware of the views of U.S. service providers, equipment manufacturers, users and the public on this matter. Therefore, we solicit comments on how the FCC can best ensure that ISDNs are structured to foster competition and serve the public interest. We request comment on how the competitive nature and structure of U.S. telecommunications can best be maintained without unnecessarily diminishing any alleged efficiencies which may be inherent in uniform ISDN specifications. In addition, we more specifically solicit comment on how the specification of ISDNs may best conform to the regulatory scheme adopted in *Computer II*. Furthermore, we request comment on how the Commission best can continue to promulgate pro-competitive policies as ISDA and how we can best represent divergent interests of U.S. service providers, equipment manufacturers, users and the public at international forums. We also expect that this NOI will generate comment on what short- and long-term ISDN goals the FCC should set for itself.

56. Accordingly, It is ordered, pursuant to Sections 4(i), 4(j), 218, 303(g) and 403 of the Communications Act of 1934, 47 U.S.C. 701 (1976) that the aforementioned inquiry is hereby instituted.

57. It is further ordered that the Secretary shall cause this Notice of Inquiry to be published in the **Federal Register.**

58. Interested parties may file comments on or before October 3, 1983 and replies on or before September 2, 1983.

59. It is further ordered that the Commission's staff is hereby delegated authority to expeditiously compile a full and complete record of this proceeding.

Federal Communications Commission.

William J. Tricarico,

Secretary

Attachment 1

ISDN will affect U.S. service providers, equipment manufacturers, and users. This Notice of Inquiry (NOI) has examined some of the issues which ISDN will present. In order to facilitate discussion, we have compiled a partial list of the issues discussed in the NOI. We do not intend to restrict comments to these subjects, rather, we are providing this to highlight certain salient questions with the expectation that it will provide a starting point for discussion. Comments which pinpoint specific issues and contain concrete recommendations are essential to the proper functioning of the proceeding.

1. ISDN planning efforts are currently underway in a number of national and international forums. Are there definable U.S. interests which are being, or could be, adversely affected by ISDN? In addition, are there any ISDN developments which the Commission should be aware of that have, or could, raise issues of U.S. national security? Are the interests of U.S. service providers, equipment manufacturers and users being represented or underrepresented? How can the FCC best assist in U.S. efforts to formulate a coordinated ISDN policy and represent U.S. interests? Do the technical specifications raise policy issues? If so, what issues are involved?

2. U.S. telecommunications policy is designed to promote a competitive U.S. telecommunications system. As part of this policy, we have taken steps to eliminate barriers to market entry and taken other measures to foster a marketplace with numerous interconnected telecommunications service providers. How can the FCC continue to promote competition in an ISDN environment? Could ISDN specifications be inconsistent with U.S. telecommunications policies? How can we ensure ISDN will be compatible with our telecommunications policies and objectives? How can ISDNs be designed to accommodate the U.S. web of numerous service providers?

3. Do the International ISDN draft recommendations appear to be sufficiently flexible to accommodate the regulatory structure outlined in *Computer II* and the Modified Final Judgment? If not, in what areas should the FCC concentrate its efforts to assure U.S. policies are accommodated?

4. The Communications Act of 1934 created the FCC for the purpose of making available to our citizens a rapid, efficient, low cost, nationwide and worldwide communications system. What ISDN issues must be addressed in order for the Commission to carry out this obligation? Is FCC guidance necessary or desirable? What sort of guidance should we provide? What form should this take? What should the Commission's short-term and long-term ISDN objectives be, and how can they be achieved? The Commission has many administrative procedures available by which ISDN could be addressed. Should ISDN-related issues be considered in rulemaking proceedings and/or in *ad hoc* processes such as facility authorizations and tariff filings?

5. How will ISDN affect U.S. users, service providers and equipment manufacturers? How could U.S. users, service providers and equipment manufacturers benefit from ISDN? What services and benefits are unique to ISDN? What trade-offs are involved? Could ISDN specification efforts adversely affect users' ability to select service providers and services they wish to utilize? How will the development of ISDN affect private networks? Will ISDNs be designed to technically and economically accommodate existing services, such as private lines? Would the implementation by an ISDN(s) of a substitute service for private lines, such as permanent virtual circuits, satisfy current private line users? Is there some reason for the U.S. to seek, as a policy objective, the continued availability of dedicated leased channels in an ISDN environment?

6. ISDN specification efforts are aimed towards creating a uniform set of worldwide technical standards. To what extent should U.S. ISDNs conform to those standards? Are there technical, economic, or regulatory considerations which would mandate deviation from those standards? If so, to what extent is nonconformance possible or desirable?

Attachment II.—CCITT Study Group Activities

Study of the Integrated Services Digital Network (ISDN)

Examination of the questions drafted by Study Groups III, IV, VII, XI, XVII and XVIII reveals that each Group intends to study various aspects of the ISDN. In order to avoid overlapping and possibly conflicting results the VIIth CCITT Plenary Assembly agreed

that the areas of responsibility for the study of ISDN should be assigned as follows:

	Assign to—
1. Services and facilities interpretation and coordination (taking into account the requirements identified by Study Groups I, II, III and VII).	XVIII.
2. General ISDN aspects and guidelines, quality of service, numbering, performance targets, maintenance principles and miscellaneous subjects not more specifically identified (taking into account the requirements of Study Groups I, II, IV, VII, XI, XVII, and CMBD).	XVIII.
Note.—It is considered that items 1 and 2 above are of high priority.	
3. Digital transmission standards and performance (local and inter-exchange). The study of hypothetical reference connections is in the competence of Study Group XVIII, the study of hypothetical reference digital paths is in the competence of the specialized Study Groups of CCITT and CCIR, the study of reliability and availability is to be coordinated by CMBD.	XV/XVIII.
Note.—Also of interest to CCIR.	
4. Switching aspects and parameters (taking into account the requirements identified by Study Groups VII, XVII and XVIII).	XI.
Note.–In the case of mixed mode switches (e.g. ISDN circuit and packet) other Study Groups will also be consulted.	
5. Inter-exchange signalling system (Message Transfer Part (MTP) and appropriate User Part(s)) (taking into account the requirements identified by Study Groups VII and IX).	XI.
6. Subscriber-exchange signalling system (taking into account the requirements identified by Study Groups I, II, VII and XVII and coordinated by XVII—see item 2).	XI.
7. Subscriber-network interface:	
(i) Interface B	XI.
(ii) Interface A—Voice services	XI.
(iii) Interface A—Non-voice services	VII/XVII.
(iv) Interface A—Alternate voice/data	VII/XI/XVII
Note.—Close collaboration between Study Groups VII, XVII and XI will be required to ensure compatibility between 7 i), ii), iii), iv) and the subscriber signalling system identified in 6.	
8. Interworking (inter-service and inter-network):	
(i) Data	VII.
(ii) Telex	IX.
(iii) Telephone	XI.
(iv) Data over the telephone network	I/II/XVII.
(v) Teletex	I/VIII.
(vi) Facsimile	I/VIII.
Note.—Collaboration between the Study Groups referred to above will be required to ensure compatibility in the carriage of the various services on ISDN and other networks.	
9. Digital telephone instrument	XII.
10. Tariff aspects	III.

Source: International Telecommunications Union, International Telegraph and Telephone Consultative Committee, VII Plenary Assembly of the CCITT, Study Group XVIII, COM XVIII, No. 1-E, Contribution 1, Annex, 171-2 (February 1981).

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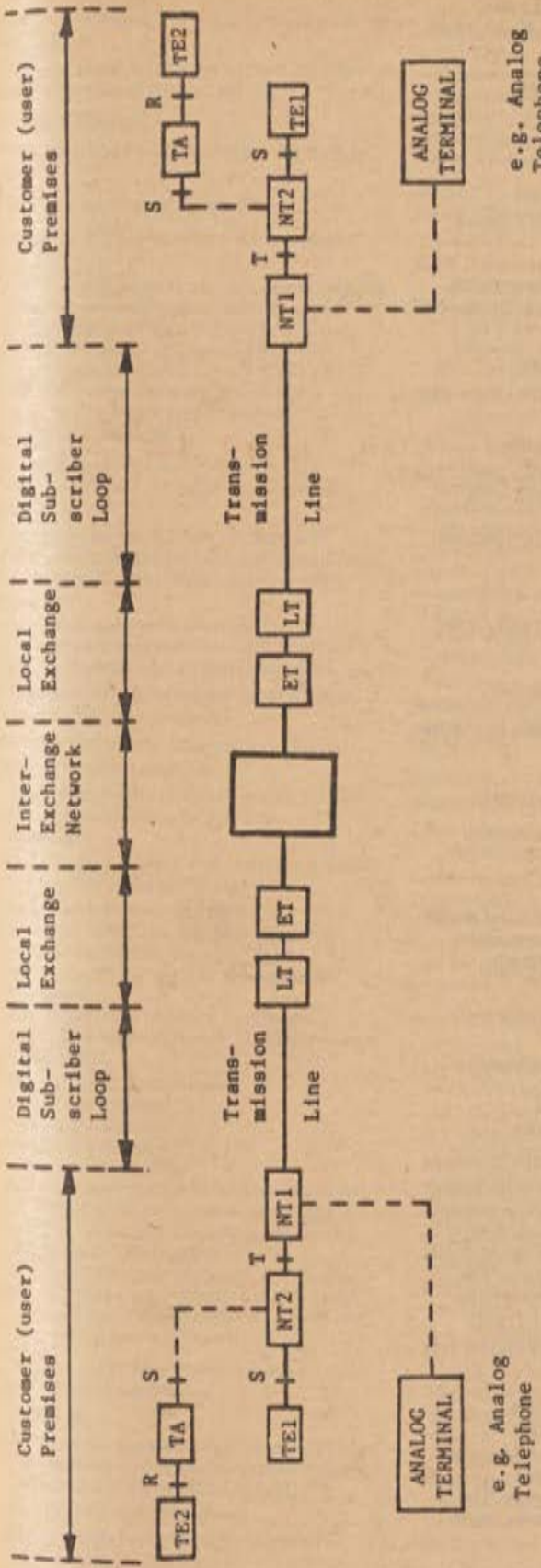
ATTACHMENT III



+ = Reference Point
LT = Line Termination
ET = Exchange Termination
NT = Network Termination
TA = Terminal Adapter
TE1 = Terminal Type 1
TE2 = Terminal Type 2

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Attachment IV

Application Layer (layer 7)

Layer 7 is the source of data, usually consisting of services which process data (i.e. data are combined, converted, calculated and processed to create new data). Airline reservations and on-line banking are just two examples of possible user applications.

Presentation Layer (layer 6)

Layer 6 provides data formats and data information, if needed. Examples of presentation layer services are data translation, data encoding/decoding, and command translation for virtual terminals.

Session Layer (layer 5)

Layer 5 establishes, maintains, and terminates logical connections for the transfer or data between processes. Examples of session layer services are: dialogue control, message unit flow control, and segmentation of message data units.

Transport Layer (layer 4)

Layer 4 provides end-to-end control signals from user terminal to user terminal,across the network (e.g. network acknowledgment or received information).

Network Layer (layer 3)

Layer 3 provides the control needed for call establishment and clearing through the switching network nodes.

Data Link Layer (layer 2)

Layer 2 protocols provide reliable transmission over a single data link including frame management, link flow control, and the link initiation/release procedures.

Physical Layer (layer1)

Layer 1 provides the mechanical, electrical, functional, and procedural characteristics needed to establish, maintain, and release physical connections between the network termination and the exchange.

Source: International Organization of Standardization, Second Draft Proposal ISO/DP, ISO/TC, 97/SC 16 N 719 (August 6, 1981); Robin, Treves, An Introduction to Integrated Digital Networks, Electrical Communication, Vol. 56, No. 1, pp 14–15 (1981).

Attachment V

Source: Report of the Meeting of the Group of Experts on ISDN matters of Study Group XVIII, Com XVIII, No. R 15–E, Draft Recommendation I.110, p. 212 (March 1983).

Draft Recommendation I.110

General Structure of the I-Series Recommendations

Part I—GENERAL

Section 1—Frame of I-Series Recommendations; Terminology

I.110 General Structure of the I-Series Recommendations
I.111 Relationship with other Recommendations relevant to ISDNs
I.112 Vocabulary (with Annex: Glossary of ISDN-terms)

Section 2—Description of ISDNs

I.120 Integrated Services Digital Networks (ISDNs) (present G. 705)

Part II—SERVICE CAPABILITIES

I.200 The structure is for further study. The contents could cover the following items: [1]
—concept of services, functional elements, etc.
—information types
—compatibility checking
—connection types (e.g. circuit and packet switched, etc.)
—user-to-user signalling
—tariff principles (refer to D-series)
—charging functions
—additional network capabilities (e.g. closed user group).
—terminal portability
I.2xx Services supported by an ISDN

Part III—Overall Network Aspects and Functions

Section 1—Reference models

I.310 ISDN functional architectural model
I.311 ISDN protocol reference model
I.312 ISDN Hypothetical reference connections

Section 2—Numbering, Addressing and Routing

I.320 ISDN numbering and addressing principles
I.321 ISDN routing principles
I.3xx Network connection types

Section 3—Overall Performance Objectives

The structure and contents are for further study. The following is given as an example:
I.330 Overall performance objectives relating to circuit switched connections
The structure is for further study. The contents could cover the following items:
—overall error performance (cf. G.821)
—overall controlled slip rate objectives (cf. G. 822)
—overall availability
—call set-up and clear-down time
—overall blocking probability etc.
I.331 Performance objectives relating to packet switched connections
The structure is for further study. The contents could cover the following items:
—overall error performance
—overall availability
—overall packet transfer delay

[1] To be revised in accordance with the results of WT3 or 4 (2418)

—overall packet loss probability etc.

Section 4—Overall Testing and Maintenance Principles

The structure and contents are for further study. (See also G. 704, x.150)

Section 5—Evolution

The structure and contents are for further study.

Part IV—User-Network Interfaces

Section 1—ISDN User-Network Interfaces

1. *General*

I.410 General aspects and principles relating to Recommendations on ISDN user-network interfaces (I.XXW)

I.411 ISDN user-network interfaces—reference configurations (I.XXX)

I.412 ISDN user-network interfaces—channel structures and access capabilities (I.XXY)

Section 2. Application of I-Series Recommendations to ISDN User-Network Interfaces

The intention of this sub-section is to identify the relevant I-Recommendations that constitute particular ISDN user-network interfaces.

I.420 Basic user-network interface

I.421 Primary rate user-network interface

I.42x C channel user-network interface

User-network interface for other channel structures (for further study).

Section 3 ISDN User-Network Interfaces: Layer 1 Recommendations

The structure and contents are for further study. One example is as follows:

3. *General*

I.430 General aspects and structure of Layer 1 functions and protocols

—layer service characteristics

—modes of operation, e.g. point-to-point, point-to-multipoint

—requirements for specific user-network interfaces

3.1 *Basic user/network interface*

I.431 Basic user/network interface—Layer 1 specification

—functioinal characteristics

—procedural aspects

—mechanical aspects

—electrical aspects

—maintenance aspects

3.2 *Primary rate user-network interface.*

I.432 Primary rate user-network interface—Layer 1 specification (see 3.1 above for aspects to be considered)

3.3 *C-channel user-network interface.*

I.43x—C-channel user-network interface—Layer 1 specification (See 3.1 above for aspects to be considered)

Section 4—ISDN User/Network Interfaces: Layer 2 Recommendations

4. *General.*

I.440 General aspects and structure of Layer 2 functions and protocols (could include reference to a simplified subset)

4.1 *Layer 2 specification.*

I.441 Specification of Layer 2 protocol (Provisionally Q.920)

—layer service characteristics

—methods of operation

—overview description of Layer 2 functions and procedures

—frame structure

—elements and description of the procedures

—procedure-oriented and state-oriented graphical presentation

—maintenance aspects

—performance characteristics

Section 5—ISDN User Network Interfaces: Layer 3 Recommendations

5. *General.*

I.450 General aspects and structure of Layer 3 functions and protocols (will include reference to protocols for connections of PABX, LAN, etc. and could include reference to a simplified subset)

5.1 *Layer 3 specification.*

I.451 Specification of Layer 3 protocol (provisionally Q.930)

—layer service characteristics

—definition and function of information elements

—formats and codes

—call control procedures (overlap with I. 472 needs resolution)

—procedures for additional user facilities

—maintenance aspects

—modes of operation of the procedures, e.g. point-to-point and point-to-multipoint

—performance characteristics

The structure and contents of the Recommendations concerning protocols for connection of PABX, LAN, etc. are for further study.

Section 6—User Related Testing and Maintenance Principles

I.460 The structure is for further study. The contents could cover the following items:

—user related testing and maintenance principles

—test loops

—fault conditions and alarms

—testing procedures etc.

(cf. G.704, X.150)

Section 7—Support of Existing Interfaces

7. *General.*

I.470 General (this section refers only to CCITT recommended interfaces)

7.1 *Support of X.21 and X.21bis DTEs.*

I.471 Support of Recommendation X.21 and X.21bis DTEs by an ISDN [3]

—hypothetical reference connections

—D-channel services

—mapping of X.21 and X.21bis interface signalling procedures to the D-channel services

—rate adaption and TA operation to effect synchronization

7.2 *Support of X.25 DTEs.*

I.472 Support of Recommendation X.25 DTEs by an ISDN*

—hypothetical reference connections

—principles for DTEs accessing the B-channel (overlap with I.451 needs resolution)

—principles for DTEs accessing the D-channel (overlap with I.451 needs resolution)

—B/D-channel call handling

[3] Draft text already provided by Study Group VII.

7.3 *Support of V-series DTEs by an ISDN.*

I.473 Support of DTEs recommended in the V-series by an ISDN

—hypothetical reference connections

—principles for DTEs accessing the B-channel

—principles for DTEs accessing the D-channel

—rate adaption and TA operation to effect synchronization

Part V—Internetwork Interfaces

I.500 The structure is for further study. The contents could cover the following items:

—principles

—interworking between an ISDN, and

—other ISDNs

—analogue telephony networks

—packet switched data networks

—circuit switched data networks

—mobile systems etc.

[FR Doc. 83-22592 Filed 8-17-83; 8:45 am]

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47 CFR Parts 2 and 73

[Docket No. 21323; RM-2836; FCC 83-364]

Use of Subcarrier Frequencies in the Aural Baseband of Television Transmitters

AGENCY: Federal Communications Commission.

ACTION: Proposed rules.

SUMMARY: The Federal Communications Commission proposes to expand the use of TV aural baseband subcarriers. Under the proposed rules, TV licensees could transmit aural subcarriers to provide a variety of communication services, including TV sterero. This action is necessary for the FCC to be responsive to interest in expanded use of TV subcarriers. Its effect is to develop general guidelines and standards presently lacking in the FCC's Rules in order to permit desired communications services.

DATES: Comments are due on November 7, 1983, and reply comments are due on December 6, 1983.

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

FOR FURTHER INFORMATION CONTACT: James E. McNally, Jr. (202-632-9660), Mass Media Bureau, Washington, D.C. 20554.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Further Notice of Proposed Rule Making

In the matter of the use of subcarrier frequencies in the aural baseband of television transmitters; Docket No. 21323, RM-2836.

Adopted: July 28, 1983.
Released: August 15, 1983.

By the Commission.

Introduction

1. This *Further Notice of Proposed Rule Making ("Further Notice")* continues a proceeding begun on July 1, 1977, to explore new uses of the television aural baseband. In this *Further Notice*, the Commission sets forth proposals that would permit TV broadcast licensees to transmit mulitplex aural subcarriers for a wide range of broadcast and non-broadcast uses. Under these proposals, licensees could use their own discretion in selecting the services to be provided and the technical systems to be employed.

2. The Commission has received a number of inquiries from TV broadcast licensees concerning the possibility of using TV aural baseband subcarriers to provide specialized programming services to groups with various interests. However, the present rules prohibit TV licensees from offering even those broadcast-related services long permitted by a Subsidiary Communications Authorization ("SCA") in the FM broadcast service.[1]

3. The Commission believes that the present rules for TV aural subcarrier operations may be unnecessarily restrictive. This *Further Notice* contains a variety of policy, technical and procedural proposals aimed at relaxing these restrictions. We also are proposing technical parameters within which licensees would have latitude in developing subcarrier services, including the provision of stereophonic programming. Finally, procedural proposals are offered that would minimize the paperwork burdens on licensees and the Commission when subcarrier services are offered.

Background

4. The current proceeding was initiated in 1977 in response to a petition filed by Boston Broadcasters, Inc. ("BBI"). The rules at that time permitted aural subcarriers to be used only by remotely controlled TV stations to telemeter information from the transmitter site to the remote control point. BBI requested action by the Commission to permit the use of aural baseband subcarriers at TV stations for the purpose of cuing and coordinating electronic news-gathering ("ENG") crews in the field. In the *Notice of Inquiry ("Inquiry")* (42 FR 38606 (1977)) that was subsequently adopted, the Commission pointed out that the type of subcarrier use proposed by BBI would have additional applications, such as TV stereo, bilingual transmission and augmented audio for the blind. Therefore, the *Inquiry* sought comment on these and other possible uses. It also sought comment on a number of related technical issues.

5. With few exceptions, the use of TV aural baseband subcarriers for cuing and coordinating ENG crews received wide endorsement. Support also was given to the uses suggested by the Commission in the *Inquiry* and for various other uses relating to education, communications for the handicapped, facsimile, storecasting and other activities then already permitted for subcarriers transmitted by FM broadcast stations. However, studies were just beginning with regard to the feasibility of TV stereo and the use of additional subchannels.

6. Comments elicited by the *Inquiry* on the possible authorization of TV stereo were mixed. ABC, CBS, NBC, Electronics Industries Association ("EIA") and the National Association of Broadcasters believed that there was insufficient public interest in TV stereo to justify the development of such a service. However, the Public Broadcasting Service and TV Station KERA reported that public response to simulcasting TV audio over a stereophonic FM station was enthusiastic. Telesonics, Inc., developer of one of the TV stereo systems presently in existence, indicated that it had been testing its system on Chicago public TV Station WTTW with good results. Other comments indicated that progress was being made in upgrading program distribution networks to accommodate multichannel TV sound.

7. In keeping with the consensus of the comments filed in response to the *Notice of Inquiry*, the Commission, on November 20, 1979, adopted a *Notice of Proposed Rule Making ("Notice")* (44 FR 70201 (1979)) concerning the use of TV aural baseband subcarriers for cuing and coordinating purposes as originally requested by BBI. That *Notice* proposed limiting aural subcarriers to the region between 20 and 75 kHz, with the injection level of any single subcarrier not to exceed 10%, and with the cumulative injection level of all subcarriers not to exceed 15%.[2] It further proposed that measurements of the level of each subcarrier be made once a month with appropriate equipment, and the results entered into the station's maintenance log.

8. On June 30, 1981, the Commission adopted a *First Report and Order* (49 RR2d 1562 (1981)) in this proceeding establishing new rules allowing the use of TV aural baseband subcarriers for ENG cuing and coordinating as proposed in the *Notice*.[3] The Commission accepted suggestion that the subcarrier injection levels be determined by any acceptable means selected by the licensee, but it rejected the request that the maximum deviation be increased above the present level of ± kHz, on the basis that this issue was under study and that any action taken at that time would be premature.

9. For the reasons discussed below, the Commission believes that it should now explore the possibility of further expanding the uses of the TV aural baseband. The proposals herein would allow unrestricted operations employing a wide range of technical systems.

Potential Uses of the Aural Baseband

10. Many broadcast-related uses of the aural baseband cannot now be provided. These include multi-channel TV sound for regular television programming, provision of program-related information for the sight and hearing impaired, storecasting and background music.

11. Existing technology also permits the aural baseband to be used for numerous non-broadcast related uses. A small sample of the wide variety of services that could be offered includes paging services, electronic mail delivery, facsimile services to offices, and municipal traffic light and sign control. Further, comments submitted previously in this docketed proceeding, as well as other information available to the Commission, indicate that a variety of uses could be made of the TV aural baseband in addition to those listed above.[4] This *Further Notice* examines the full range of broadcast and non-broadcast uses that technicallyl could be provided by the TV aural baseband. It proposes that no limitations be placed on these uses.

12. The potential communications capability represented by aural

[1] We recently have expanded the permissible uses of FM subcarriers to include a broad range of broadcast and non-broadcast services similar to the uses being proposed in this *Further Notice*. See Footnote 9, *infra*.

[2] The 15% combined injection level limit would result in less than a 1.5 dB loss in the audio level of the main channel, an amount considered barely perceptible.

[3] In accord with the consensus of those filing comments, an exception was made that the injection level of any single subcarrier could not exceed 15% (rather than the 10% suggested in the *Notice*). The cumulative injection level of all subcarriers could still not exceed 15%. System AM and FM noise levels were limited to −50 and −55 dB, respectively, with crosstalk no to exceed −55 dB.

[4] Changes in our rules to permit a wide variety of FM subcarrier uses recently have been adopted. See Footnote 11, *infra*.

baseband subcarriers is apparent. There are currently 1,059 television stations on the air: 273 noncommercial stations and 786 commercial stations. Each of these stations could be providing two or more subcarrier services. Thus, thousands of hours of subcarrier services could be offered at virtually no technical cost.

13. The variety of possible uses and the public's desire for particular uses may vary from market and from licensee to licensee. In addition, these uses can be expected to change over time. Therefore, we are proposing an open market approach that would permit licensees to fully exercise their own discretion in selecting which services to offer. By allowing broad flexibility for development, the Commission believes that the most efficient use of the spectrum will ensue.

14. Initially, at least, the amount of TV programming with stereophonic sound may be limited. Also, stereophonic sound may not be suitable for many TV programs. Therefore, the stereophonic subchannel could be used for other purposes such as those described above. As in the case of other aural baseband subcarriers, the Commission does not propose to restrict the use of what commonly may be used as the stereophonic subchannel.

15. Because public broadcasters possess the same untapped subcarrier communications potential as commercial broadcasters, we are proposing that they also be permitted to offer a full range of services on their aural basebands. We propose as well that public broadcasters be permitted, in their discretion, to offer such services on either a noncommercial or a commercial basis. In this connection, we note that Section 399B of the Communications Act, recently added by Section 1231 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35, 97th Cong., 1st Sess. (1981),[5] authorizes public broadcasters to engage in a variety of commercial activities.[6] While we have concluded elsewhere that Section 399B neither explicitly addresses nor governs the issue of commercial undertakings by public broadcasters on ancillary facilities such as subcarrier channels,[7] its underlying purposes nonetheless offer useful guidance in this area. The general intent of Section 399B is clearly to permit public broadcasters to pursue commercial ventures on a broad front in order that they might provide an increasing contribution to their own support in the face of declining federal financial backing.[8] The one plain limitation contained in Section 399B is that commercial activities by noncommercial broadcasters should not interfere with the provision of public telecommunications services by these licensees. Taking, then, these provisions as instructive, although not dispositive, guidelines, we believe our proposal to permit public broadcast licensees to engage in unrestricted commercial activity on their subchannels is both well-advised as a matter of policy and consistance with the general objectives of Section 399B. Commercial subcarrier activity could generate badly-needed revenues for public broadcast stations, thus enhancing their capacity to operate in a more self-sufficient manner. Moreover, there appears to be little, if any, possibility that such activity would interfere with the provision of public telecommunications services since noncommercial program services are not now authorized for delivery via TV aural baseband subcarriers. We emphasizle, of course, that public broadcasters would not be required by our proposal to engage in commercial ventures.

Regulatory Classification and Treatment

16. As noted above, TV aural baseband subcarriers could be used for any number of purposes, some of which may have little or no relationship to traditional forms of broadcasting. Utilizing subcarriers for such purposes must not interfere with the normal broadcasting uses of the frequencies allocated to the TV service. However, our proposal to permit subcarrier services of a nonbroadcast nature does raise issues as to appropriate regulatory classification and treatment by the Commission. These issues are essentially identical to those addressed in our recent decision authorizing similarly expanded uses of FM subcarriers.[9] We see no reason to deviate here from the approach to these matters which we adopted in the FM proceeding. Accordingly, we are proposing to utilize basically the same regulatory classification and treatment scheme and impose the same administrative requirements for TV aural subcarrier uses as are already in place for FM subcarrier uses.[10] We shall review this approach below.

17. In general, TV aural subcarrier services would be considered ancillary broadcast services and regulated as such under Part 73 of the Commission's rules. However, in the event a broadcaster elects to offer services of either a common carrier or private carrier nature over its TV subcarrier facilities, then appropriate common carrier or private carrier regulation would apply. In this regard, we intend that a TV subchannel operator would be in the same position, entitled to the same privileges and subject to the same obligations as traditional common or private carrier offerors of the same or similar services. Thus, for example, a broadcaster seeking to provide common carrier paging services would be required to apply for and obtain the required authorization for such service from the Commission's Common Carrier Bureau (as well as such State approval as may be required). Similarly, if private carrier paging services were to be offered, compliance with the applicable provisions of Part 90 of our rules would be required.[11]

18. Procedurally, applicants seeking common carrier authorizations would be required to file a suitable request under Parts 21 or 22 of the Rules, as appropriate. These requests would be placed on public notice and a 30-day comment period afforded, after which the Commission would issue a decision disposing of the matter. Applicants proposing to provide private carrier services would be required first to notify the Commission's Private Radio Bureau and to certify compliance with pertinent private radio regulations and, if applicable, with the constraints imposed by Section 331 of the Act relating to mobile radio services.

19. In some respects, however, the treatment of subcarrier operators would vary from that accorded traditional

[5] This Act incorporated the provisions of the Public Broadcasting Amendments Act of 1981.

[6] Section 399B(b)(1) provides, in part, that "each public broadcast station shall be authorized to engage in the offering of services, facilities, or products in exchange for remuneration."

[7] See Report and Order in BC Docket No. 82-1, (FCC 83-155, released June 3, 1983) at para. 33.

[8] The House Committee on Energy and Commerce noted in its Report on the 1981 Amendments that "[It] is clear that the public telecommications community will no longer be able to rely on Federal funding to the extent that it has in the past * * *" and that, as a result, "[Public] stations must be free to separate substantial sums of additional sums of additional revenues from the pursuit of commercial activities * * *" See H.R. Rep. No. 97-82, 97th Cong., 1st Sess. 13-16 (1981).

[9] *See Report and Order* in BC Docket No. 82-536, (FCC 83-154, released May 19, 1983), at paras. 14-29.

[10] We note that certain aspects of our prior decisions concerning the regulatory classification and treatment of subcarrier and other ancillary services provided by broadcasters are currently before us on reconsideration. *See, Report and Order* in BC Docket No. 82-536, FCC 83-154 (released May 19, 1983) and *Report and Order* in BC Docket No. 81-741, FCC 83-120 (released May 20, 1983). Because we intend to maintain basic consistency in our treatment of TV subcarrier operations and other subcarrier and ancillary services provided by broadcast licensees, we would expect to take account in this preceeding of any actions we might take in the referenced reconsideration proceedings.

[11] *See Report and Order* in BC Docket No. 82-536, *supra*, at n.8.

common and private carriers. Subchannel applicants would not be seeking approval for the technical facilities of the television broadcast station or its subchannel. The technical facilities of a TV broadcast station are appropriately considered in the context of the station's primary purpose of broadcasting and we do not propose that these facilities should be subject to challenge or modification on the basis of proposed, secondary subcarrier activities. To do so would undermine broadcast allocation principles and service requirements and frustrate the spectrum efficiencies we seek to attain in this proceeding. Further, we propose to consider TV aural subcarrier use as a secondary privilege that runs with the primary television broadcast station license. That right would be conferred on the primary television broadcast station licensee only.[12] The television broadcaster that elected to utilize a subchannel for private or common carriage would remain a broadcaster for all other purposes. Only the use of the subchannel for nonbroadcast related purposes would be regulated in accordance with private radio or common carrier regulations. *See National Associations of Regulatory Utility Commissioners* v. *F.C.C.*, 533 F.2d 601 (D.C. Cir. 1976) ("NARUC II").

20. The determination as to the appropriate regulatory classification of a proposed subchannel service would rest, in the first instance, with the licensee, guided by the standards articulated in applicable judicial decisions and statutory provisions. Specifically, assuming there is no legal compulsion requiring operation as a common carrier, a finding of common carrier status would generally turn on whether a particular entity actually operates as a common carrier, that is, whether the carrier "undertakes to carry for all people indifferently." *See National Associations of Regulatory Utility Commissioners* v. *F.C.C.*, 525 F.2d 630 (D.C. Cir. 1976), *cert. denied*, 425 U.S. 992 (1976) ("NARUC I") and *Report and Order* in BC Docket No. 82-536, (FCC 83-154, released May 19, 1983), at paras. 21-22. With respect to land mobile radio services, however, the provisions of Section 331 of the Communications Act of 1934, as amended, explicitly supersede the *NARUC I* standard, replacing the "indifferent offering" criterion with a test based on the manner in which a multiple licensed or shared private land station is interconnected with a telephone exchange or interexchange service or facility. To the extent, therefore, that services offered over TV aural subcarrier facilities may constitute mobile radio services, Section 331 of the Act would govern the common versus private carrier determination. *See Report and Order* in BC Docket No. 82-536, *supra*, at para. 23 and references cited therein.

21. We invite comment on the applicability of the Fairness Doctrine and Sections 312(a)(7) [access to broadcast facilities by federal candidates] and 315 [equal opportunities for candidates for elective office] of the Act to TV aural subcarrier operations. Our preliminary view is that the application of these requirements to TV subcarrier services is neither legally compelled nor desirable as a matter of policy. Our conclusion in this regard rests on our determinations regarding the regulatory classification of FM subcarriers. *See, WFTL, Inc.*, 45 FCC 2d 1152, 1153-54 (1974); *Greater Washington Educational Telecommunications Assn., Inc.*, 49 FCC 2d 848 (1974); *see also, Memorandum Opinion and Order*, Docket No. 19671, released June 23, 1983, n. 29.

Technical Considerations

22. Consistent with a free market approach for subcarrier use, we are proposing that the marketplace rather than the Commission decide on the technical system or systems to be implemented by licensees. Therefore, the Commission is not proposing the selection of a single technical system. This approach would allow the processes of change and development associated with both user preferences and technology to evolve unencumbered by the costs and delays associated with changing government regulations. Additionally, the market approach avoids the possibility that government action might arbitrarily make existing equipment obsolete. We invite comment on this free market approach to system selection and on any other approaches to system selection which commenters believe may have merit.

23. While the Commission has substantially deregulated many of its radio services in recent years, the pace has quickened as a result of our increasing confidence in the self-regulating characteristics of the competitive communications marketplace. At a time when we are questioning the further need of many traditional technical, adminstrative and procedural regulations, it would be paradoxical to propose more of the same in the absence of a clearly identified need, or unless the benefits substantially outweighed the burden of compliance. Thus, while minimal performance standards traditionally have been applied to the telecommunications services under discussion, we believe that such regulation no longer may be necessary. Therefore, we propose that aural subcarriers should be governed only by the technical rules necessary to ensure the integrity of primary visual and aural service, and to preclude interference to other licensees.

24. We recognize that there are many who will argue that licensees should be required to provide a service having a minimum level of quality. Performance standards, it is claimed, establish a floor for service quality and not a ceiling. Nothing prevents licensees from exceeding the minimum service standards but, through them, the public is assured of services meeting certain minimum performance criteria. In this manner the public receives a guarantee that particular types of program-related services are, in fact, what they are claimed to be. For example, for stereophonic service, the capability of 20 dB separation between left and right channels would be acceptable. Ten dB separation probably would be considered inadequate. Minimum performance standards are one means of assuring this result.

25. We request information on what, if any, quality standards should be set and what, if any minimum performance levels should be. The following performance standards would result in a traditional quality stereophonic service and are intended to serve as the basis for any service performance standards that may ultimately be adopted.

26. We would expect the main and stereophonic channels (as well as the left and the right program channels) to have essentially flat frequency response, similar pre-emphasis and noise performance within the audible range (50-15,000 Hz). Accordingly, the provisions of § 73.687(b)(2) could be applied to the stereophonic as well as the main channel. Separation between the left and right channels should be on the order of 30 dB for frequencies between 50 and 15,000 Hz. Because there currently is no limit on the crosstalk from the video channel into the aural channel (although the effect is significant), we welcome comments on what standard, if any, should be adopted. Parties to this proceeding are asked to identify and analyze any other

[12] A licensee could choose to lease its subchannel to an entity that will provide a private or common carriage service. In such cases, the lessee would seek appropriate service authorization, but the primary licensee would remain responsible for the technical operation of the transmitting facilities, including the subchannel.

areas where performance standards may be considered necessary.

Proposed Technical Standards

27. We begin our discussion of the technical standards necessary to ensure the integrity of primary visual and aural service by proposing that subcarrier transmission for whatever purpose should produce a composite signal fully compatible with present monophonic receivers. We believe that the sound level of the main program signal should not be affected significantly as the result of subcarrier operation. Thus, we propose that the deviation of the aural carrier by the main channel signal should be maintained to within 2 dB (not less than 80 percent) of the present level. It is our understanding that the multi-channel TV sound systems under consideration by the industry would retain the present 25 kHz deviation by the main channel and increase deviation of the main aural carrier to accommodate the additional multiplex subcarriers. We are aware that some multi-channel sound systems require approximately two to three times the aural carrier deviation currently used. We are uncertain as to what effect increased deviation will have on TV receivers, and we solicit substantive comments on this question in order to assist us in establishing a new maximum permissible deviation.

28. In considering the provision of multi-channel TV sound, it appears that the most likely form of visual and main channel aural degradation could take place in the form of crosstalk (an undesired signal occurring in one channel caused by a signal in another channel). To preclude such degradation, we propose 60 dB attenuation of any subcarrier (other than the stereophonic subcarrier) signal into the main channel.[13] Crosstalk from the stereophonic subcarrier into the main channel should be −40 dB.[14]

29. Existing FM stereophonic service uses double sideband suppressed carrier modulation of the stereophonic subchannel. Two of the developmental multi-channel sound systems use this technique. Another uses frequency modulation. We believe that the form of modulation of the stereophonic subchannel need not be specified if the compatibility requirement specified in Paragraph 27 is satisfied. We recognize that the multi-channel sound systems under consideration by the industry would place the stereophonic subchannel in the aural baseband within the range of 16 to 55 kHz. However, we see no reason to restrict it to that range and instead propose to allow stereophonic subchannel operation anywhere within the usable baseband.

30. We are suggesting an upper limit of 120 kHz with respect to the use of the aural baseband at this time in order to effectively preclude interference between licensees and degradation of the visual signal. However, we solicit comments on this question and to what extent unwanted emissions should be limited. Specifically, we ask whether any change in the present emission limitations are necessary. Similar comments are applicable to the modulation and placement of other subchannels. We propose the traditional minimum value of 40 dB attenuation of any signal component outside the defined aural baseband.

31. A pilot tone is used in FM broadcasting to switch the receiver into the stereophonic reception mode. A similar pilot tone could be used for TV stereo. We propose to allow the use of a pilot tone for any type of receiver control purpose, with no limit on the number of pilot tones or their uses.[15] However, consistent with the foregoing discussion, we propose that they be restricted to that portion of the aural baseband between 15 and 120 kHz.

32. Also, the rules currently require that the power level of the aural carrier be between 10 percent and 20 percent of the visual carrier. These levels came into use when it was determined that the use of higher aural power was unnecessary. Nevertheless, there may be interest in increasing the power of the aural carrier to the former levels (30 percent to 50 percent). Moreover, it will enable greater subcarrier service areas to be attained. Therefore, we solicit comments on whether the aural carrier power level limit should be increased, and if so, to what extent.[16]

The Impact of TV Multi-Channel Sound on STV and Cable Television Systems

33. The Commission recognizes that the general provision for TV multi-channel sound proposed herein may pose technical difficulties for some cable television operators. These problems arise principally from the substantially greater bandwidth required for multi-channel sound transmission and the placement of the various subchannels in the aural baseband spectrum. In this regard, we seek comment on the following questions and other areas that may be of concern to cable TV operators:

1. Is adjacent channel cable TV operation possible if the total aural baseband subcarrier deviation is allowed to go as high as 75 kHz? What modifications to cable TV systems will be required for quality reception of TV multi-channel sound? What will be the cost?

2. What effect will the multi-channel TV sound systems under consideration have on scrambling techniques used in STV and cable television systems?[17]

We also solicit comments on whether and to what extent, as a matter of policy rather than technical feasibility, cable television systems should be required to carry TV multi-channel sound services. *See, generally, Report and Order* in BC Docket No. 81-741, FCC 83-120 (released May 20, 1983) at paras. 86-88.

Procedural Proposal

34. In addition to the technical and non-technical proposals discussed above, we are proposing to keep to a minimum the applications and record keeping procedures required of businesses and the Commission. Thus, we are proposing that the various procedural requirements applicable to licensees of FM stations operating subcarriers also apply to TV licensees. Specifically, we are proposing that TV licensees need not file a formal application for subcarrier use, or maintain any type of program log.[18]

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[13] The value of 60 dB is suggested by the present provisions of § 73.319(e) which relate to undesired modulation components from subcarriers (other than the stereophonic subcarrier) in FM broadcasting.

[14] Similarly, this value is suggested by the provisions of § 73.322(n) and (o).

[15] One use could involve switching from the stereophonic mode and using what would normally be the stereophonic subchannel for second language broadcasting. Another example could be the deletion of unwanted programming material for paying subscribers.

[16] The Commission has adopted, a *Notice of Proposed Rule Making* (MM Docket No. 83-117) (48 FR 12410, March 24, 1983) in response to a petition (RM-4086) filed by Durham Life Broadcasting, Inc. It proposes to delete the requirement specifying a minimum aural carrier power level of 10 percent of the visual carrier power. The basis for the proposal is the savings licensees will realize from reduced power consumption.

[17] We recognize that TV multi-channel sound also may pose problems for subscription television systems. On August 16, 1982, the Commission received a letter from Blonder-Tongue Laboratories, Inc. expressing concern that its use of subcarriers to protect STV audio could be defeated by some of the proposed multi-channel sound systems. Our tentative view is that it does not appear reasonable to protect the operations of a few subscription TV stations at the expense of the general public benefit, should it turn out that multi-channel TV sound systems incidentally detect certain subscription TV audio signals. Additionally, interception of subscription TV audio by multi-channel sound decoders would not appear to be a fatal breach of subscription TV security because the video portion would still be "scrambled."

[18] The Commission has completed a rule making (BC Docket No. 82-536) that eliminates these requirements in the FM service. See Footnote 9, *supra*.

35. Regulatory Flexibility Initial Analysis:

I. *Reason for Action.* A substantial portion of the TV aural baseband is currently unused. Removal of certain Commission rules limiting subcarrier operations to specific uses would result in the expanded utilization of the aural baseband, and would thereby increase spectrum efficiency.

II. *The Objective.* The Commission proposes to fully expand the services permissible on TV subcarriers by removing its present limitations.

III. *Legal Basis.* Legal action as proposed is in furtherance of Section 303 of the Communications Act of 1934, as amended, which charges the Commission to explore new and improved uses of radio.

IV. *Description, potential impact and number of small entities affected.* These proposals would amend rules that currently restrict the use of TV aural baseband subcarriers. The proposals made herein would be expected to have a beneficial effect by fostering the use of the aural baseband for new communications services. In general, the proposals would foster cost competitive alternatives for a variety of services currently prohibited from utilizing the TV aural baseband. Services that were too prohibitive in cost may now become economically feasible. This proposal would also reduce the pressure and crowding on other scarce spectrum by making available an alternative communication system.

A substantial number of small businesses may be affected. Those that would be affected in a positive way include smaller commercial TV stations, through increased revenues; businesses supplying previously precluded competitive services and equipment suppliers. Small businesses that may be negatively affected include commercial and non-profit businesses who are current users. FM subcarriers who may face increased competition from TV subcarriers and current suppliers of services by other transmission methods through loss of income to new competitors. The degree of negative impact in this category is unknown, because present subcarrier use is minimal and is expected to expand in the future.

V. *Recording, record-keeping and other compliance requirements.* None.

VI. *Federal rules which overlap, duplicate or conflict with this rule.* None.

VII. *Any significant alternative minimizing the impact on small entities and consistent with the stated objective.* None.

36. The Secretary shall cause a copy of this *Further Notice of Proposed Rule Making*, including the Initial Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 94 Stat. 1164, 50 U.S.C. *et seq.*).

37. Accordingly, it is proposed to amend Part 73 of the Commission's Rules as set forth in the attached Appendix.

38. Authority for the action taken herein is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

39. Pursuant to the procedures set forth in §§ 1.4, 1.415 and 1.419 of the Commission's rules and regulations, interested parties may file comments on or before October 31, 1983, and reply comments on or before November 30, 1983. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments or other appropriate pleadings.

40. In accordance with § 1.419 of the Commissions rules and regulations, an original and five copies of all comments, reply comments, pleadings, briefs or other documents shall be furnished the Commission. Members of the general public who wish to participate informally in this proceeding may submit one copy of their comments, specifying Docket No. 21323.

41. All filings in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters at 1919 M St., N.W., Washington, D.C.

42. For further information in this proceeding, contact James E. McNally, Jr. (202-632-9660) or Brian Fontes (202-632-6302), Policy and Rules Division, Mass Media Bureau, FCC. For purposes of this nonrestricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments or pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits an *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments on the proceeding must prepare a written summary of that presentation; and, on the day of oral presentation, that written summary must be served on the Commission's secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, providing that such information or a statement indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order. A summary of the Commission's procedures governing *ex parte* contacts in informal rule makings is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554 (202) 632-7000.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

I. It is proposed to amend Title 47 CFR Part 73 of the Federal Communications Commission's Rules and Regulations as follows:

1. In § 2.106, the Table of Frequency Allocations would be amended by adding reference to note "NG128" in table column 6 for the frequency bands 54-72, 76-88, 174-216, and 470-902; and revising the text of note NC128 as follows:

§ 2.106 Table of frequency allocations.

UNITED STATES FEDERAL COMMUNICATIONS COMMISSION

Band (MHz)	Allocation	Band (MHz)	Services	Class of Station
5	6	7	8	9
54-72	NG. (NG128)	54-72	BROADCASTING	Television broadcasting.
76-88 (US23)	NG. (NG128)	76-88 (NG21)	BROADCASTING	Television broadcasting.
174-216	NG. (NG115) (NG128)	174-216	BROADCASTING	Television broadcasting.
470-902	NG. (NG30) (NG43) (NG63) (NG128) (US36) (US88) (US100) (US116) (US215).	470-512	BROADCASTING LAND MOBILE (NG66) (NG114).	Television Broadcasting Land Mobile Base.

NG 128 In the band 535–1605 kHz, AM broadcast licensees or permittees may use their AM carrier on a secondary basis to transmit signals intended for utility load management. In the band 88–108 MHz, FM broadcast licensees or permittees are permitted to use subcarriers on a secondary basis to transmit signals for both broadcast and non-broadcast purposes. In the bands 54–72, 76–88, 174–216 and 470–890 MHz, TV broadcast licensees or permittees are permitted to transmit aural baseband subcarriers on a secondary basis for both broadcast and non-broadcast purposes.

2. Section 2.983 would be amended by adding a new paragraph (k) to read as follows:

§2.983 Application for type acceptance.

(k) An application for type acceptance of a TV broadcast stereophonic sound generator-exciter intended for interfacing with existing type accepted transmitters must include measurements made on a complete main channel and subchannel generating transmitter. The instruction book required under paragraph (d)(8) of this section must include complete specifications and circuit requirements for interconnecting with existing transmitters and a complete description and statement of specification of the multichannel signal being used. This instruction book must also provide a full description of the equipment and measurement procedures for performing equipment performance and modulation measurements to determine that the combination of subchannel generator-exciter and transmitter meet the minimum specifications given in § 73.682.

3. In § 2.989, paragraph (e)(5) would be revised and a new paragraph (e)(6) is added to read as follows:

§ 2.989 Measurement required: Occupied bandwidth.

(e) * * *

(5) Television broadcast monaural transmitters—when modulated 85% by a 15 kHz input signal.

(6) Television broadcast stereophonic sound transmitters—When the transmitter is modulated with a 15 kHz input signal to the main channel and the stereophonic subchannel, any pilot subcarrier(s) and any unmodulated auxiliary subcarrier(s) which may be provided. The signals to the main channel and the stereophonic subchannel must be representative of the system being tested and when combined with any pilot subcarrier(s) or other auxiliary subcarriers shall result in 85% deviation of the maximum specified aural carrier deviation.

4. Section 2.1001 would be amended by revising paragraphs (k) and (l) to read as follows:

§ 2.1001 Changes in type accepted equipment.

(k) The addition of TV broadcast subcarrier generators to a TV broadcast transmitter, or addition of FM broadcast subcarrier generators to an FM broadcast transmitter, is considered a Class I permissive change described in paragraph (b)(1) of this section, provided the transmitter exciter is designed for subcarrier operation without mechanical or electrical alterations to the exciter or other transmitterr circuits.

(l) The addition of TV broadcast stereophonic generators to a TV broadcast transmitter type accepted for stereophonic operation, or addition of FM broadcast stereophonic generators to an FM broadcast transmitter type accepted for stereophonic operation, is considered a Class I permissive change described in paragraph (b)(1) of the section, provided the transmitter exciter is designed for stereophonic sound operation without mechanical or electrical alterations to the exciter or other transmitter circuits.

5. A new § 73.665 would be added to read as follows:

§ 73.665 Use of TV aural baseband subcarriers.

Licensees of TV broadcast stations may transmit without further authorization from the FCC subcarriers and signals within the composite baseband for the following purposes:

(a) Stereophonic (biphonic, quadraphonic, etc.) sound programs under the provisions of §§ 73.667 and 73.669.

(b) Transmission of signals relating to the operation of TV stations, such as relaying broadcast materials to other stations, remote cueing and order messages, and control and telemetry signals for the transmitting system.

(c) Transmission of pilot or control signals to enhance the station's program service such as (but not restricted to) activation of noise reduction decoders in receivers, for any other receiver control purpose, or for program alerting and program identification.

(d) Subsidiary communications services.

6. A new § 73.667 would be added to read as follows:

§ 73.667 TV subsidiary communications services.

(a) Subsidiary communications services are those transmitted within the TV aural baseband signal, but do not include services which enhance the main program broadcast service or exclusively relate to station operations (see § 73.665 (a), (b) and (c)). Subsidiary communications include, but are not limited to services such as functional music, specialized foreign language programs, radio reading services, utility load management, market and financial data and news, paging and calling, traffic control signal switching, and point to point or multipoint messages.

(b) TV subsidiary communications services that are common carrier in nature are subject to common carrier regulation. Licensees operating such services are required to apply to the FCC for the appropriate authorization and to comply with all policies and rules applicable to the service. Responsibility for making the initial determinations of whether a particular activity is common carriage rests with the TV station licensee. Initial determinations by licensees are subject to FCC examination and may be reviewed at the FCC's discretion.

(c) Subsidiary communications services are of a secondary nature under the authority of the TV station authorization, and the authority to provide such communications services may not be retained or transferred in any manner separate from the station's

authorization. The grant or renewal of a TV station permit or license is not furthered or promoted by proposed or past services. The permittee or licensee must establish that the broadcast operation is in the public interest wholly apart from the subsidiary communications services provided.

(d) The station identification, delayed recording, and sponsor identification announcements required by §§ 73.1201, 73.1208, and 73.1212 are not applicable to leased communications services transmitted via services that are not of a general broadcast program nature.

(e) The licensee or permittee must retain control over all material transmitted in a broadcast mode via the station's facilities, with the right to reject any material that it deems inappropriate or undesirable.

(f) The amplitude of any signal produced in the main channel or stereophonic subchannel by a signal in another multiplexed subchannel shall be at least 60 dB below a reference deviation of 25 kHz.

7. A new § 73.669 would be added to read as follows:

§ 73.669 TV stereophonic aural and multiplex subcarrier operation.

(a) TV broadcast station may, without specific authority from the FCC, transmit multichannel aural programs upon installation of type accepted multichannel sound equipment. Prior to commencement of multichannel broadcasting, the equipment shall be measured to ensure compliance with the technical requirement set forth in § 73.682(a)(23).

(b) Multiplex subcarriers may be used by a TV station pursuant to the provisions of § 73.665 and may be transmitted on a secondary, non-interference basis to regular broadcast programming without specific authority from the FCC, provided that such transmission is conducted in accordance with the technical standards relating to multiplex subcarriers set forth in § 73.682(a)(23).

(c) In all arrangements entered into with outside parties affecting noncommon carrier subcarrier operation, the licensee or permittee must retain control over all material transmitted over the station's facilities, with the right to reject any material which it deems inappropriate or undesirable. Subchannel leasing arrangements shall be kept in writing at the station and made available to the FCC upon request.

8. In § 73.681, definitions of "Crosstalk", "Left (or right) signal", "Left (or right) stereophonic channel", "Main channel", "Pilot subcarrier", "Second audio program channel", "Stereophonic separation", "Sterophonic sound subcarrier", "Stereophonic sound subchannel", and "TV second audio program broadcast" would be inserted alphabetically as follows:

§ 73.681 Definitions.

* * * * *

Crosstalk. An undesired signal occurring in one channel caused by an electrical signal in another channel.

* * * * *

Left (or right) channel. The electrical output of a microphone or a combination of microphones placed so as to convey the intensity, time and location of sounds originating predominantly to the listener's left (or right) of the center of the performing area.

Left (or right) stereophonic channel. The left (or right) signal as electrically reproduced in reception of TV stereophonic broadcasts.

* * * * *

Main channel. The band of frequencies from 50 to 15,000 hertz which frequency modulate the main aural carrier.

Pilot subcarrier. A subcarrier serving as a control signal for use in the reception of TV stereophonic aural or other subchannel broadcasts.

* * * * *

Second audio program channel. The band of frequencies containing the second audio program subcarrier and its associated sidebands.

* * * * *

Stereophonic separation. The ratio of the level of an electrical signal caused in the right (or left) stereophonic channel to the level of a signal transmitted only in the left (or right) channel.

* * * * *

Stereophonic sound subcarrier. A subcarrier within the TV aural baseband used for transmitting signals for stereophonic sound reception of the main broadcast program service.

Stereophonic sound subchannel. The band of frequencies from 15 to 120 kHz containing sound subcarriers and their associated sidebands.

* * * * *

Separate audio program broadcast. The transmission of a second main channel aural program on the second audio program channel.

* * * * *

9. In § 73.682, a new paragraph (d) would be added to read as follows:

§ 73.682 Transmission standards.

* * * * *

(d) TV stereophonic aural transmission standards. (1) The modulating signal for the main channel shall consist of the sum of the left and right signals.

(2) The instantaneous frequency of the stereophonic subcarrier must at all times be within the range 15 to 120 kHz. Either amplitude or frequency modulation of the stereophonic subcarrier may be used.

(3) One or more pilot subcarriers between 15 and 120 kHz may be used to switch a TV receiver between the stereophonic and monophonic reception modes, to activate a stereophonic audio indicator light, or for any other receiver control purpose.

(4) Total modulation of the main aural carrier by the main channel, the stereophonic subchannel, any pilot tones and any additional subcarriers may not exceed (to be determined).

(5) Crosstalk into the main channel by a signal in the stereophonic subchannel shall be at least 40 dB below a reference deviation of 25 kHz.

(6) For required transmitter performance, all of the requirements of § 73.687(b) shall apply, except that the de-emphasis used in the measurement of subchannel performance must be the same as the specified subchannel preemphasis.

(7) For electrical performance standards of the transmitter, program lines, studios and other related equipment, the requirements of § 73.687(b) shall apply to both the main channel and stereophonic channel.

10. Section 73.1660 would be amended by designating present paragraph (e) as paragraph (f) and creating a new paragraph (e) to read as follows:

§ 73.1660 Type acceptance of broadcast transmitters.

* * * * *

(e) FM or TV stereophonic and TV subsidiary communications generator-exciters will only be type accepted as part of a transmitter in accordance with the procedures given in Subpart J of Part 2 of the FCC rules. Stereophonic and subsidiary communications exciters may be used with other transmitters provided they are designed for interfacing with such transmitters.

Note.—The form of authorization for this equipment is subject to change, pending action in General Docket 83-10, where the FCC is proposing to require Notification instead of Type Acceptance for TV transmitting equipment.

* * * * *

11. Section 73.1690 would be amended by revising the introduction of paragraph (e) and paragraph (e)(5) to read as follows:

§ 73.1690 Modification of transmission systems.

* * * * *

(e) The following changes in the transmission system equipment may be made without prior notification to or authorization from the FCC. Equipment performance measurements must be made within 10 days after completing the modifications for items (1), (3), and (5).

* * * * *

(5) Installation or replacement of a stereophonic multiplex or SCA subchannel generator of an FM or TV transmitter with one that has been demonstrated to the FCC to be both electrically and mechanically compatible with the type accepted transmitter.

[FR Doc. 83-22591 Filed 8-17-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-77; RM-4281]

FM Broadcast Stations in Chillicothe, Missouri; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action dismisses a proposal to assign FM Channel 261A to Chillicothe, Missouri. The rule making is dismissed at the request of the petitioner, George Land.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Chillicothe, Missouri), MM Docket No. 83-77, RM-4281.

Adopted: July 28, 1983.
Released: August 9, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission is the *Notice of Proposed Rule Making*, 48 FR 7759, published February 24, 1983, proposing the assignment of Channel 261A to Chillicothe, Missouri. The *Notice* was issued in response to a petition filed by George Lang ("petitioner").

2. On March 2, 1983, petitioner advised the Commission that due to a weak economic climate and failure to obtain necessary financing, he would not be able to comply with rules and regulations, if the channel was assigned. Thus, he wished to withdraw his proposal. There has been no other expression of interest in the proposal.

3. In view of the foregoing, it is ordered, That the petition of George Lang, requesting the assignment of Channel 261A to Chillicothe, Missouri, is hereby dismissed.

4. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-22421 Filed 8-17-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-487; RM-3915; BC Docket No. 81-818; RM-3960; RM-4033; RM-4034]

FM Broadcast Stations in Marco, Naples, and Key West, Florida; Order Extending Time for Filing Replies to Opposition To Petition for Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Petition for Reconsideration; Extension of time for filing replies to opposition.

SUMMARY: Action taken herein extends the time for filing replies to an opposition to the petition for reconsideration concerning FM channel assignments to Marco, Naples, and Key West, Florida. Rogers Media Service seeks additional time to coordinate technical and engineering data and prepare its reply.

DATE: Reply comments must be filed on or before August 18, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau; (202) 634-6530.

Order Extending Time for Filing Replies to Opposition To Petition for Reconsideration

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations (Marco, Florida); BC Docket No. 81-487, RM-3915, and amendment of § 73.202(b), table of assignments, FM Broadcast Stations (Naples and Key West, Florida); BC Docket No. 81-818, RM-3960, RM-4033, RM-4034. (See FR 36170; August 9, 1983).

Adopted: August 11, 1983.

Released: August 12, 1983.

By the Chief, Policy and Rules Division.

1. On June 2, 1983, a petition for reconsideration was filed by Rogers Media Service ("RMS") in the above captioned proceedings.[1] An opposition was filed on July 25, 1983, by WRMF, Inc., licensee of Station WRMF(FM), Palm Beach, Florida, and replies thereto were due August 4, 1983.

2. On August 3, 1983,[2] counsel for RMS filed a request for an extension of time to and including August 18, 1983, in which to file a reply to the opposition herein. Counsel states that the opposition comments raise complex technical and aeronautical questions which necessitate additional time to enable RMS's consultants to complete their evaluation of the data and to formulate a proper response.

3. Section 1.46(b) of the Commission's Rules states that extension requests must be filed seven days in advance of the deadline. Although this request was not received within the required time frame, the Commission is of the view that, under the circumstances cited, additional time is warranted in which to prepare reply comments. Therefore, we will waive the requirements of § 1.46(b) since such extension will assure development of a sound and comprehensive record on which to base a decision herein.

4. Although counsel does not indicate the consent of other parties to this extension, the certificate of service attached thereto indicates that they were served with a copy.

5. Accordingly, it is ordered, that the time for filing replies to the opposition to petition for reconsideration in BC Docket Nos. 81-487 (RM-3915) and 81-818 (RM-3960, RM-4033, RM-4034) is extended to and including August 18, 1983.

6. This action is taken pursuant to authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b), and 0.283 of the Commission's rules.

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[1] Public Notice of the filing was published in the **Federal Register** on June 29, 1983.

[2] The motion for extension was received by the Policy and Rules Division on August 4, 1983, and therefore, due to the late filing, we were unable to act on this request prior to expiration of the time for filing responses.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-22598 Filed 8-17-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-121; RM-4273]

FM Broadcast Stations in Steamboat Springs, Colorado; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; Dismissal of petition for rulemaking.

SUMMARY: This action dismisses the petition for rulemaking to substitute FM Channel 245 for Channel 244A at Steamboat Springs, Colorado, at the request of the proponent KCBR, Inc. KCBR's request resulted from a stated expression of interest in the proposal by another party.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations (Steamboat Springs, Colorado): MM Docket No. 83-121, RM-4273.

Adopted: July 21, 1983.

Released: August 9, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission is the *Notice of Proposed Rule Making*, 48 FR 10888, published March 15, 1983, proposing the substitution of Class C FM Channel 245 for Channel 244A at Steamboat Springs and the modification of the license of Station KSBT(FM), to specify operation on Channel 245. The *Notice* was issued in response to a petition filed by KBCR, Inc. ("petitioner"), licensee of Station KSBT(FM). Comments were filed by Robert M. Richmond ("Richmond") and Ronald B. Kaplan ("Kaplan"), as well as Kennebec-Colorado Broadcasting Corporation ("KCBC"), licensee of Station KCCY (FM), Pueblo, Colorado. Reply comments and a supplement thereto were filed by petitioner. A reply to the letter comment was submitted by Kaplan, to which the petitioner responded.[1]

2. As indicated, the *Notice* proposed the substitution of Class C Channel 245 for Channel 244A at Steamboat Springs, Colorado. Further, it noted that pursuant to prior Commission precedent as established in *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976), should another interest in the proposed assignment be expressed, modification could not take place and the channel, if assigned, would be open to competing applications.

3. In response to the *Notice*, two expressions of interest in Channel 245 were received, as noted above. However, the Richmond comments were later withdrawn pursuant to an agreement with the petitioner. The Kaplan comment, submitted in letter form, was not accompanied by a certificate of service and therefore is procedurally defective. However, for the reason set forth in paragraph 7, *infra*, we have accepted Kaplan's comment for filing.

4. In response to the *Notice*, KCBC states that in BC Docket No. 81-819, the Commission ordered the substitution of Channel 245 for Channel 250, licensed to its Station KCCY, Pueblo, Colorado. As a result, in order to expedite the transition to the new operating frequency, while simultaneously attempting to improve its overall FM service area, KCBC alleges it has expended large sums of time and money to relocate its transmitter site for which it has filed an application. However, KCBC asserts, its proposed site would be approximately 12 miles short-spaced to petitioner's proposal at Steamboat Springs. As a result, while not opposing petitioner's proposed modification, KCBC submits that if petitioner's site is restricted to an area further west of Steamboat Springs, it could allow improved service offerings at both locations while contemporaneously resolving the minimum distance deficiency.

5. In response to the letter notification submitted by Kaplan, petitioner asserts that we should not consider the expression of interest as valid since it was not properly filed and served on petitioner. Further, petitioner claims that once it became aware of Kaplan's letter, it attempted to verify its validity through David Brown, who identified himself as Kaplan's attorney. However, petitioner asserts, its attempts at that effort were futile since Brown declined to make any specific statement but rather implied Kaplan did not submit the letter on his own behalf. Instead petitioner relates that Brown indicated the interest in Channel 245 was submitted on behalf of clients whose names he could not reveal at that time. In view of these circumstances, petitioner urges that the Kaplan letter be rejected as invalid. Alternatively, petitioner requests that if the Commission deems the letter a valid expression of interest, it wishes to withdraw it petition for rulemaking. Conversely, if the Commission dismisses Kaplan's comment, petitioner advises it wishes to proceed with it proposal in light of the withdrawal agreement entered into with Richmond.

6. In response to KCBC, petitioner advises that its consulting engineer has determined that the present site of KSBT is in compliance with all adjacent channel allocations except to the site proposed by KCBC. Moreover, petitioner claims that its own site affords the best coverage of Steamboat Springs with a minimum of shadowing. According to its engineer, if KCCY's site is moved to the west in order to eliminate the short spacing, terrain configurations would create severe shadowing within the city limits of Steamboat Springs. In any event, petitioner asserts that site considerations are more appropriately raised at the application level and not in the rulemaking process.

7. As indicated, *supra*, the Kaplan comment was not served on the petitioner but was otherwise timely filed. The purpose of service is to give the petitioner actual notice of the comments so that a response can be prepared. However, the petitioner had actual notice of the comment and responded accordingly. Therefore, we do not believe that any harm has resulted. Moreover, it would serve no useful purpose to delay this proceeding to issue a *Further Notice of Rule Making* to permit proper service on the petitioner since it is already aware of Kaplan's intent.

8. As a result of Richmond's withdrawal of interest, the main issue becomes whether, in view of the filing by Kaplan of an expression of interest in the proposed Steamboat Springs Class C assignment, the modification of license for Station KSBT can be effectuated. We find that it cannot, in light of the *Ashbacker* and *Cheyenne*[2] cases.

[1] These latter two pleadings were submitted after the close of the pleading cycle. Since they contain no new information to assist us in the resolution of the instant proceeding, and they do not indicate the reason for their lateness, we find no public interest justification for their acceptance, and we have not considered them herein.

[2] See *Ashbacker Radio Corporation v. F.C.C.* 326 U.S. 327 (1945); *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976).

Although petitoner believes that Kaplan's letter of intent is invalid since there appears to be some question of the identity of the interested party, due to the limitations intrinsic in a rulemaking proceeding, the legitimacy of Kaplan's interest cannot be resolved absent an evidentary hearing. See, *Ft. Smith, Arkansas, and Poteau, Oklahoma*, 47 FR 23189, published May 27, 1982. Petitioner does not wish to employ that procedure. Rather, it has requested that in the event we determine *Cheyenne* is applicable here, rather than risk the uncertainties of a comparative evaluation, that its proposal be withdrawn. See, *Bonita Springs, Florida*, 45 R.R. 2d 1585 (1979) and *Statesboro, Georgia*, 40 R.R. 2d 1021 (1977). We have decided to pursue that course of action and permit petitioner's withdrawal as requested.

9. In view of the above determination, we need not address KCBC's concern regarding the effect the proposal herein could have on its pending application to relocate its transmitter for Station KCCY in Pueblo, Colorado.

10. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(d) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commissioner's rules, it is ordered, that the request to withdraw the petition for rule making in RM–4273, filed by KBCR, Inc., is granted.

11. It is further ordered, that this proceeding is terminated.

12. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-22806 Filed 8-17-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83–825; RM–4480]

TV Broadcast Stations in Orlando, Florida; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action purposes the assignment of UHF television Channel 27 to Orlando, Florida, in response to a petition filed by Allen Sheets. The proposed assignment could provide for a fifth commercial television service to Orlando.

DATES: Comments must be filed on or before September 26, 1983, and reply comments on or before October 11, 1983.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.606(b), table of assignments, TV Broadcast Stations (Orlando, Florida); MM Docket No. 83–825, RM–4480.

Adopted: August 3, 1983.
Released: August 10, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making, filed May 2, 1983, by Allen Sheets ("petitioner"), proposing the assignment of UHF television Channel 27 to Orlando, Florida. Petitioner stated that he or an entity, of which he is a part, will apply for the channel, if assigned.

2. Orlando (population 128,394),[1] seat of Orange County (population 471,660), is located in central Florida, approximately 320 kilometers (200 miles) north of Miami.

3. The proposed assignment of Channel 27 to Orlando would require a site restriction of 4.6 miles south of the city to avoid short-spacing to Station WMFE–TV (Channel *24), Orlando, and an application for Channel 26 at Daytona Beach, Florida.

4. In support of his proposal, petitioner submitted population data and statistics on the consumer spendable income and retail sales for Orange County.

5. We believe that the petitioner's proposal warrants consideration, since it would provide Orlando with its fifth commercial television service. Accordingly, we shall seek comments on the proposal to amend the Television Table of Assignments, § 73.606(b) of the rules, with respect to the following city:

City	Channel No.	
	Present	Proposed
Orlando, Florida	6–, 9, *24–, 35+, and 65.	6–, 9, *24–, 27, 35–, and 65.

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before September 26, 1983, and reply comments on or before October 11, 1983, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Allen Sheets, 300 Mulvaney D–20, Knoxville, Tennessee 37915.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's rules, it is

[1] Population figures are taken from the 1980 U.S Census Advance Report.

proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 83-22800 Filed 8-17-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-839; RM-4464]

FM Broadcast Stations in Wurtsboro and Woodstock, N.Y.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of FM Channel 261A to Wurtsboro, New York, as its first assignment and the substitution of Channel 272A for Channel 261A at Woodstock, New York.

DATES: Comments must be filed on or before September 26, 1983, and reply comments on or before October 11, 1983.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making and Order To Show Cause

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Wurtsboro and Woodstock, New York); MM Docket No. 83-839, RM-4464.

Adopted: July 28, 1983.

Released: August 10, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rulemaking was filed by Jerome Gillman, Inc. ("petitioner"), proposing the assignment of FM Channel 261A to Wurtsboro, New York, as its first FM allocation. The requested assignment would require the substitution of Channel 272A for Channel 261A, on which Woodstock Communications, Inc. ("WCI") operates FM Station WDST, Woodstock, New York. Petitioner states he will apply for the channel, if assigned as proposed.

2. Channel 272A may be substituted at the Woodstock city reference, but not at the present site of Station WDST (Channel 261A). Petitioner submitted an agreement with WCI which includes, *inter alia*, the reimbursement of Station WDST for the relocation of its station to a nonconflicting transmitter site. Assuming that the relocation takes place, Channel 261A may be assigned to Wurtsboro with a site restriction 6.0 miles west of the community to avoid short spacing to the new location for Station WVNJ-FM, Newark, New Jersey, and the present site of Station WHUD, Peekskill, New York. Additionally, although translator Station W237AG, Rhinebeck, New York, has an application pending to operate on Channel 272A, that type of facility is licensed on a secondary basis and is not protected against interference from a regular broadcast station. See § 74.1203(a) of the Commission's Rules. Therefore, the translator would be required to specify another frequency if Channel 272A is substituted for Channel 261A at Woodstock.

3. The Commission must obtain approval from the Canadian government to the proposed assignments since Wurtsboro and Woodstock are located within 200 miles of its border.

4. We shall issue an *Order to Show Cause* to WCI to enable it to confirm that it is willing to relocate its site for Station WDST in addition to changing its frequency.

5. In view of the foregoing, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Woodstock, New York	261A	272A
Wurtsboro, New York		261A

6. It is ordered that, pursuant to section 316(a) of the Communications Act of 1934, as amended, Woodstock Communications, Inc., licensee of Station WDST-FM, Woodstock, New York, shall show cause why its license should not be modified to specify operation on Channel 272A in lieu of Channel 261A.

7. Pursuant to § 1.87 of the Commission's Rules, Woodstock Communications, Inc., may, not later than September 26, 1983, request that a hearing be held on the proposed modification. If the right to request a

hearing is waived, Woodstock Communications, Inc. may, not later than September 26, 1983, file a written statement showing with particularity why its license should not be modified as proposed in the *Order to Show Cause*. In this case, the Commission may call upon Woodstock Communications, Inc. to furnish additional information, designate the matter for hearing, or issue, without further proceedings, an *Order* modifying the license as provided in the *Order to Show Cause*. If the right to request a hearing is waived and no written statement is filed by the date referred to above, Woodstock Communications, Inc. will be deemed to have consented to the modification as proposed in the *Order to Show Cause* and a final *Order* will be issued by the Commission if the above-mentioned channel modification is ultimately found to be in the public interest.

8. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before September 26, 1983, and reply comments on or before October 11, 1983, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Jerome Gillman, President, Jerome Gillman, Inc., Shady, New York 12479.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rulemaking proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

11. It is further ordered, that the Secretary of the Commission shall send by certified mail, return receipt requested, a copy of this *Order to Show Cause* to Woodstock Communications, Inc., 118 Tinker Street, Woodstock, New York 12498.

12. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-22600 Filed 8-17-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-827; RM-4468]

TV Broadcast Stations in Charleston, South Carolina; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign UHF Television Channel 36 to Charleston, South Carolina, in response to a petition filed by Allen Sheets. The assignment could provide Charleston with its fifth commercial television service.

DATES: Comments must be filed on or before September 26, 1983, and reply comments on or before October 11, 1983.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Charleston, South Carolina); MM Docket No. 83-827, RM-4468.

Adopted: August 3, 1983.

Released: August 12, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission is a petition for rule making filed by Allen Sheets, requesting the assignment of UHF Television Channel 36 to Charleston, South Carolina, as that community's fifth commercial television service. Petitioner indicates that he, or an entity of which he is a part, will apply for the channel, if assigned.

2. Charleston (population 69,510),[1] the seat of Charleston County (population 277,308), is located on the coast of South Carolina, approximately 130 kilometers (82 miles) northeast of Savannah, Georgia. Currently, it is served by commercial Stations WCBD–TV (Channel 2), WCIV(TV) (Channel 4), WCSC–TV (Channel 5), Channel 24 (applications pending), and noncommercial educational Station WITV(TV) (Channel *7).

3. We believe the petitioner's proposal warrants consideration. The channel can be assigned in conformity with the minimum distance separation and other technical requirements.

4. In view of the foregoing, the Commission believes it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignments, § 73.606(b) of the Commission's rules, as follows:

City	Channel No.	
	Present	Proposed
Charleston, South Carolina	2+, 4, 5+, *7–, and 24.	2+, 4, 5+, *7–, 24, and 36+

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before September 26, 1983, and reply comments on or before October 11, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, and his consultant, as follows:

Allen Sheets, 300 Mulvaney Drive, D–20, Knoxville, TN 37915 (Petitioner) and Edward M. Johnson, One Regency Square, Suite 450, Knoxville, TN 37915 (Consultant to Petitioner).

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[1] Population figures were extracted from the 1980 U.S. Census, Advance Reports.

[FR Doc. 83-22802 Filed 8-17-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-840; RM-4466]

TV Broadcast Stations in Memphis, Tennessee; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes a sixth commercial television station to Memphis, Tennessee, in response to a petition filed by David E. Sparks.

DATES: Comments must be filed on or before September 26, 1983, and reply comments on or before October 11, 1983.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Memphis, Tennessee); MM Docket No. 83-840, RM-4466.

Adopted: July 28, 1983.

Released: August 10, 1983.

By the Chief, Policy and Rules Division.

1. David E. Sparks ("petitioner") submitted a petition for rule making on May 2, 1983, which seeks the assignment of UHF television Channel 50 to Memphis, Tennessee, as its sixth commercial television assignment. Petitioner states that he or an entity of which he is a part will apply for authority to operate on Channel 50, if the channel is assigned.

2. Memphis (population 646,356),[1] seat of Shelby County (population 777,113) is located in southwestern Tennessee, approximately 305 kilometers (190 miles) southwest of Nashville.

3. We believe that the petitioner's proposal warrants consideration. The proposed assignment meets all spacing requirements and could provide Memphis with its eighth local television service. Accordingly, we shall seek comments on the proposal to amend the Television Table of Assignments § 73.606(b) of the Commission's rules with respect to the following city:

City	Channel No.	
	Present	Proposed
Memphis, Tennessee	3-, 5+, *10+, 13+, *14+, 24, and 30.	3-, 5+, *10+, 13+, *14+, 24, 30, and 50.

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before Septemer 26, 1983, and reply comments on or before October 11, 1983, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: David E. Sparks, 6320 Trailhead Cr., Knoxville, TN 37915.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rule and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions

[1] Population figures are taken from the 1980 U.S. Census Advance Report.

by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-22599 Filed 8-17-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-826; RM-4473]

TV Broadcast Stations in Decatur, Texas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF Television Channel 29 to Decatur, Texas, in response to a petition filed by Wise County Messenger, Inc. The proposed assignment could provide for a first television service to Decatur.

DATES: Comments must be filed on or before September 26, 1983, and reply comments on or before October 11, 1983.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.606(b), TAble of Assignments, Television Broadcast Stations. (Decatur, Texas); MM Docket No. 83-828, RM-4473.

Adopted: August 3, 1983.

Released: August 11, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed May 5, 1983, by Wise County Messenger, Inc. ("petitioner"), proposing the assignment of UHF Television Channel 29 to Decatur, Texas. Petitioner stated that it or an entity, of which it is a part, will apply for the channel, if assigned.

2. Decatur (population 4,104),[1] seat of Wise County (population 26,575), is located in northern Texas, approximately 95 kilometers (60 miles) northwest of Dallas. Decatur is currently without local television service.

3. We believe that the petitioner's proposal warrants consideration. The proposed assignment meets all spacing requirements and could provide a first local television service at Decatur. Accordingly, we shall seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the rules) with respect to the following city:

City	Channel No.	
	Present	Proposed
Decatur, Texas	—	29

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before September 26, 1983, and reply comments on or before October 11, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioners(s) of this proceeding: Wise County Messenger, Inc., P.O. Box 149, Decatur, Texas.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered

[1] Population figures are taken from the 1980 U.S. Census Advance Report.

if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed coments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, and original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-20604 Filed 8-17-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-824; RM-4469]

TV Broadcast Stations in Uvalde, Texas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign UHF Television Channel 26 to Uvalde, Texas, in response to a petition filed by Charles Joseph Thompson. The assignment could provide Uvalde with its first television service.

DATES: Comments must be filed on or before September 26, 1983, and reply comments on or before October 11, 1983.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Uvalde, Texas); MM Docket No. 83-824, RM-4469.

Adopted: August 3, 1983.
Released: August 12, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed by Charles Joseph Thompson ("petitioner"), requesting the assignment of UHF Television Channel 26 to Uvalde, Texas, as that community's first television service. Petitioner indicates that he, or an entity of which he is a part, will apply for the channel, if assigned.

2. Uvalde (population 14,178),[1] the seat of Uvalde County (population 22,441), is located approximately 130 kilometers (80 miles) west of San Antonio, Texas.

3. UHF Television Channel 26 can be assigned to Uvalde consistenf with the minimum distance separation and other technical requirements. However, because Uvalde is located within 320 kilometers (199 miles) of the common U.S.-Mexican border, the Commission must obtain Mexican concurrence in the proposal.

4. In view of the foregoing, the Commission believes it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignments, § 73.606(b) of the Commission's rules, as follows:

City	Channel No.	
	Present	Proposed
Uvalde, Texas		26

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before September 26, 1983, and reply comments on or before October 11, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, and his consultant, as follows:

Charles Joseph Thompson, 2500 Legion Drive, Knoxville, TN 37920. (Petitioner), and
Edward M. Johnson, One Regency Square—Suite 450, Knoxville, TN 37915 (Consultant to Petitioner)

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and

[1] Population figures were extracted from the 1980 U.S. Census, Advance Reports.

307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-22868 Filed 8-17-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-838; RM-4452]

FM Broadcast Stations in Staunton, Virginia; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of Channel 232A to Staunton, Virginia, as that community's third FM assignment, in response to a petition filed by Ogden Broadcasting of Virginia.

DATES: Comments must be filed on or before September 26, 1983, and reply comments on or before October 11, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Staunton, Virginia); MM Docket No. 83-838, RM-4452.

Adopted: July 28, 1983.

Released: August 10, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed on May 4, 1983, by Ogden Broadcasting of Virginia ("petitioner") seeking the assignment of Channel 232A to Staunton, Virginia, as that community's third FM assignment. Petitioner submitted information in support of the assignment and expressed its interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. Since this assignment is within the limits of the National Radio Astronomy Observation Quiet Zone, coordination with the proper authorities is required.

3. In view of the fact that the proposed assignment could provide a third FM service to Staunton, Virginia, the Commission believes it is appropriate to propose amending the FM Table of Assignments (§ 73.202(b) of the Commission's Rules) with respect to the following community:

City	Channel No.	
	Present	Proposed
Staunton, Virginia	228A, 259	228A, 232A, and 259.

4. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before September 26, 1983, and reply comments on or before October 11, 1983, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: James L. McHugh and Robert L. Thompson, Steptoe and Johnson, 1250 Connecticut Avenue, Washington, D.C. 20036, Counsel for Ogden Broadcasting of Virginia, Inc.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel

assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-22801 Filed 8-17-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 572

Anthropomorphic Test Dummies

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies a petition for rulemaking submitted by Humanoid Systems to change the pelvic specifications for the Part 572 50th percentile male dummy. In September 1982, NHTSA denied a similar petition for rulemaking from that company. The agency explained that it was currently involved in research relating to the issues raised by Humanoid, and that it planned to decide whether or not to amend the specifications for the current dummy after those research projects have been completed. The new petition for rulemaking is denied for the same reasons.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley H. Backaitis, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–2264).

SUPPLEMENTARY INFORMATION: On September 20, 1982, NHTSA published a notice in the Federal Register (47 FR 41406) denying a petition for rulemaking submitted by Humanoid Systems concerning the Part 572 50th percentile male dummy. (The dummy is referenced by Safety Standard No. 208 (49 CFR Part 571.208), *Occupant Crash Protection*, as part of that standard's compliance test procedure applicable to manufacturers choosing to meet that standard's requirements by means of automatic restraints.) The petition had requested that the agency amend the specifications for the dummy with respect to the pelvis. In responding to the petition, NHTSA indicated that it was currently involved in research concerning the issues raised by Humanoid with respect to the pelvis, as well as potential successor dummies to the current dummy. The notice stated that NHTSA planned to decide whether or not to amend the specifications for the current dummy after those research projects have been completed and those issues fully considered.

Earlier this year, Humanoid filed a new petition for rulemaking again requesting that the agency change the pelvic specifications for the Part 572 dummy. In support of its new petition, Humanoid noted that a Society of Automotive Engineers (SAE) task force had made positive recommendations concerning changing the pelvic specifications. The SAE recommendation concerned a new pelvic shape developed by a NHTSA contractor.

The agency's receipt of SAE's recommendation does not provide a basis for altering the agency's September 1982 decision. One of the issues which the agency wants to address concerns the result of a review of the contract work noted above. Interested groups, including physiological and anthropometric laboratories and SAE, have been included in this review process. The

SAE recommendation cited by Humanoid is only one part of the review process.

The agency still believes it is necessary to complete its research before it attempts to evaluate the need for changing the pelvic shape. Among other things, the agency is evaluating whether the current pelvic shape biases test results or exaggerates submarining. Moreover, the decision may depend on the results of two on-going related agency projects, the development of two potential successors to the current dummy and the advanced dummy program. The agency may decide not to change specifications for the existing dummy if that dummy is likely to be superseded in the near future. Accordingly, this agency denies Humanoid's petition.

(Secs. 103, 119 and 124, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407 and 1410a); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on August 11, 1983.

Kennerly H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-22582 Filed 8-17-83; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Export of Alaskan Gray Wolf, Alaskan Brown or Grizzly Bear, American Alligator, Bobcat, Lynx, and River Otter Taken in 1983-84 and Subsequent Seasons

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed findings and rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in certain animal and plant species. As a general rule, exports of animals and plants listed in Appendix II of CITES may occur only if a Scientific Authority (SA) has advised a permit-issuing Management Authority (MA) that such exports will not be detrimental to the survival of the species, and if a MA is satisfied that the animals or plants were not obtained in violation of laws for their protection. This notice announces proposed findings by the SA and MA of the United States on the export of certain Appendix II animal species native to this country. Previously, such findings were made each year on a state-by-state basis. Beginning this year, the Service intends to make such findings to span a period not limited to a single harvest season. The Service now requests comments on these proposed findings, and current information on the species involved. The Service also requests information on environmental and economic impacts that might result from the findings, and information on possible alternative approaches to meeting CITES requirements.

DATE: The Service will consider comments received by September 19, 1983 in developing its final findings and rule.

ADDRESS: Please send correspondence concerning this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C., 20240. Materials received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, at the Office of the Scientific Authority, room 537, 1717 H Street, NW., Washington, D.C. or at the Federal Wildlife Permit Office, room 621, 1000 N. Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT:

Scientific Authority Finding—Dr. Richard L. Jachowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653-5950.

Management Authority Finding—Mr. S Ronald Singer, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703) 235-2418.

Export Permits—Mr. Richard K. Robinson, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703) 235-1903.

SUPPLEMENTARY INFORMATION: Each year, beginning in 1977, the SA and MA for the United States have employed the rulemaking process to develop and issue decisions on the export of certain species under CITES. The reason for this approach is that it is more effective to issue general decisions on the export of all specimens harvested in a given state and season than to issue such decisions separately for each export permit application. This is true especially for a few CITES Appendix II species that are frequently exported. Species for which the Service has issued general export findings by means of rulemaking are: Alaskan brown or grizzly bear (*Ursus arctos*), Alaskan gray wolf (*Canis lupus*), American alligator (*Alligator mississippiensis*), bobcat (*Lynx rufus*), lynx (*Lynx canadensis*), river otter (*Lutra canadensis*), and the plant, American ginseng (*Panax quinquefolius*). This notice concerns only the animal species listed above.

Botswana Conference

The United States delegation to the fourth meeting of the Conference of the Parties to CITES (Botswana, April 19-30, 1983) introduced proposals to remove Alaskan and Canadian populations of gray wolf and U.S. and Canadian populations of bobcate and lynx from Appendix II. The delegation also introduced a proposal to establish that the river otter is listed in Appendix II only for similarity in appearance to other otters.

Comments from the CITES authorities of other Parties in response to the proposals clearly showed that importing countries in Europe felt there was a lookalike problem between these animals and those of other populations or species. However, most Parties felt that none of the populations or species addressed by the proposals are, on the whole, potentially threatened with extinction. The Parties and the CITES Secretariat indicated that the United States had the latitude and competence to treat bobcats or the other species in question as lookalikes, noting that the original proposals to list these species in Appendix II did not specify the reasons for placing each species in that appendix.

Given the consensus of the Parties on these points, the U.S. delegation withdrew these proposals and a proposal to remove the North American population of brown or grizzly bear from Appendix II. Having discretion to determine the status of these species under Appendix II, the Service as the SA is now implementing the process to treat the animals in question as listed for reasons of similarity in appearance under Article II.2(b) of CITES.

The statement by delegations of the United States and Canada at the CITES meeting is reprinted below:

Fourth Meeting of the Conference of the Parties

Statement by the United States and Canada on Proposals To Remove Certain Species From Appendix II

April 28, 1983

1. When the North American wolf, grizzly bear, bobcat, lynx and river otter were added to Appendix II of CITES, no biological or trade data were presented in support of these listings. The listings all occurred prior to the adoption of a format for proposals. There is no clear record of whether these particular species were intended to be listed because of potential threat of extinction of similarity in appearance.

2. Information presented to the Parties in our proposals to remove these species

from Appendix II, or to establish the basis for listing, clearly show that none of them can reasonably be considered as potentially threatened with extinction because of trade. Removal of CITES trade controls would not jeopardize their survival. There are professionally-run management and research programs for these species in each state or province where a harvest is allowed.

3. Support for this view has come from the CITES Secretariat, the Central Committee and many individual Parties. However, there seems to be widespread concern about the potential difficulty of controlling trade in other species or populations if those in question were not listed. This concern is based on the similarity in appearance of parts and derivatives between various species. We urge Parties to make further efforts to improve the ability of inspectors to identify specimens in trade so that CITES can work as it was intended—to regulate trade in species.

4. Data accumulated in our efforts to implement CITES for these species were examined in our ten-year review and led to the conclusion that similarity in appearance is the only reason why CITES should apply to them at this time. Each Party has the authority to decide how it will treat exports of species listed in Appendix II, in accordance with Article IV of the Convention, because the population status of a species might change after it is listed. This authority was confirmed by the Central Committee, the Screening Committee and the CITES Secretariat.

5. There are many ongoing research projects and Federal, state and provincial management programs that will serve to determine whether similarity in appearance treatment remains suitable in the future. If problems arise for a geographic population of any one of these species, we will afford that population more restrictive treatment. We will maintain our export requirements for monitoring of trade in any case.

6. The preamble to CITES recognizes "that peoples and states are and should be the best protectors of their own wild fauna and flora." We are committed to this principle, and trust that our efforts are recognized by other Parties. Because Alaskan and Canadian populations of wolf and grizzly bear, and U.S. and Canadian populations of bobcat, lynx and river otter are now regarded as listed in Appendix II only for similarity in appearance reasons, the United States and Canada are withdrawing our proposals on these species. We would like the basis for this action to be recorded in the minutes of the Plenary Session.

Scientific Authority (SA) Findings

Article IV of CITES requires that an export permit for any specimen of a species included in Appendix II shall only be granted when certain findings have been made by the SA and MA of the exporting country. The SA must advise "that such export will not be detrimental to the survival of that species" before a permit can be granted.

The SA for the United States must develop such advice on nondetriment for the export of Appendix II animals in accordance with Section 8A of the Endangered Species Act of 1973, as amended in 1982. The Act states that the Secretary of the Interior is "required to base export determinations and advice upon the best available biological information derived from professionally accepted practices used in wildlife management, but is not required to make, nor may he require any state to make, estimates of population size in making such determinations or giving such advice."

As indicated in the preceding section of this notice, it has been determined as a result of the ten-year review of the appendices that populations of furbearers addressed in this notice are now considered as listed in Appendix II only because of similarity in appearance to other listed species, subspecies, or geographically separate populations. Evidence in support of such treatment is summarized in the proposals submitted by the United States for consideration by the CITES Parties at Botswana (see 47 FR 1242, January 11, 1982, and 47 FR 51772, November 17, 1982). The Conference of the Parties adopted a resolution accepting the report of the CITES Central Committee on the ten-year review of species listed in Appendices I and II (Doc. 4.37 Annex 3). The report includes recommendations that these populations of furbearers should be considered as listed in Appendix II only because of similarity in appearance, if they are to be retained in that appendix.

The species of furbearers involved are managed by the wildlife agencies of individual states. Each state in which these animals are harvested has a program to regulate the harvest. States generally do not allow a harvest if they lack adequate populations to sustain one. For the past seven years, beginning in 1977, the SA has reviewed information on population status, management, and trade for these animals in every state where they are harvested. This accumulated information, including available population estimates, demonstrates that the species are not now potentially threatened and that they could, in fact, be removed from CITES Appendix II if it were not for problems of similarity in appearance. It follows that export will not be detrimental to the species involved.

Article II, paragraph 2, of CITES establishes that Appendix II shall include:

> "(a) all species, which although not necessarily now threatened with extinction, may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival; and
>
> (b) other species which must be subject to regulation in order that trade in specimens of certain species referred to in sub-paragraph (a) of this paragraph may be brought under effective control."

It is clear that when a species is listed only to enable trade in other species to be effectively controlled, the SA should focus on this control aspect when advising on nondetriment. To do otherwise is inconsistent with the rationale for listing species under the provisions of Article II.2(b). It would be inappropriate to make findings on nondetriment with respect to the effect of export on an abundant species itself, while ignoring whether trade in that species might promote trade that is detrimental to the survival of the other species that it was listed to protect. Therefore, the Service intends to develop findings on nondetriment for the export of species listed solely to protect other Appendix I or II species by considering whether trade in such specimens will not be detrimental to the survival of the species meant to be protected. The SA for the United States has consistently taken this approach since it began to implement CITES in 1977.

Marking of pelts with tags bearing the name of the species and the issuance of export permits naming the species being traded should suffice to address problems of identification due to similarity in appearance between any of these furbearers and the other species they were listed to protect (see MA findings for tag specifications). There is no evidence at this time that exports of specimens so identified have been detrimental to the survival of other Appendix I or II species or populations.

In addition to considering the effect of trade on species or populations other than those being exported from the United States, the SA will continue to monitor the status of the furbearers addressed in this notice. The purpose of monitoring is to determine whether treatment of these furbearers as listed only because of similarity in appearance

remains appropriate. Although the national populations of these animals are not now potentially threatened because of international trade, monitoring such trade will enable the SA to detect any significant downward trends in the population of a given species and, where necessary, advise on more restrictive export controls in response to them. The SA will monitor the status of all species addressed in this notice on an annual basis through a certification from each state.

Apart from this annual monitoring, the SA will, whenever monitoring through the certification process indicates a possible problem in any particular state, conduct a comprehensive review of accumulated information to determine whether conclusions about the treatment of these species as listed for similarity in appearance need to be adjusted in that state.

When conducting these comprehensive evaluations, the Service will analyze the best available accumulated information bearing directly on the population status and trend for the species in question. This includes the results of any recent research on distribution, abundance, and population dynamics, and any other data that have been generated for use by states to manage the species. In analyzing the potential for commercial trade, the Service will evaluate available data on harvest size, distribution, and trend in each state, together with information on the price of pelts, number of pelts exported, and any other indications of harvest pressure.

In contrast to the furbearers addressed in this notice, the American alligator is considered to be listed in Appendix II under the dual provisions of CITES Article II.2 (a) and (b). The proposal that the Conference of the Parties adopted, placing this species in Appendix II in 1979, made it clear that the listing was intended to respond to problems of potential threat to the survival of American alligators and similarity in appearance to other crocodilians. The ten-year review of the appendices confirmed the suitability of this treatment. The Service intends to address the issue of similarity in appearance through tagging of hides and documentation of shipments, as with the furbearers. Because the alligator is listed partly because of potential threat, the Service also is determining if exports will not be detrimental to the survival of the American alligator itself.

Guidelines developed for SA advice on exports of alligators under the provisions of CITES Article II.2(a) have been revised to conform with the 1982 amendments to the Endangered Species Act (see 48 FR 16494, April 18, 1983). The guidelines, representing professionally accepted wildlife management practices, are as follows:

A. Minimum requirements for biological information:

(1) Information on the condition of the population, including trends (the method of determination to be a matter of state choice), and population estimates where such information is available.

(2) Information on total harvest of the species.

(3) Information on distribution of harvest.

(4) Habitat evaluation.

B. Minimum requirements for a management program:

(1) There should be a controlled harvest, methods and seasons to be a matter of state choice.

(2) All skins should be registered and marked.

(3) Harvest level objectives should be determined annually by the states.

In applying these guidelines, the Service considers the following types of information on the condition of populations: (a) A current estimate (if such information is available) of the total number of animals in the preharvest population derived by extrapolating the number of animals per unit area in each of the major habitat types to obtain an estimate of the total number of animals in the state, where the number of animals per unit area is determined by direct count, by indirect indications of abundance, or by population modeling; (b) a description of ongoing research being conducted to assess the distribution, abundance, or general condition of the species in the state, summarizing results so far obtained, including results of any analyses of age structure or reproductive parameters, and (c) an assessment of long-term population trends of the species in the state, and the relationship of these trends to habitat condition, management practices, harvest pressure, and/or other factors.

Information on harvest considered by the Service includes: (a) The number of animals (by county or game management unit, if data are available at these local levels) that were (i) harvested, (ii) tagged, and (iii) bought by dealers operating in the state during the previous season; (b) the total number of animals that were harvested and tagged in the season before that; (c) the number of licensed alligator hunters in the state, (d) any available information on harvest per unit effort, and (e) prices paid to hunters for skins of the species, including the average price and the range of extremes. The Service is using this information to assess harvest pressure on the species, which is also important in making export findings.

In the case of the alligator, as with most other wild animal populations, the resource is monitored by a variety of techniques that yield information used in evaluating the condition of a population. As these data are accumulated over time, they reflect trends and call attention to changes in the populations. Habitat information, indices of population size, age and sex structure, and harvest information are all used to evaluate population status. Although the Endangered Species Act Amendments provide that population estimates are not a prerequisite for the export of Appendix II species, if estimates are provided by the states or are available from other sources, the Act requires that they be considered by the Service. They will be considered together with information of the types listed above in making findings on nondetriment.

The Service is evaluating harvest level objectives set by states in relation to information on the condition of the alligator populations. If the best available biological information of types listed above indicates that the harvest allowed by a state is not causing or contributing to a decline in the condition of the population, then the Service is issuing SA advice in favor of export for that state. Taylor (1980; Louisiana Dept. of Wildlife and Fisheries), employing an alligator population model, predicted a population increase into a stable population to be about 55 percent per annum. Both Taylor and Joanen (pers. comm.) are of the view that an annual adult harvest of about 8 percent will still permit alligator population expansion. The SA prefers that states use this percentage as a conservative upper limit for harvest level objectives in order to ensure that export will not be detrimental to the survival of the species.

Based on the accumulated information on population condition, management, and harvest of the species addressed by this notice, and on consideration of the reasons why they are listed in CITES Appendix II, the Service proposes to issue SA advice in favor of their export from certain states, identified below. The information on which the Service bases its proposed findings is contained in documents from each state. Due to their length, details of these documents are not published in the **Federal Register**; they are available for public inspection at the Office of the Scientific Authority (address given above).

Management Authority (MA) Findings

Exports of Appendix II species are to be allowed under CITES only if the MA is satisfied that the specimens were not obtained in contravention of laws for the protection of wildlife or plants. The Service, therefore, must be satisfied the pelts, hides, or products were not obtained in violation of state or Federal law, in order to allow export. Evidence of legal taking for Alaskan gray wolf, Alaskan brown or grizzly bear, American alligator, bobcat, lynx and river otter is provided by state tagging systems. For the 1982–83 season, the Service required the use of locking plastic strip tags with embossed legends. The Service arranged for the manufacturing of such tags for the majority of the states. Some states already use similar tags. The Service plans to supply suitable tags free of charge for these species to all states in which they are harvested during the period covered by these proposed findings. States may use their own tags if they meet the requirements below. The Service is adopting the following MA export guidelines for the 1983–84 and subsequent taking seasons:

(1) Current state hunting, trapping and tagging regulations and sample tags must be on file with the Service (Wildlife Permit Office);

(2) The tags must be durable and permanently locking, and must show state of origin, year of take, species, and be serially unique;

(3) The tag must be applied to all pelts taken within a minimum time after take, as specified by the state, and such time should be as short as possible to minimize movement of untagged pelts;

(4) The tag must be permanently attached as authorized and prescribed by the state;

(5) State-registered dealers or state-licensed takers allowed by the state to attach tags must account for tags received and must return unused tags to state within a specified time after taking season closes; and

(6) Fully manufactured fur products may be exported from the U.S. when accompanied by state tags removed from the pelts contained in the products; such tags must be surrendered to the Service prior to export.

The Service is considering the extension of guideline (6) to include fur pelts which have gone through final preparation for manufacture (dressing). Such an extension will depend upon whether some of the fur dressing operations mandate removal of the tags in order to avoid damage to either machinery or the pelts themselves.

Duration of Findings

Rather than issue general export findings for a single harvest season, the Service believes that it is now warranted to issue the findings for a period covering several harvest seasons. This would establish some stability so that state wildlife agencies have sufficient time to gear their programs for the species toward CITES requirements if they choose to do so. When new Federal export findings are issued each year, state agencies that manage the species do not always have adequate time to adjust either research or management activities accordingly. Another advantage of multi-season findings is that because they are issued well in advance of harvest seasons, they may discourage harvest in states for which the Service does not approve export under CITES.

Selection of a suitable time span for the findings involves a decision as to how rapidly the status and management of a species could be expected to change. The Service has made export findings for these species for the past seven years (five for alligator). Given the considerable stability shown in those findings and the current healthy status of the furbearer species in question, the Service believes it can project findings on those species for an unlimited period of time into the future with acceptable confidence, and for a period of three years with respect to the alligator. While major changes are unlikely in the status or management of the species in question, the Service will continue to monitor information on the species, and exercise the option of revising the findings between harvest seasons if new information shows they are no longer appropriate.

Proposed Export Decisions

The Service proposes to approve exports of animals harvested in the 1983–84 and subsequent taking seasons in the following states and Indian nations on the grounds that both SA and MA guidelines are satisfied:

Alaskan brown or grizzly bear: Alaska.

Alaskan gray wolf: Alaska.

American alligator (through December 31, 1985 only): Florida, Louisiana.

Bobcat: Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Klamath Tribe, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Navajo Nation, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

Lynx: Alaska, Idaho, Minnesota, Montana, and Washington.

River otter: Alabama, Alaska, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New Hampshire, New Jersey, New York, North Carolina, Oregon, South Carolina, Vermont, Virginia, Washington, and Wisconsin.

The Service does not propose to grant general approval for export of specimens of these species originating in any state or Indian nation not named above because (1) the species do not occur there, (2) no harvest of the species is allowed by the state or Indian nation, or (3) the Service does not have current information needed for SA or MA findings.

Comments Solicited

The Service requests comments on the proposed findings. Final findings will take into consideration the comments and any additional information received, and such consideration might lead to final findings that differ from this proposal.

This proposal is issued under authority of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.; 87 Stat. 884 as amended). The primary author was Dr. Richard L. Jachowski, Office of the Scientific Authority.

Note.—The Department has determined that these proposed findings are not a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act and, therefore, the preparation of an Environmental Impact Statement is not required. A determination on whether final findings are a major Federal action significantly affecting the quality of the human environment will be made at the time the final findings are published. The Department has determined that this is not a major rule under Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601). This rule treats exports on a state-by-state basis and, in most cases, proposes to approve export in accordance with state management programs. Since any effects on small entities are imposed by these state management programs, this rule will have little effect on small entities in and of itself.

List of Subjects in 50 CFR Part 23

Endangered and threatened wildlife, Exports, Fish, Imports, Plants (agriculture), Treaties.

PART 23—ENDANGERED SPECIES CONVENTION

Accordingly, the Service proposes to amend Part 23 of Title 50, Code of Federal Regulations, as set forth below:

Subpart F—Export of Certain Species

1. In § 23.52, add new paragraph (g) as follows:

§ 23.52 Bobcat (Lynx rufus).

* * * * *

(g) 1983–84 and subsequent harvests: Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Klamath Tribe, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Navajo Nation, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

Condition on export: Each pelt must be clearly identified as to species, state of origin and season of taking by a permanently attached, serially numbered tag of a type approved and attached under conditions established by the Service. Exception to tagging requirement: fully manufactured fur products may be exported from the U.S. when accompanied by the state tags removed from pelts contained in the products; such tags must be surrendered to the Service prior to export.

2. In § 23.53, add new paragraph (g) as follows:

§ 23.53 River otter (Lutra canadensis).

* * * * *

(g) *1983–84 and subsequent harvests:* Alabama, Alaska, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New Hampshire, New Jersey, New York, North Carolina, Oregon, South Carolina, Vermont, Virginia, Washington, and Wisconsin.

Condition on export: Each pelt must be clearly identified as to species, state of origin and season of taking by a permanently attached, serially numbered tag of a type approved by the Service and attached under conditions established by the Service. Exception to tagging requirement: fully manufactured fur products may be exported from the U.S. when accompanied by the state tags removed from pelts contained in the products; such tags must be surrendered to the Service prior to export.

3. In § 23.54, add new paragraph (g) as follows:

§ 23.54 Lynx (Lynx canadensis).

* * * * *

(g) *1983–84 and subsequent harvests:* Alaska, Idaho, Minnesota, Montana, and Washington.

Condition on export: Each pelt must be clearly identified as to species, state of origin and season of taking by a permanently attached, serially numbered state tag of a type approved by the Service and attached under conditions established by the Service. Exception to tagging requirement: fully manufactured fur products may be exported from the U.S. when accompanied by the state tags removed from pelts contained in the products; such tags must be surrendered to the Service prior to export.

4. In § 23.55, add new paragraph (g) as follows:

§ 23.53 Gray wolf (Canis lupus).

* * * * *

(g) *1983–84 and subsequent harvests:* Alaska.

Condition on export: Each pelt must be clearly identified as to species, state of origin and season of taking by a permanently attached, serially numbered state tag of a type approved by the Service and attached under conditions established by the Service. Exception to tagging requirement: fully manufactured fur products may be exported from the U.S. when accompanied by the state tags removed from pelts contained in the products; such tags must be surrendered to the Service prior to export.

5. In § 23.56, add new paragraph (g) as follows:

§ 23.56 Brown bear (Ursus arctos).

* * * * *

(g) *1983–84 and subsequent harvests:* Alaska.

Condition on export: Each pelt must be clearly identified as to species, state of origin and season of taking by a permanently attached, serially numbered state tag of a type approved by the State and attached under conditions established by the Service.

6. In § 23.57, add new paragraph (e) as follows:

§ 23.57 American alligator (Alligator mississippiensis).

* * * * *

(e) *1983–85 harvests:* Florida, Louisiana.

Condition on export: Each hide must be clearly identified as to species, state of origin and season of taking and must be tagged by a permanently attached, serially numbered tag of a type approved by the Service that is attached under conditions established by the Service.

Dated: July 28, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-22710 Filed 8-17-83; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 48, No. 161
Thursday, August 18, 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

Animal and Plant Health Inspection Service

[Docket No. 83-086]

General Conference Committee of the National Poultry Improvement Plan; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of a meeting of the General Conference Committee of the National Poultry Improvement Plan.

SUMMARY: The purpose of this document is to give notice of a meeting of the General Conference Committee of the National Poultry Improvement Plan (NPIP).

Place, date, and time of meeting: U.S. Department of Agriculture, Room 5609, South Building, 14th and Independence Avenue, SW., Washington, D.C., 9:00 a.m. to 5:00 p.m., September 13, 1983, and 9:00 a.m. to 12 noon, September 14, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. R. D. Schar, Senior Coordinator, National Poultry Improvement Plan, APHIS, VS, Room 828, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-5140.

SUPPLEMENTARY INFORMATION: The General Conference Committee of the NPIP was established by Departmental Regulation No. 1891, Revised, dated July 29, 1980 and renewed by Departmental Regulation No. 1043-8, dated July 30, 1982. The purpose of the committee is to make recommendations to the Department relative to the successful operation of NPIP.

The purpose of this meeting is to advise the Department on keeping the programs of the NPIP geared to the needs of the industry and to make recommendations to the Department on interpretation of and changes in certain provisions of the NPIP. At the meeting members of the Committee will:

1. Develop and review possible amendments to NPIP provisions.
2. Select members to serve on the poultry industry committee.
3. Review resolutions presented by NPIP Supervisors and Inspectors.
4. Advise on policy for reporting diseases.
5. Advise on questions raised through comments received concerning proposed changes to NPIP provisions.
6. Devise ways to cooperate with the caged pet bird industry in its effort to develop a viable pet bird improvement program.

The meeting will be open to the public. Written statements concerning these matters may be filed with the committee before or at the time of the meeting.

Written statements may be forwarded to Mr. R. D. Schar, Senior Coordinator, National Poultry Improvement Plan, APHIS, VS, Room 828, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-5140.

Dated: August 12, 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-22582 Filed 8-17-83; 8:45 am]
BILLING CODE 3410-34-M

Forest Service

Land and Resource Management Plan, Toiyabe National Forest, Nevada and California; Intent To Prepare an Environmental Impact Statement

This Notice revises the Notice of Intent published in the **Federal Register** November 23, 1979, Volume 44, No. 227, pages 67201 and 67202.

This Notice is being issued because 36 CFR 219.17 is being revised to allow the reevaluation of roadless areas during the Forest planning process. Public participation in the reevaluation permits data collection and analysis activities to proceed pending release of the final regulation.

The results of the reevaluation of roadless areas will be included in the Environmental Impact Statement and Toiyabe National Forest Land and Resource Management Plan.

The first steps involving initial public participation, inventory, and analysis of the management situation have been completed. The scoping for the roadless area reevaluation portion of the land management planning process will be initiated by explaining the roadless area reevaluation to all individuals interested and wanting to become involved in the planning process for the Forest. Significant issues relating to reevaluation will be identified and included with those issues already identified for the Forest.

Detailed information on the roadless areas and the reevaluation process will be available for individuals and organizations requesting the information. The Forest will be conducting open houses beginning in October 1983 at the Forest Service offices in Sparks, Carson City, Austin, Tonopah, and Las Vegas, all in Nevada. Additionally, an open house will be held at the Forest Service office in Bridgeport, California. Public notices will be placed in local newspapers with dates and times for the open houses. Interested persons can also contact any Toiyabe National Forest office for further details.

The Toiyabe National Forest Plan will select from a range of alternatives which will include at least:

(1) The "no-action" alternative, which represents continuation of present levels of activity.

(2) One or more alternatives which represent levels of activity that will result in elimination of all backlogs of needed treatment for restoration of renewable resources and ensure that a major portion of planning intensive multiple-use and sustained-yield management procedures are operating on an environmentally sound basis.

(3) One or more alternatives formulated to resolve the identified major public issues and management concerns, including roadless areas.

The Draft Environmental Impact Statement and proposed Land and Resource Management Plan for the Toiyabe National Forest are scheduled for draft review by May 1985. The final documents are scheduled for filing with the Environmental Protection Agency in September 1985.

During the reevaluation process, current management and protection policies and activities in the roadless areas will be continued. Wilderness values will be protected in the areas recommended in RARE II for Wilderness, and management for other

uses will continue in areas recommended for non-Wilderness.

J. S. Tixier, Regional Forester, Intermountain Region, USDA Forest Service, is the responsible official for the Forest Management Plan and Environmental Impact Statement. R. M. Nelson, Forest Supervisor, is responsible for preparation of the Forest Plan and Environmental Impact Statement.

Written comments, suggestions, and/or requests for information during this process should be sent to Terry Randolph, Forest Planner, Toiyabe National Forest, 1200 Franklin Way, Sparks, Nevada 89431, phone 702–784–5060.

Dated: August 12, 1983.

R. E. Greffenius,

Deputy Regional Forester.

[FR Doc. 83-22741 Filed 8-17-83; 8:45 am]

BILLING CODE 3410-11-M

Challis National Forest Grazing Advisory Board; Meeting

The Challis National Forest Advisory Board will meet at 1:00 p.m., MDT, on October 27, 1983 at the Challis National Forest Supervisor's Office, Challis, Idaho. The purpose of this meeting is to discuss, and receive advice and recommendations for, the utilization of range betterment funds, and development of allotment management plans for FY's 84 and 85.

The meeting will be open to the public. Persons who wish to attend should notify Ralph Jenkins at the Challis National Forest Supervisor's Office, Challis, Idaho, 208/879–2285. Written statements may be filed with the committee before or after the meeting.

Dated: August 8, 1983.

Jack E. Bills,

Forest Supervisor.

[FR Doc. 83-22743 Filed 8-17-83; 8:45 am]

BILLING CODE 3410-11-M

Coronado National Forest Grazing Advisory Board; Meeting

The Coronado National Forest Grazing Advisory Board will meet in Room 7X, in the Federal Building, 301 West Congress, Tucson, Arizona at 10:00 a.m., September 20, 1983. The purpose of this meeting is to discuss allotment management planning and the use of range betterment funds.

The meeting will be open to the public. Persons who wish to attend should notify Larry Allen, Coronado Supervisor's Office, telephone 602–629–6418. Written statements will be filed with the board before or after the meeting.

The board has established the following rule for public participation: Nonmembers are asked to withhold comments until the close of business.

Dated: August 10, 1983.

R. B. Tippeconnic,

Forest Supervisor.

[FR Doc. 83-22740 Filed 8-17-83; 8:45 am]

BILLING CODE 3410-11-M

Scientific Advisory Board, Mount St. Helens National Volcanic Monument, Gifford Pinchot National Forest, Vancouver, Washington; Meeting

The Mount St. Helens Scientific Advisory Board will meet at 8:30 a.m., August 25, 1983, at the Gifford Pinchot National Forest, Supervisor's Office, 500 West 12th Street, Vancouver, Washington, to develop scientific recommendations for the National Volcanic Monument relative to:

1. National Volcanic Monument (NVM) staff scientists' concept.
2. NVM research coordination.
3. Open discussion of topics of interest to the Advisory Board.

The meeting will be open to the public. Persons who wish to make a statement to the Board should notify Dr. Jack K. Winjum, Chairperson, c/o Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, WA 98660, 206–696–7570. Written statements may be filed with the Board before or after the meeting.

Dated: August 10, 1983.

Claude R. Elton,

Deputy Regional Forester of Administration.

[FR Doc. 83-22742 Filed 8-17-83; 8:45 am]

BILLING CODE 3410-11-M

Office of Rural Development Policy

USDA Development of Rural Resources Guide

SUMMARY: The Office of Rural Development Policy (ORDP) gives notice of intent to produce a *Rural Resources Guide*. This guide is designed to provide small communities and rural individuals with a way to gain access to public and private resources. Organizations and individuals having information they feel should be included in the *Rural Resources Guide* may choose to contact ORDP.

FOR FURTHER INFORMATION CONTACT:

Denise Boswell-Thomas, Project Director, Rural Resources Guide Office of Rural Development Policy, USDA 5048–South, Washington, DC 20250, Telephone: (202) 447–6656 or (202) 382–0044

SUPPLEMENTARY INFORMATION: The Rural Development Policy Act of 1980 mandates the preparation of a comprehensive rural development strategy based on the objectives and recommendations of rural Americans. This strategy, entitled *Better Country: A Strategy for Rural Development in the 1980's*, was prepared by ORDP in February, 1983. The strategy states the need to establish a linkage between sources of management, technical, and financial assistance and rural leaders. This linkage will be the *Rural Resources Guide* which will provide rural community leaders and individuals with a means of access to private and public providers and programs.

The *Rural Resources Guide* will list available technical and financial assistance resources. The following format will be used to present this information:

Name of Assistance Provider:
Address:
Telephone:
Description of Assistance Provider:

Information on the type of organization and its objectives.

Description of Available Assistance: One or two paragraphs describing the specific objectives of the program.

Eligibility Requirements: Information on who can apply to receive assistance.

Level and Type of Funding or Technical Assistance: Appropriations for the fiscal year and details on the form that the assistance takes.

Eligible Activities: A listing of types of activities for which the assistance may be used.

Application Procedures: Specifics of the application process.

Examples of Past Funding or Assistance: Description of specific successful case studies.

Other Sources of Funding or Assistance: Alternatives sources of technical and monetary assistance available.

Title of Contact Person or Contact Office:

In the completed *Rural Resources Guide* each program/resource will be listed separately. As such, an agency or group with numerous programs would be entered separately program by program.

If persons, groups, or agencies have information they feel should be included in the *Rural Resources Guide*, they are free to submit this information. In addition, those who would like to obtain certain types of information from the Guide and those who may be eventual

users of this Guide may also express their views. Contact with ORDP needs to me made no later than September 19, 1983.

Contact: Denise Boswell-Thomas, Project Director, *Rural Resources Guide.*

Dated: August 15, 1983.

Willard (Bill) Phillips, Jr.,

Director, Office of Rural Development Policy.

[FR Doc. 83-22886 Filed 8-17-83; 8:45 am]

BILLING CODE 3410-07-M

CIVIL AERONAUTICS BOARD

[Docket 41509]

Florida Express Inc.; Fitness Investigation; Prehearing and Hearing

Notice is hereby given that the prehearing conference in the above-entitled matter scheduled to begin on August 17, 1983, is changed to August 26, 1983, at 10:00 a.m. (local time), in Hearing Room 1, Lower Level, 2120 L Street, NW., Washington, D.C., before the undersigned.

Notice is also hereby given that a hearing in the above-entitled matter will immediately follow the prehearing conference.

Dated at Washington, D.C., August 15, 1983.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 83-22701 Filed 8-17-83; 8:45 am]

BILLING CODE 6320-01-M

Nelson Island Air Service, Inc., d.b.a. Executive Charter; Application for Certificate Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (Order 83-8-59).

SUMMARY: The Board proposes to find Nelson Island Air Service, Inc., d.b.a. Executive Charter fit, willing, and able to provide scheduled interstate and overseas air transportation of persons, property, and mail between all points in the United States, its territories and possessions, and scheduled all-cargo service between the terminal point Bethel, the intermediate point Kasigluk and the terminal point Tuluksak, Alaska. The complete text of this order is available, as noted below.

DATE: All interested persons wishing to respond to the Board's issuance of the proposed certificate shall file, and serve upon all persons listed below no later than September 1, 1983, a statement of objections, together with a summary of the testimony, statistical data, and other material expedited to be relied upon to support the objections.

ADDRESS: Responses should be filed in Docket 41467 and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, and should be served on all persons listed in Attachment B to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Sherry Kinland, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-8-59 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-8-59 to that address.

By the Civil Aeronautics Board: August 11, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-22704 Filed 8-17-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40813]

Regent Air Corp.; Fitness Investigation; Second Prehearing Conference

Notice is hereby given that a second prehearing conference in the above-entitled matter will be held on August 25, 1983, at 10:00 a.m. (local time) in Hearing Room 1, Lower Level, 2120 L Street, NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., August 15, 1983.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 83-22700 Filed 8-15-83; 8:45 am]

BILLING CODE 6320-01-M

Announcement of Proposed Collection of Information Under the Provisions of the Paperwork Reduction Act (44 U.S.C. 35)

Agency clearance officer from whom a copy of the collection of information and supporting documents is available: Robin A. Caldwell, (202) 673-5922.

Extension

Title of the Collection of Information: CAB Form 294-4-Registration/Amendments under Part 294 of the Economic Regulations of the Civil Aeronautics Board.

Agency Form Number: 294-A.

How often the Collection of Information must be filed: On occasion.

Who is asked or required to report: Small Canadian Airline Companies.

Estimate of number of annual responses: 50.

Estimate of number of annual hours needed to complete the collection of information: 25.

Dated: August 11, 1983.

Robin A. Caldwell,

Chief, Information Management Division, Office of Comptroller.

[FR Doc. 83-22703 Filed 8-17-83 8:45 am]

BILLING CODE 6320-01-M

Bellair, Inc.; Application for Certificate Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (83-8-60).

SUMMARY: The Boad proposes to find Bellair, Inc. fit, willing and able and to issue it a certificate under section 401 of the Act authorizing it to provide scheduled interstate and overseas air transportation of persons, property and mail between all points in the United States and its territories and possessions, and scheduled all-cargo authority between Baranof, Little Port Walter, Port Alexander and Sitka, Alaska. The complete text of this order is available as noted below.

DATE: All interested persons wishing to respond to the Board's issuance of the proposed certificate shall file, and serve upon all persons listed below no later than September 1, 1983, a statement of objections, together with a summary of the testimony, statistical data, and other material relied upon to support the objections.

ADDRESSES: Responses should be filed in Docket 41353, and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, and should be served on all persons listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Joseph Bolognesi, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673-5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-8-60 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-8-60 to that address.

By the Civil Aeronautics Board: August 11, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-22705 Filed 8-17-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Hardware Subcommittee of the Computer Systems Technical Advisory Committee; Closed Meeting

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committee. The Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (1) maintenance of the processor performance tables and further investigation of total systems performance; and (2) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

Time and place: September 6, 1983, at 9:30 a.m., Herbert C. Hoover Building, Room B841, 14th Street and Constitution Avenue, NW., Washington, D.C. The meeting will continue to its conclusion on September 7, in Room 7608, Herbert C. Hoover Building.

Agenda: The Subcommittee will meet only in executive session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

SUPPLEMENTARY INFORMATION: A Notice of determination to close meetings or portions of meetings of the Subcommittee to public on the basis of 5 U.S.C. 552b(c)(1) was approved on September 29, 1981, in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, (202) 377–4217.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo (202) 377–2583.

Dated: August 15, 1983.

Milton Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 83-23888 Filed 8-17-83; 8:45 am]

BILLING CODE 3510-25-M

CIVIL AERONAUTICS BOARD

[Docket No. 41441]

Denham Aircraft Services Corp. II Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge John M. Vittone. Future Communications Should be addressed to him.

Dated at Washington, D.C., August 12, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-22699 Filed 8-17-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 29-83]

Proposed Foreign-Trade Zone, Wilmington and Kent County, Delaware; Application for Subzone at Apparel Plant of J. Schoeneman Co., Wilmington, Delaware

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the State of Delaware through the Delaware Development Office requesting subzone status for the Wilmington Division of J. Schoeneman Company, a division of Cluett, Peabody and Company, Inc., in Wilmington, Delaware, within the WilMington Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on July 28, 1983. The applicant is authorized to make this proposal under Chapter 75, Title 6 of the Delaware Code.

The State of Delaware submitted an application to the Board for a general-purpose foreign-trade zone on April 5, 1983 (Docket 9–83 , 48 FR 16927, 4/20/83). A public hearing was held on the proposal on May 4.

The proposed subzone for Schoeneman will involve two sites covering 5 acres in Wilmington. The first site is the company's main facility covering 3 acres at 9 Vandever Avenue. The second location is a nearby annex covering 2 acres at 1½ East 22nd Street. The company uses these facilities to receive both foreign and domestic wool and polyester piece goods; to inspect, measure and sponge the fabric; to cut the piece goods; and to ship the cut parts to other company plants to be sewn into men's and women's suits, pants and skirts. A sewing operation is being planned at the Wilmington facility to produce men's and women's clothing for export. The application requests zone procedures for the storage and processing of the piece goods prior to manufacture, and for cutting and sewing for export. Entry would be made on merchandise destined for the domestic market before any cutting or sewing occurs.

Zone procedures will exempt the company from duty payments on material used in export operations, and to defer duty on imported piece goods, some of which have duty rates of over 38 percent. These savings will help the company compete with imports in the domestdic market and to expand its export sales, which could result in adding up to 100 jobs to the plant's current workforce of 350 persons.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Edward A. Goggin, Assistant Regional Commissioner, U.S. Customs Service, Northeast Region, 100 Summer Street, Boston, MA 02110; and Lt. Colonel Roger L. Baldwin, District Engineer, U.S. Army Engineer District Philadelphia, 2nd and Chestnut St., Philadelphia, PA 19106.

Comments concerning the proposed subzone are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before September 26, 1983.

A copy of the application is available for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, New Federal Building, 844 King Street, Room 1218 F, Wilmington, DE 19801

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania, NW., Washington, D.C. 20230

Dated: August 11, 1983.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 83-22759 Filed 8-17-83; 8:45 am]

BILLING CODE 3510-25-M

[Docket No. 28-83]

Foreign-Trade Zone 26, Shenandoah County, Georgia; Application for Subzone for Goetze Gasket Company, La Grange, Georgia

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Georgia Foreign Trade Zone, Inc. (FGTZ), grantee of Foreign-Trade Zone 26, requesting special-purpose subzone status for the gasket manufacturing facility of Goetze Gasket Company, La Grange, Georgia, some 45 miles from the Atlanta Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on July 27, 1983. The applicant is authorized to make this proposal under Section 98–301 through 98–304 of the Georgia Code Annotated. The question of "adjacency" is being reviewed by the Customs Service.

On January 17, 1977, the Board authorized GFTZ to establish a foreign-trade zone project in the Atlanta area (Board Order 115, 42 FR 4186, 1/24/77). The project covers 33 acres in an industrial park in Coweta County, near Atlanta. It handled some $27 million in merchandise in FY 1982. GFTZ has also sponsored a subzone for the Atlanta area auto assembly plants of General Motors (Board Order 218, signed 7/13/83).

The proposed subzone will involve Goetze's existing facility covering 38 acres within the La Grange Industrial Park, La Grange, Georgia. The plant is a custom-built facility for the special handling of certain chemicals and materials. The facility produces specialized cylinder head gaskets, called the Astadur head gasket, for high performance passenger car engines. The company imports the primary raw materials used in the production process—astaband, ironal and polybutadiene—the first two of which are not available domestically with specifications meeting Goetze's requirements. Subzone status is being requested because Goetze plans to export up to 30 percent of its output to Japan by 1985.

Zone procedures will exempt Goetze from duty payments on exports and on the scrap generated in the production process from foreign materials, which exceeds 60 percent on astaband and ironal. Drawback procedures allow the company to recover only a fraction of its duty costs upon reexport, because of scrap. On its domestic sales, the company will be exempt from duty on scrap, and will be able to take advantage of the same duty rate available to importers of finished gaskets, which is 3.7 percent compared with rates of 5.0 to 11.1 percent on the imported material. These savings would help the plant compete in the international marketplace, encouraging exports and employment.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zone Staff, U.S. Department of Commerce, Washington, D.C. 20230; Charles W. Winwood (Inspection and Control), U.S. Customs Service, Southeast Region, 99 SE 5th Street, Miami, FL 33131; and Colonel Patrick J. Kelly, District Engineer, U.S. Army Engineer District Mobile, P.O. Box 2288, Mobile, AL 36628.

Comments concerning the proposed subzone are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before September 26, 1983.

A copy of the application is available for public inspection at each of the following locations:

U.S. Dept. of Commerce District Office, 1365 Peachtree Street, NE., Suite 600, Atlanta, GA 30309

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania, NW., Washington, D.C. 20230

Dated: August 11, 1983.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 83-22758 Filed 8-17-83; 8:45 am]

BILLING CODE 3510-25-M

[Docket No. 31-83]

Foreign-Trade Zone 29, Louisville, Kentucky; Application for Subzone at Sugar Plant of Southeastern Sweetners in Louisville

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Louisville and Jefferson County Riverport Authority (the Port), grantee of Foreign-Trade Zone 29, requesting special-purpose subzone status for export operations at the sugar processing plant of Southeastern Sweetners Distributing Company, Inc., in Louisville, Kentucky, within the Louisville Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on July 28, 1983. The applicant is authorized to make this proposal under Chapter 65.530(b) of the Kentucky Revised Statutes.

On May 26, 1977, the Board authorized the Port to establish a foreign-trade zone project in the Louisville area (Board Order 118, 42 FR 29323, 6/8/77). The project covers 12 acres in an industrial park adjacent to the port area. It handled some $2 million in merchandise in FY 1982.

The proposed subzone would be located at the existing facility of Southeastern Sweetners, covering 1 acre at 1900 South Seventh Street in Louisville. The plant is involved in receiving domestic liquid sugar and corn syrup, liquifying, blending and repackaging the sweetners for domestic distribution. The company plans a new operation involving foreign dry sugar, which would be liquified and blended with domestic corn syrup in a ratio of 3 to 2. The final product would be exported. The application requests subzone procedures only for the reexport operation.

Zone procedures would exempt Southeastern Sweetners from duty payments and quota requirements on sugar used for reexport. This will assist the company in entering the export market, increasing employment at the plant by 8 persons and encouraging the use of domestic corn syrup for export products.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; John F. Nelson, District Director, U.S. Customs Service, North Central Region, 6th Floor, 55 Erieview Plaza, Cleveland, OH 44114; and Colonel Charles E. Eastburn, District Engineer, U.S. Army Engineer District Louisville, P.O. Box 59, Louisville, KY 40201.

Comments concerning the proposed subzone are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before September 26, 1983.

A copy of the application is available for public inspection at each of the following locations:

U.S. Dept. of Commerce District Office, Post Office and Courthouse Building, Room 636B, Louisville, KY 40202

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania, NW., Washington, D.C. 20230

Dated: August 11, 1983.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 83-22761 Filed 8-17-83; 8:45 am]

BILLING CODE 3510-25-M

[Docket No. 27-83]

Foreign-Trade Zone 49, Newark/Elizabeth, New Jersey; Application for Subzone at Ford's Auto Assembly Plant in Edison, New Jersey

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port Authority of New York and New Jersey, grantee of Foreign-Trade Zone 49, Newark/Elizabeth, New Jersey, requesting a special-purpose subzone at Ford Motor Corporation's automobile assembly plant in Edison, New Jersey, within the New York Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on July 27, 1983. The application is authorized to make this proposal under Section 12:13–1 of the New Jersey Statutes Annotated.

On April 6, 1979, the Board authorized the Port to establish a foreign-trade zone project in the Newark/Elizabeth area (Board Order 146, 44 FR 22502, 4/16/79). It was expanded on May 26, 1983 (Board Order 211, 48 FR 24958, 6/3/83). The project covers 2100 acres in the Newark/Elizabeth Port Authority Marine Terminal.

The proposed subzone will involve the Ford Auto assembly plant covering 77 acres on U.S. Highway 1, Edison, Middlesex County, New Jersey, some 18 miles from Newark. The facility has recently been renovated to produce the front-wheel drive Escort/Lynx model automobiles. Through the majority of the parts used at the plant are produced domestically, some 18 percent are dutiable items, such as transaxles, radios, and electronic parts.

Zone procedures will exempt Ford from paying duties on foreign components used for its exports. On its domestic sales, the company will be able to take advantage of the same duty rate available to importers of finished autos. The average duty rate for the foreign components used at the Edison plant is 3.8 percent compared with a 2.8 percent rate for finished autos. The savings from zone procedures are expected to contribute to Ford's efforts to reduce production costs, helping it compete with offshore auto production facilities. Subzone status at the 1600-employee Edison plant would be a contributing factor in helping increase plant employment to its former level of over 2000.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Benjamin C. Jefferson, Area Director, U.S. Customs Service, New York Region, Room 210 A, Airport International Plaza, Newark NJ 07114; and Colonel F. H. Griffis, District Engineer, U.S. Army Engineer District New York, 26 Federal Plaza, New York, NY 102783.

Comments concerning the proposed subzone are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before September 26, 1983.

A copy of the application is available for public inspection at each of the following locations:

Area Director's Office, U.S. Customs Service, Airport International Plaza, Room 210 A, Newark, New Jersey 07114

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania Ave., NW., Washington, D.C. 20230

Dated: August 11, 1983.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 83-22757 Filed 8-17-83; 8:45 am]

BILLING CODE 3510-25-M

[Docket No. 30-83]

Foreign-Trade Zone 41, Milwaukee, Wisconsin; Application for Subzone at Aldrich Chemical Plant, Milwaukee

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Foreign-Trade Zone of Wisconsin, Ltd. (FTZW), grantee of Foreign-Trade Zone 41, requesting special-purpose subzone status for three related chemical manufacturing plants of the Aldrich Chemical Company, Inc. (Aldrich), a subsidiary of Sigma-Aldrich Corporation, in the Milwaukee area, adjacent to the Milwaukee Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on July 28, 1983. The applicant is authorized to make this proposal under Chapter 110 of the Wisconsin Laws of 1977, approved October 13, 1977.

On September 29, 1978, the Board authorized FTZW to establish a foreign-trade zone project in the Milwaukee area (Board Order 136, 43 FR 46887, 10/11/78). On August 4, 1981, FTZW was authorized to expand the project and to sponsor subzones for American Motors in Kenosha and for Muskegon Piston Ring in Manitowoc (Board Order 178, 46 FR 40718, 8/11/81).

The proposed subzone for Aldrich will cover 113 acres at three locations in the Milwaukee, Wisconsin, area. The first site involves the company's main plant covering 1.3 acres at 940 West St. Paul Avenue, Milwaukee. The second site is for the company's secondary plant covering 2 acres at 230 South Emmber Lane, Milwaukee. The third site involves the company's hazardous products facility covering 110 acres at Highway V and Trimberger Court, Sheboygan Falls, Wisconsin, 35 miles north of Milwaukee. All three are part of an integrated production process for fine chemicals used in laboratories and as components in chemical specialties such as pharmaceutical, cosmetic, photographic and agricultural products. According to the application, the company imports abour 30 percent of its raw materials, primarily those materials which are not available in the U.S.

Zone procedures would exempt Aldrich from duty payments on its exports, which are expected to grow from the current 20 percent of production to over 30 percent. Substantial savings would also accrue from duty deferral on imported materials which have duty rates as high as 26 percent. The company has indicated that these Customs cost savings are needed to help it compete with offshore production facilities, which are currently the only other major supplier of these products to foreign and domestic markets. The result will be an expansion of production at Aldrich's domestic facilities and a possible addition of up to 200 persons to the current workforce of 400 persons.

In accordance with the Board's regulations, an examiners committee

has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; W. David Stevens, District Director, U.S. Customs Service, North Central Region, 628 E. Michigan St., Milwaukee, WI 53202; and Colonel Raymond T. Beurket, Jr., District Engineer, U.S. Army Engineer District Detroit, P.O. Box 1027, Detroit, MI 48231.

Comments concerning the proposed subzone are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before September 26, 1983.

A copy of the application is available for public inspection at each of the following locations:

Office of the Director, U.S. Dept. of Commerce District Officer, Federal Building, 517 East Wisconsin Avenue, Milwaukee, WI 53202

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania, NW., Washington, D.C. 20230

Dated: August 11, 1983.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 83-22780 Filed 8-17-83; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Chains and Parts Thereof, of Iron or Steel, From Spain; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on chains and parts thereof, of iron or steel, from Spain. The review covers the period January 1, 1981 through December 31, 1982. As a result of the review, the Department has preliminarily determined the net subsidy to be 14.89 percent *ad valorem* for 1981 and 14.65 percent *ad valorem* for 1982. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 18, 1983.

FOR FURTHER INFORMATION CONTACT: Bernard Carreau or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On May 24, 1982, the Department of Commerce ("the Department") published in the Federal Register (47 FR 22392) the final results of its last administrative review of the countervailing duty order on chains and parts thereof, of iron or steel, from Spain (43 FR 3258, January 24, 1978) and announced its intent to conduct the next administrative review by the end of January, 1983. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are chains and parts thereof, of iron or steel, imported directly or indirectly from Spain. Such imports are currently classifiable under items 652.2410 through 652.2450, 652.2710 through 652.2740, 652.3010 through 652.3040, 652.3310 through 652.3330, and 652.3510 through 652.3530 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1981 through December 31, 1982, and the following programs: (1) A rebate of indirect taxes upon exportation, under the Desgravacion Fiscal a la Exportacion ("the DFE"), and (2) an operating capital loans program.

Analysis of Programs

(1) Desgravacion Fiscal a la Exportacion

Spain employs a cascading tax system. Under this system, the government levies a turnover tax ("IGTE") on each sale of a product through its various stages of production, up to (but not including) the final sale in Spain. Upon exportation of the product, the government, under the DFE, rebates both these accumulated IGTE indirect taxes and certain final stage taxes.

The Government of Spain provided no response to our questionnaire. Therefore, we are unable to determine the incidence of rebatable indirect taxes borne by this product. Absent this information, the Department considers the entire amount of the DFE to be an overrebate of indirect taxes with respect to this product and, therefore, countervailable in full. The DFE rate, established in Law 6/1979, was 12.50 percent for exports of this merchandise during the period of review. Therefore, we preliminarily determine that the net subsidy conferred under this program is 12.50 percent *ad valorem* for both 1981 and 1982.

(2) Operating Capital Loans

The Spanish government requires banks to set aside funds to provide short-term operating capital loans. These loans are granted for a period of less than one year. For the first two months of 1981, the Spanish government fixed the interest rate for such loans at 8 percent, which was 1.5 percent below the legally established commercial interest rate of 9.5 percent. Effective March 1, 1981, the Spanish government increased the interest rate on operating capital loans from 8 to 10 percent while eliminating the interest rate ceiling on comparable short-term commercial loans. To determine the interest rate on comparable commercial loans for the remaining ten months in 1981 and for calendar year 1982, we took the average national prime interest rate for loans of comparable length, added the prevailing interest charge over prime facing borrowers of average creditworthiness and added the legally established fees and commissions. Comparing this benchmark with the 10 percent interest rate established for the operating capital loans program, we found a differential of 9.45 percent in 1981 after March 1, and of 9.38 percent in 1982.

The maximum loan principal available to a given exporter is determined as a percentage of the firm's previous year's exports. This amount may be increased by 10 percent if the firm has a government-issued Exporter's Card. We are assuming that exporters of chains and parts thereof, of iron or steel, have such a card, so that the maximum eligibility until November 1981 was 30 percent. On November 21, 1981, the Spanish government decreased the maximum eligibility (lincluding Exporter's Card eligibility) to 24 percent, and to 22.5 percent on April 19, 1982. Because we have no information on actual utilization of this program, we assumed that the maximum allowable amount was borrowed. After prorating for the interest rate differentials and eligibility levels prevailing in 1981 and 1982, we preliminarily determine the net subsidy conferred under this program to be 2.39 percent *ad valorem* for 1981, and 2.15 percent *ad valorem* for 1982.

Effective January 1, 1983, the Spanish government further reduced the maximum percentage of eligibility for operating capital loans to 15 percent. As a result, using the same methodology and the interest rate differential for 1982 (9.38 percent) as the most recent information available, we preliminarily

determine, for purposes of cash deposits of estimated countervailing duties, that the net subsidy currently attributable to this program is 1.40 percent *ad valorem.*

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the aggregate net subsidy conferred by the two programs is 14.89 percent *ad valorem* during 1981 and 14.65 percent *ad valorem* during 1982. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 14.89 percent of the f.o.b. invoice price on all shipments of Spanish chains and parts thereof, of iron or steel, exported on or after January 1, 1981 and on or before December 31, 1981, and of 14.65 percent for shipments of this merchandise exported on or after January 1, 1982 and entered, or withdrawns from warehouse, for consumption on or before June 20, 1982.

On June 21, 1982, the International Trade Commission ("the ITC") notified the Department that the Spanish government had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979. Should the ITC find that there is material injury or likelihood of material injury to an industry in the United States, the Department will instruct the Customs Service to assess countervailing duties in the amount of the prevailing deposit rate at the time of entry on all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after June 21, 1982, and through the date of the ITC's notification to the Department of its determination.

Further, as provided for by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 13.90 percent of the f.o.b invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: August 13, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-22755 Filed 8-17-83; 8:45 am]

BILLING CODE 3510-25-M

Television Receiving Sets, Monochrome and Color, From Japan; Preliminary Results of Administrative Review of Antidumpting Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary results of Administrative review of Antidumping Finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on television receiving sets from Japan. The review covers the 21 known Japanese manufacturers and/or exporters of this merchandise to the United States currently covered by the finding and the period April 1, 1980 through March 31, 1981. The review indicates the existence of dumping margins for certain firms. Transshipments of this merchandise during the period by 13 firms will be the subject of a separate notice.

As a result of this review, the Department has preliminarily determined to assess antidumping duties for indivdual firms equal to the calculated differences between United States price and foreign market value on each of their shipments during the period of review. For those firms which failed to respond or provided inadequate information, the Department has used the best information available.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 18, 1983.

FOR FURTHER INFORMATION CONTACT: Michael A. Hudak, Stephen F. Munroe or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington D.C. 20230, telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("the Department") published in the **Federal Register** on June 5, 1981 (46 FR 30163-7) the final results of its initial administrative review of the antidumpting finding concerning television receiving sets from Japan (36 FR 4597, March 10, 1971) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of television receiving sets, monochrome and color, from Japan. Television receiving sets include, but are not limited to, units knows as projection televisions, receiver monitors, and kits (containing all the parts necessary to receive a broadcast television signal and produce a video image). Not included are monitors (not capable of receiving a broadcast television signal), certain combination units (combinations of television receivers with other electrical entertainment components such as tape recorders, radio receivers, etc.), and sub-assemblies not containing the components essential for receiving a broadcast television signal and producing a video image.

The Department knows of 21 Japanese manufacturers and/or exporters and 13 third-country resellers of this merchandise to the United States currently covered by the finding. This review covers the 21 Japanese firms and the period April 1, 1980 through March 31, 1981. The review of the period with regard to the 13 third-country resellers will be the subject of a separate notice. Three of the manufacturers and exporters during the period exported only monitors and combination units determined by the Department to be outside the scope of the finding. Six Japanese exporters did not respond to our questionnaire. For non-responsive firms we used the best information available to determine the assessment and estimated duty cash deposit rates. Since none of these firms were investigated during the original fair value investigation and there are no previously issued assessment instructions ("master lists") for the firms, the best information available is the highest rate for responding firms with shipments in the current review period. The six firms are: Denki Onkyo Co., Ltd., Gulraj Trading Corp., Kaga Denshi Co., Ltd., Kogen Trading Co.,

Ltd., Original Electric Mfg. Co., Ltd., and Sankei Camera Co.

With respect to all shipments by Hitachi, Ltd. and Toshiba Corporation during the current review period, certain shipments from several of the other manufacturers, and shipments by Nissei Sanyo Co., Ltd., the Department has determined that merchandise entered for consumption is subject to a finding of dumping whenever ownership is or has been transferred from the manufacturer and/or exporter to an unrelated party. Samples, gifts, and other "non-commercial" disposals are no exception (see our notice of final results of the last administrative review of this finding).

Where possible the Department calculates the foreign market value and U.S. price for each entry, in accordance with section 751(a)(2) of the Tariff Act. However, where there are no commercial shipments of a particular model, and where the non-commercial shipments consist of a very small number of sets, the Department may have to rely on the best information available, which is information other than specific price and/or cost data, in calculating the dumping margins. For assessment purposes the Department will use the weighted average margin on the same manufacturer's commercial shipments of all models during the current review period or, if the manufacturer has no commercial shipments during that period, during the most recent review period in which such shipments occurred. If there were no commerical shipments during prior review periods, the Department will apply to such non-commercial shipments during the current period the highest weighted average margin for commercial shipments of any other manufacturer during the current or, if necessary, the most recent review period (see 47 FR 3578), 13023).

During this review period manufacturers or exporters transferred 39 television receiver units to unrelated U.S. parties as samples of or for testing purposes. In addition, the manufacturers and exporters report that they are unable to account for 54 additional units not entered for resale, which we assume to have been transferred to unrelated parties. We have determined the margins on these sets in the manner described above.

We found that one Japanese firm, Anita International, exported shipments of television receivers not suited for use in the United States and intended for exportation. The response indicates this firm had no sales in the home market nor to countries other than the United States. Therefore, the Department used, as the most reasonable way to estimate the foreign market value and U.S. price of these shipments, the weighted average margin found for the manufacturer of the exporter's merchandise.

United States Price

In calculating United States price the Department used purchase price or exporter's sales price, as defined in section 772 of the Tariff Act, as appropriate. For certain exporters the Department used purchase price for some sales and exporter's sales price for others.

A. Purchase Price

Purchase price was used as the basis for the United States price where the first sale to an unrelated U.S. purchaser was made before the date of importation of the merchandise. In the case of General and Nippon Electic Co., Ltd. ("NEC"), purchase price was calculated on the basis of the delivered price to unrelated purchasers in the United States, with deductions, where applicable, for ocean freight, insurance, U.S. import duty, bank charges, and inland freight and brokerage fees in the U.S. and Japan. In the cases of Matsushita Electric Industrial Co., Ltd. ("MEI"), Sanyo Electric Co., Ltd. and Otake Trading Co., Ltd., purchase price was calculated on the basis of the F.O.B. price to unrelated U.S. customers, less shipping charges, inland freight and brokerage charges in Japan, and commissions to unrelated parties, as applicable. In all cases, an addition to purchase price, in accordance with section 772(d)(1)(C) of the Tariff Act, was made for the amount of the Japanese commodity tax not collected because of exportation of the merchandise to the United States.

B. Exporter's Sales Price

Exporter's sales price was used as the basis for the United States price where the first sale to an unrelated U.S. purchaser was made after the date of importation of the merchandise. Exporter's sales price was used for merchandise exported by Mitsubishi Electric Corporation ("MELCO"), MEI, NEC, Sharp Corporation, and Victor Company of Japan ("VCJ"), and was calculated on the basis of the delivered price in the United States to unrelated purchasers.

We deducted from the delivered price, where applicable, cash, trade, and volume discounts and rebates, ocean freight, insurance, U.S. and foreign inland freight, brokerage and handling charges, and U.S. import duty. In accordance with section 353.10 of the Commerce Regulations, deductions were also made for costs incurred in selling the merchandise in the United States. These costs included expenses for credit, advertising assumed on behalf of customers, warranty, sales promotion, sales commissions to unrelated parties, and other operating and selling expenses incurred in the United States. A further deduction was made, where applicable, for the amount of increased value resulting from further assembly of the imported merchandise after importation but before sale to the unrelated United States purchaser. In all cases, an addition to the net exporter's sales price was made for the amount of the Japanese commodity tax not collected because of exportation of the merchandise to the United States.

Foreign Market Value

In calculating foreign market value the Department used the home market price of such or similar merchandise, the sales price for exports to a country other than the United States, or the constructed value of the exported merchandise, in accordance with sections 773 (a), (b), and (e) of the Tariff Act. The sales price for exports to the country other than the United States (Canada) was used for one seller which reported no home market sales. Constructed value was used in those instances where there were insufficient sales in the home market of such or similar models at prices greater than the cost of production.

A. Home Market Price

Home market price was used as the basis of comparison for all sales by The General Corporation, MEI, NEC, and Sanyo and certain sales by MELCO, VCJ, and Sharp. Home market prices were based on the delivered price to home market customers with deductions for inland freight, discounts, and rebates. Adjustments were made, where applicable, for the costs of advertising, commissions to unrelated parties, warranty, credit, sales promotion, and certain other rebates paid to subsequent purchasers, in accordance with section 353.15 of the Commerce Regulations.

For ESP comparisons, adjustments were also made for actual selling expenses incurred in the home market up to the amount of the selling expenses incurred in the United States market. Adjustments to home market price were also made for differences in physical characteristics, in accordance with section 353.16 of the Commerce Regulations, and for differences in royalties and packing costs.

B. Sales Price for Exportation to Countries Other Than the United States

In the case of Otake the Department used, as a basis of comparison, the F.O.B. sales price for exports to a country other than the United States (Canada) because there were no sales in the home market. Otake is the exclusive seller of televisions produced by Orion Denki, Ltd. Deductions were made from the price to Canada for shipping charges and commissions to unrelated parties. We also made an adjustment for differences in physical characteristics, where applicable.

C. Constructed Value

In the case of MELCO, VCJ and Sharp we used the constructed value of the exported merchandise for certain models where there were insufficient sales above the cost of production of such or similar merchandise in the home market. We calculated constructed value to be the sum of the cost of materials and fabrication of the merchandise, general expenses not less than 10 percent of the cost of materials and fabrication, profit not less than 8 percent of the sum of materials, fabrication, and general expenses, and the cost of all containers and coverings used to pack the merchandise ready for shipment to the United States.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that for the period from April 1, 1980 through March 31, 1981, the following margins exist:

Manufacturer/exporter[1]	Margin (percent)
Anita	0
Denki Onkyo	[2] 0.53
General	0
Gulraj	0.53
Hitachi	[2] 0.16
Kaga Denshi	0.53
Kogeln	[2] 0.53
MEI	0
MELCO	[2] 0.53
NEC	0.42
Nissei Sangyo	[2] 0.16
Originel	[2] 0.53
Otake	0.03
Sankei	0.53
Sanyo	0
Sharp	0
Toshiba	[2] 0
VCJ	0.17

[1] Not listed are those 3 manufacturers whose exportations consisted solely of merchandise found to be outside the scope of the finding.
[2] No commercial shipments during the review period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries during the time period involved. Individual differences between United States price and foreign market value may vary from the percentage started above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required on all shipments of Japanese television receiving sets from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. The Department waives the deposit requirements for Hitachi, NEC, Nissei Sangyo, Otake and VCJ since the margins for these firms are *de minimis* for deposit purposes. For future entries of any shipment from a new exporter not covered in this or prior reviews, whose first shipments occurred after March 31, 1981 and who is unrelated to any reviewed firm, a cash deposit of 0.53 percent shall be required. These deposit requirements and waivers shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: August 12, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-22616 Filed 8-17-83; 8:45 am]
BILLING CODE 3510-25-M

Television Receiving Sets, Monochrome and Color, From Japan; Tentative Determination To Revoke in Part Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Tentative Determination to Revoke in Part Antidumping Finding.

SUMMARY: The Department of Commerce has tentatively determined to revoke the antidumping finding on television receiving sets, monochrome and color, from Japan with respect to five manufacturers.

EFFECTIVE DATE: August 18, 1983.

FOR FURTHER INFORMATION CONTACT: Michael A. Hudak, Stephen F. Munroe, or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Tentative Determination

We hereby publish notice of the Department's intent to revoke tentatively the antidumping finding on television receiving sets from Japan with regard to Matsushita Electric Industrial Co., Ltd. ("MEI"), Nippon Electric Co., Ltd. ("NEC"), Sanyo Electric Co., Ltd., Sharp Corporation, and Victor Company of Japan ("VCJ").

The Department, by regulation, provides two stages for a revocation proceeding. The first stage is tentative revocation, which merely announces that the Department is considering a revocation and gives all parties and the public an opportunity to submit comments and evidence either in writing or at a hearing. The tentative revocation serves no additional purpose except to set the effective date for the entries which will be covered if a final revocation is eventually approved.

The second stage is either (1) final revocation, which lifts the finding and permits entry of the previously covered product without the restrictions of a finding, or (2) withdrawal of the tentative revocation, which leaves the finding in place. A final revocation would not occur until the Department satisfied itself that (1) all Japanese television receiving sets from these firms entered up to the date of this notice were sold at not less than fair value *and* (2) there is no likelihood of resumption of sales at less than fair value by these firms.

A final revocation could not be issued until administrative reviews had been completed on imports of television receiving sets from April 1, 1981 through the date of this notice. If this revocation is made final it will apply to entries of this merchandise produced and sold by these 5 firms and entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

In evaluating the requests for tentative revocation, we have reviewed

a large volume of data including: (1) information on recent Japanese domestic television production and investment; (2) current pricing trends for U.S. imports of Japanese television receiving sets; (3) European Communities' market restrictions on the importation of such sets; and (4) the emergence of Taiwan and Korea as significant television set producers and exporters, with the consequence impact on prices in international markets. This information is disturbing. However, the five companies have met the minimum requirements for our publishing this tentative determination to revoke in part. We intend to continue evaluating such factors in making any decisions in the future on these tentative determinations. The decision to revoke tentatively should not be understood as any indication of the final decision of the Department on revocation. That decision will be reached only after the most careful consideration of relevant information.

Interested parties may submit written comments on this tentative determination to revoke in part within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the results of its analysis of any comments received in writing or at a hearing on this tentative determination to revoke in part.

Background

The Department published in the Federal Register on June 5, 1981 (46 FR 30163–7) the final results of its initial administrative review of the antidumping finding concerning television receiving sets from Japan (36 FR 4597, March 10, 1971) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review and separately announced the preliminary results.

During the review the Department received applications from 10 manufacturers and exporters of the merchandise requesting revocation of the finding pursuant to section 353.54(b) of the Commerce Regulations.

Six of these, MEI, NEC, Sanyo, Sharp, VCJ, and Mitsubishi Electric Corporation ("MELCO"), requested revocation on the basis of making all sales at not less than fair value, or sales resulting in *de minimis* weighted average margins, during the period April 1, 1979 through March 31, 1981. As provided for in section 353.54(e) of the Commerce Regulations, each of these firms has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding with respect to their individual firms if circumstances develop which indicate that merchandise thereafter imported into the United States is being sold by them at less than fair value.

Since the Department has found that, with the exception of MELCO, these companies made all sales at not less than fair value, or only with *de minimis* weighted average margins, for the 2-year period from April 1, 1979 through March 31, 1981, we tentatively determine to revoke this finding with respect to importations of television receiving sets manufactured and sold by MEI, NEC, Sanyo, Sharp, and VCJ. With regard to MELCO, the Department found sales at less than fair value during the current review period. Therefore, we are denying at this time the application for revocation with respect to this firm.

A seventh firm, The General Corporation also requested a revocation and submitted the written agreement provided for by section 353.54(e) of the Commerce Regulations.

Since the Department found that General sold the merchandise at less than fair value during the previous review period, we are denying at this time the application for revocation with respect to this firm.

Of the three remaining firms, Hitachi, Ltd. and Toshiba Corporation requested revocation on the basis of all sales at not less than fair value, or only *de minimis* weighted average margins, during the period April 1, 1979 through March 31, 1980, and no commercial shipments of the merchandise during the period April 1, 1980 through March 31, 1982. These firms have also submitted the agreements provided for by section 353.54(e) of the Commerce Regulations.

The Department does not consider non-commercial disposals (gifts, samples, etc.) shipments for purposes of determining whether revocation is warranted under section 353.54 of the Commerce Regulations (see 47 FR 13022, March 26, 1982). Therefore, we have found that Hitachi and Toshiba had no shipments, for purposes of possible revocation, for the period April 1, 1980 through March 31, 1981. The Department has not yet reviewed the period subsequent to March 31, 1981, and therefore we are denying at this time the applications for revocation with respect to these firms.

Crown Radio Corporation also requested revocation on the basis of no shipments for a period in excess of 4 years, but since the Department has as yet reviewed only 2 years, during which we have found no shipments by Crown, we are denying at this time the application for revocation with respect to this firm.

This tentative determination to revoke in part is in accordance with section 751(c) of the Tariff Act (19 U.S.C. 1675(c)) and section 353.54 of the Commerce Regulations (19 CFR 353.54).

Dated: August 12, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-22617 Filed 8-17-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council; Public Comments on Foreign Fishing Applications

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Opportunity for Public Comments on Foreign Fishing Applications Received by the Mid-Atlantic Fishery Management Council.

SUMMARY: The Mid-Atlantic Fishery Management Council was established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended). As required by the Act, Section 204(b)(5), the Council announces that the public may comment on any and all foreign fishing applications received by the Coucil on or before September 6, 1983.

The Council's staff will be available between 9 a.m. and noon on September 6, 1983, to receive comments, which may be made in person at the Council's Headquarter's Office, Federal Building, Room 2115, 300 South New Street, Dover, Delaware, between the above-stated hours. In addition, written comments must be mailed in time to be received and reviewed by the Council, on September 5, 1983.

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: August 15, 1983.

Ann D. Terbush,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-22756 Filed 8-17-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Requesting Public Comment on Decision To Change the Category Classification for Certain Man-Made Fiber Vests

August 15, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: To prevent circumvention of the terms of the bilateral agreements concerning cotton, wool, and man-made fiber textile and apparel products, the Government of the United States has decided that, effective on October 1, 1983, man-made fiber vests with attachments for sleeves which are classified in T.S.U.S.A. numbers 379.3331 and 379.9636 will be included in Category 634 (men's and boys' man-made fiber coats). Man-made fiber vests with attachments for sleeves in T.S.U.S.A. numbers 383.2351 and 383.9267 will be included in Category 635 (women's, girls' and infants' man-made fiber coats).

SUMMARY: A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 19924).

The purpose of this notice is to advise the public of the decision to take this action with effect from October 1, 1983 for merchandise exported on and after date. Accordingly, the letter published below from the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to implement the action.

Any party wishing to comment or provide data or information regarding this action is invited to submit such comments or information in ten copies to Walter C. Lenahan, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 533(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lehahan,

Chairman, Committee for the Implementation of Textile Agreements.

August 15, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commisssioner: To facilitate implementation of the bilateral agreements concerning imports of cotton, wool, and mand-made fiber textiles and apparrel, I request that, effective on October 1, 1983 and until further notice, you include man-made fiber vests with attachments for sleeves, exported on and after October 1, 1983, in T.S.U.S.A. numbers 379.3331 and 379.9636 in Category 634 and T.S.U.S.A. numbers 383.2351 and 383.9267 in Category 635. Merchandise in these T.S.U.S.A. numbers which is entered into the United States for consumption, or withdrawn from warehouse for consumption, should be charged, as applicable, to the levels of restraint established for Categories 634 or 635.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 533.

This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-22754 Filed 8-17-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Request Form the Alumax Pacific Corp., For Extension of Deadline on Submitting Notice of Intent To Place Load on Bonneville Power Administration and Request for Public Comment

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice and request for comments.

File No.: Alx-1.

Responsible Official: Thomas M. Noguchi.

SUMMARY: The Alumax Pacific Corporation (Alumax) holds a contract with the Bonneville Power Administratin for delivery of power to the corporation's proposed aluminum reduction plant to be located in Umatilla, Oregon. Under the terms of the contract, Alumax must notify BPA by October 1, 1983, if it wishes to eventually receive power for the Umatilla plant. Alumax has requested an extension of that October 1, 1983, deadline to October 1, 1985. BPA is considering its response and requests comments from the public on this matter.

DATES: Comments will be accepted through September 12, 1983. Written comments must be postmarked by that date. Oral comments may be submitted by telephone through September 12, 1983, to the Public Involvement office at the numbers below.

ADDRESSES: Submit written comments to Ms. Donnal L. Geiger, Public Involvement Manager, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. Geiger, Public Involvement Manager, at the above address, 503-230-3478. Oregon callers may use 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800-547-6048.

Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503-230-4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503-687-6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Monatana 59801, 406-329-3860.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206-442-4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

Mr. Frederic D. Rettenmund, Boise District Manager, Owyhee Plaza Suite 245, 1109 Main Street, Boise, Idaho 83707, 208-334-9138.

SUPPLEMENTARY INFORMATION:

I. Background

Alumax holds a 20-year power sales contract with BPA executed in accordance with the Pacific Northwest Electric Power Planning and Conservation Act of 1980 (Regional Act). The contract is designed to provide electricity for an aluminum reduction plant Alumax proposed to build and operate in Umatilla, Oregon.

Under the terms of the contract, Alumax must commit itself to receive power under the contract by October 1, 1983. Thereafter, Alumax must give BPA months' prior written notice of the date on which it expects to begin commercial operation of the facility. This latter "Date of Commercial Operation" must occur between July 1, 1987, and December 5, 1989. The Alumax Contract Demand is 320 megawatts, of which 240 megawatts is a firm obligation of BPA for purposes of both resource planning and operation. For the long term, after plant startup, Alumax would receive power on the same basis as the other direct-service industries; and its contract would terminate on the same date, June 30, 2001. Additionally, the Alumax contract sets forth criteria for plant energy efficiency and development of waste heat recovery and conservation measures.

On July 25, 1983, Alumax asked BPA to delay the October 1, 1983, "Startup Commitment" to October 1, 1985. Alumax stated that it did not seek postponement of the July, 1, 1987, through December 5, 1989, period in which the plant would be expected to go into full commercial operation. Only the date on which Alumax would commit itself to receiving any power at all under the contract would be delayed.

II. History of Alumax Contracts

The contract under which BPA would provide power for the proposed Alumax plant has a long history. BPA originally signed a contract in 1966 with Northwest Aluminum for service to a site near Port Angeles, Washington. The site of the proposed plant changed several times. In 1974, Northwest Aluminum sold its interests in the project to the Amax-Pacific Corporation, later renamed Alumax-Pacific. Alumax proposed the Umatilla site. BPA then signed a new contract with Alumax, terminating in 1986, consistent with the original contract.

In 1975, the U.S. District Court ruled in *Port of Astoria* v. *Hodel*, Aff'd., 595 F. 2d 467 (9th Cir. 1979), that, while the new contract with Alumax was valid, it was unenforceable pending preparation and acceptance of a final Environmental Impact Statement (EIS) on the impacts of serving the plant and related facilities. BPA prepared an EIS on serving the Alumax plant, as well as a related EIS on the role of BPA in the Northwest's power supply system (Role EIS). The Alumax EIS was circulated for public review and comment in 1977 along with the Role EIS. The latter was substantially revised in light of comments received. A revised Role EIS draft was issued for public review and comment in 1980. The final Alumax EIS was filed with the Environmental Protection Agency on June 15, 1981, after completion of the final Role EIS. BPA published its Record of Decision on the Alumax contract in the **Federal Register** on September 25, 1981 (46 FR 47251).

Meanwhile, on December 5, 1980, the Regional Act became law. Together, Sections 5(d) and 5(g) of the Regional Act required BPA to offer long-term power sales contracts to the agency's existing direct-service industrial customers, including Alumax. Section 5(d)(4)(C)(i) of the act specified that, "where a new contract is offered * * * to any existing direct service industrial customer which has not received electric power prior to the effective date of this Act * * * electric power delivered under such new contract shall be conditioned on the Administrator [BPA] reasonably acquiring * * * sufficient resources to meet * * * the load requirement of such customer."

BPA offered and Alumax signed a contract in 1981 to deliver power to the company from the time of commercial operation of the plant until the contract would expire in 2001. In accordance with Section 5(d)(4)(C)(i) of the Regional Act quoted above, BPA determined that it could reasonably acquire resources, if necessary, to serve the firm portion of the Alumax load (240 megawatts). BPA now forecasts that it will have a surplus of resources through the end of this decade.

The contract specifies that Alumax must select a date to begin commercial operation not earlier than July 1, 1987, and not later than December 5, 1989. Thus, the commitment of delivery to Alumax is limited to a period of 11 to 14 years. The duration of this commitment of delivery would not be changed by acceptance of Alumax's present request.

III. Alumax Building Plans Deferred

On January 25, 1983, Alumax announced to the press that it would indefinitely defer its plans to build the proposed aluminum reduction plant at Umatilla, Oregon. Alumax cited rising power costs as a cause of the deferral. At that time, Alumax indicated that it would probably seek postponement of the October 1, 1983, deadline, which has now been requested.

IV. Potential Impacts of the Alumax Request on BPA

Since Alumax has indefinitely deferred construction of its aluminum reduction plant, the load of that plant is not included in BPA's July 1983, 20-year baseload forecast, nor is that load assumed in the forecast used in BPA's 1983 wholesale rate adjustment process, as brought in by supplemental testimony. The request by Alumax to extend the deadline for committing itself to receive power from BPA has implications for both short- and long-term BPA load and resource planning.

The year-to-year use of the Northwest's hydroelectric sysytem is planned on a multi-year basis by BPA and other parties to the Pacific Northwest Coordination Agreement of 1964 (Coordination Agreement). BPA will need up to 49 months' prior notice of imposition of the Alumax load in order to include that load in planning use of its hydroelectric and other resources under the Coordination Agreement. BPA may consider modifying the notice of provisions of the Alumax contract to accomplish this purpose, should BPA respond positively to Alumax's request.

The implications of Alumax's request on BPA's long-term forecasting revolve around the duration and possible uses of BPA's and the Northwest's current firm power surplus.

BPA now forecasts that it will have surplus firm power through 1989. After that time, additional resources will be needed to meet projected loads.

BPA is pursuing sale of its surplus resoruces based on its current forecast (i.e., without the Alumax load). The extent and duration of the period of surplus could be affected by imposition of the Alumax load; or, conversely, the availability of power to serve Alumax or the need for new resources to serve loads could be affected by surplus power sales arrangements. Actual impacts of the presence or absence of the Alumax load on future resource planning or generation acquisition would depend on the status of BPA's loads, resources, forecast, and surplus sales arrangements when Alumax commits itself to impose the load on BPA or finally relinquishes its contract.

V. Public Comments Requested

BPA requests comments from the public on Alumax's request to delay its "startup commitment" date. BPA specifically requests comments on:

—What response BPA should give to Alumax's request, and,

—Any appropriate contract changes BPA might require if it agrees to extend the October 1, 1983, commitment deadline.

BPA must respond to Alumax's request prior to the October 1, 1983, deadline now specified in the contract. BPA therefore requests that interested members of the public submit their comments as quickly as possible, and no later than September 12, 1983.

BPA will endeavor to meet with any all interested parties who would like to discuss this issue in person. To arrange such a meeting, contact your local BPA Area or District Manager, or the Public Involvement office at the locations listed above.

VI. National Environmental Policy Act Compliance

The Alumax EIS completed by BPA and filed with the Environmental Protection Agency in 1981 contains an analysis of the "no action" alternative, under which Alumax would place no load on BPA. It also contains thorough analysis of the implications of the Alumax load on BPA's load and resource planning. BPA will refer to this final EIS and the related Alumax Record of Decision in considering its response to the deadline extension requested by Alumax.

Issued in Portland, Oregon, on August 15, 1983.

James J. Jura,

Acting Administrator.

[FR Doc. 83-22894 Filed 8-17-83; 10:50 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Department of Energy (DOE) notices of proposed collections under review will be published in the **Federal Register** on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a list of the DOE proposals sent to OMB for approval since Friday, July 22, 1983. The listing does not contain information collection requirements contained in regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and (9) A brief abstract describing the proposed collection.

DATES: Last Notice published Friday July 22, 1983.

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Ave., NW., Washington, DC 20585, (202) 252-2308

Jefferson B. Hill, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7340

Vartkes Broussalian, Federal Energy Regulatory Commission Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-3087

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer; as shown in "For Further Information Contact." If you anticipate commenting on a form, but find that time to prepare these comments will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., August 12, 1983.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

DOE Forms Under Review at OMB

Form No. (1)	Form title (2)	Type request (3)	Response frequency (4)	Response obligation (5)	Respondent description (6)	Estimated number of respondents (7)	Annual respondent burden (8)	Abstract (9)
EIA-64A	Annual report of the Origin of Natural Gas Liquids—Production.	Extension	Annual	Mandatory	Natural gas processing plant operators.	975	5,753	Estimates natural gas liquids production and reserves by area of the U.S., and for input to EIA publication, "U.S. Crude Oil and Natural Gas Reserves," and the "Natural Gas Annual."

[FR Doc. 83-22753 Filed 8-17-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. QF83-365-000]

Aquenergy Systems Inc.—Apalache, Application for Commission Certification of Qualifying Status of a Small Power Production Facility

August 12, 1983.

On July 25, 1983, Aquenergy Systems Inc. of P.O. Box 8991, Greenville, South Carolina, 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 regulations.

The 400 kilowatt hydroelectric facility will be located near the South Tyger River, Spartanburg County, South Carolina.

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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22645 Filed 8-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-362-000]

Aquenergy Systems Inc.—Piedmont; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

August 12, 1983.

On July 25, 1983, Aquenergy Systems Inc., of P.O. Box 8991, Greenville, South Carolina 29604, 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 regulations.

The 1,000 kilowatt hydroelectric facility will be located near the Saluda River, Greenville County, South Carolina.

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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22646 Filed 8-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-364-000]

Aquenergy Systems Inc.—Woodside II; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

August 12, 1983.

On July 25, 1983, Aquenergy Systems Inc. of P.O. Box 8991, Greenville, South Caroline 29604, 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 regulations.

The 440 kilowatt hydroelectric facility will be located near the Twelve Mile Creek, Pickens County, South Carolina.

Any person desiring to be heard or objecting to the granting of qualfying 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22647 Filed 8-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-669-000]

Arizona Public Service Co.; Filing

August 12, 1983.

Take notice that on August 8, 1983, Arizona Public Service Company (Arizona) tendered for filing as an initial rate schedule an Agreement for Sale of Energy Interchange between Pacific Gas and Electric Company (PG and E) and Arizona dated July 21, 1983.

APS requests that the Agreement become effective 60 days from the date of filing.

A copy of this filing has been served upon the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 31, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22648 Filed 8-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-367-000]

Central Plants, Inc.—Bakersfield; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

August 12, 1983.

On July 27, 1983, Central Plants, Inc., of 6055 East Washington Boulevard, Suite 830, City of Commerce, California 90040, filed with the Federal Energy Regulatory Commission (Commission) an application for cetification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The facility is located in Bakersfield, California approximately one mile northeast of the intersection of Mt. Vernon and Panarama off the Alfred Harrell Highway. The primary energy source is landfill gas generated from the anaerobic digestion by methanogenic bacteria of refuse and other solid wastes depositied in a sanitary municipal landfill. The power production capacity is 106 megawatts.

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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22649 Filed 8-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-369-000]

Central Plants, Inc.—Porterville; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

August 12, 1983.

On July 27, 1983, Central Plants, Inc., of 6055 East Washington Boulevard, Suite 830, City of Commerce, California 90040, filed with the Federal Energy Regulatory Commission (Commission) and application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The facility is located in Tulare County, California on Avenue 128 east of road 212 near the City of Porterville. The primary energy source is landfill gas generated from the anarobic digestion by methanogenic bacteria of refuse and other solid wastes deposited in a sanitary municipal landfill. The power production capacity is 500 kilowatts.

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 determing 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22651 Filed 8-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-370-000]

Central Plants, Inc.—Tujunga; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

August 12, 1983.

On July 27, 1983, Central Plants, Inc., of 6055 East Washington Boulevard, Suite 830, City of Commerce, California 90040, 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 regulations.

The facility is located in Los Angeles, California, on Tujuna Avenue between Penrose Street and Strathern Street. The primary energy source is landfill gas generated from the anarobic digestion by methanogenic bacteria of refuse and other solid wastes deposited in a sanitary municipal landfill. The power production capacity is 10 megawatts.

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 determing 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22650 Filed 8-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-368-000]

Central Plants, Inc.—Tulare; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

August 12, 1983.

On July 25, 1983, Central Plants, Inc. of 6055 East Washington Boulevard, Suite 830, City of Commerce, California 90040, 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 regulations.

The facility is located in Tulare County, California. The primary energy source is landfill gas generated from the anaerobic digestion by methanogenic bacteria of refuse and other solid waste deposited in a sanitary municipal landfill. The power production facility is 500 kilowatts.

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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22652 Filed 8-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-371-000]

Central Plants, Inc., Visalia; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

August 12, 1983.

On July 27, 1983, Central Plants, Inc., of 6055 East Washington Boulevard, Suite 830, City of Commerce, California 90040, 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 regulations.

The facility will be located in Tulare County, California, on the east side of Road 80 at Avenue 332, 10 miles northwest of the City of Visalia. The primary energy source will be landfill gas generated from the anaerobic digestion by methanogenic bacteria of refuse and other solid waste deposited in a sanitary municipal landfill. The power production capacity will be 1,000 kilowatts.

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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22653 Filed 8-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-410-000]

Consolidated Gas Supply Corp., Application

August 12, 1983.

Take notice that on July 12, 1983, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP83-410-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a short-term, combined sales and storage service for a single limited term during 1983 and 1984, under and pursuant to a proposed new rate schedule designated Rate Schedule MR in order, it is asserted to allow Applicant to regain and retain markets which have been lost or otherwise would be lost to alternative fuels. It is alleged that this program would also ameliorate the effects upon Applicant and Applicant's customers of unprecedented *force majeure* conditions experienced in the 1982-83 winter and would forestall even deeper cutbacks in the remainder of 1983. Applicant's proposals are more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the proposed Rate Schedule MR was offered to all of its traditional resale customers and that gas taken under the service would serve qualified loads (QLS), defined as end-users with the ability to consume 25,000 dt equivalent of gas *per annum* located in the traditional market territory of the resale customer which but for Rate Schedule MR service would be served by alternative fuels. It is submitted that pursuant to the terms of the rate schedule, an end user is qualified for the service if it (1) currently uses alternative fuel, (2) actually used an alternative fuel for at least 30 days since January 1, 1983, or (3) has the existing capability to use alternative fuel and alternative fuel would be consumed at a price less than the resale customer's projected applicable rate. It is indicated that the resale price is to be set by the distribution company and quantities purchased under the Rate Schedule MR would not exceed the expected annual usage of the alternative fuel.

Applicant states that it has entered into a service agreement with each purchaser and a tabulation of the quantities nominated by each participating resale customer and the quantities to be purchased by each, after proration, is appended to each such service agreement. It is explained that deliveries would be determined by mutually agreeable dispatching agreements each month. The rate schedule is proposed to expire after one year and Applicant does not plan to extend or re-offer the proposed rate schedule, it is stated.

Applicant indicates that the price for service under Rate Schedule MR is $3.2574 per dt. It is stated that this fixed rate is the sum of (a) the estimated variable costs to Applicant of purchasing gas from its pipeline suppliers; i.e., the gas cost portion of Applicant's pipeline supplier rates; (b) the cost associated with storing and delivering gas to participating resale customers, derived from the rates set forth in Applicant's Rate Schedule GSS; and (c) the GRI surcharge of $0.007 per dt. The sale of gas under the proposed rate schedule would occur within 10 days after receipt of regulatory approvals, and deliveries will commence promptly thereafter and would continue for up to one year, it is stated.

No new or additional facilities are required to effectuate the instant proposal.

Applicant states that the entire quantities of MR gas made available under the program would be sold and purchased within 10 days of receipt of regulatory approvals, and deliveries would commence promptly thereafter. As part of the service, Applicant would store quantities purchased for up to one year from the date of sale. Applicant states that about 40,000,000 dt equivalent of gas has been nominated under the program.

Applicant states that the following six of Applicant's major customers have returned executed service agreements:

Customer	Nominated quantity (dt)
Niagara Mohawk Power Corporation	7,679,892
Rochester Gas & Electric Corporation	5,993,600
National Fuel Gas Supply Corporation	321,106
The East Ohio Gas Company	21,685,170
The Peoples Natural Gas Company	1,633,389
Hope Natural Gas Company[1]	2,791,159
Total	40,104,316

[1] For purposes of this proposal, Applicant's West Virginia distribution division, Hope Natural Gas Company, is treated as a resale customer of Applicant.

Applicant originally planned to serve the MR quantities out of gas supplies made available from quantities "recalled" from cutback pipeline supplies. Applicant states that because of the large, unanticipated interest in the program and the fact that only about 12,000,000 dt of gas can be recalled from pipeline suppliers during the months of August, September, and October to render the MR service, additional quantities of gas, up to the quantities needed to serve the entire quantity nominated, can be made available for the MR service from available and scheduled supply. The use of available and scheduled supplies to the MR service could forestall further pipeline cutbacks this year, it is indicated. It is indicated that additional information on Applicant's supplier cutbacks below minimum bill levels is available in Applicant's filing in Docket No. RP83-72 filed April 6, 1983, and approved, subject to condition, by letter order issued May 11, 1983.

Applicant states that the supply necessary to serve the nominated quantities would be assigned to MR customer's storage inventory accounts and held for redelivery over the next year.

Applicant avers that its market sales have declined in recent years due to price competition from alternative fuels, conservation, the recession, and warm weather throughout the winter season of 1982–1983, to the point that Applicant's purchases from its pipeline suppliers have fallen below minimum bill levels. Applicant states that the instant proposal would enable it to serve a substantial quantity of large volume load which would otherwise almost certainly be lost to alternative fuels. Applicant asserts that its proposal would ameliorate the ill effects of its current *force majeure* and reduce the probability of increased cutbacks of pipeline supply below minimum commodity bill levels, that its customers may be able to avoid rate increases, and that its suppliers' take-or-pay payments to producers should be reduced.

Thus, Applicant submits that the services proposed to be rendered under Rate Schedule MR are required by the present and future public convenience and necessity.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 2, 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 procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22864 Filed 8-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-667-000]

Florida Power & Light Co.; Filing

August 12, 1983.

Take notice that Florida Power & Light Company (FPL), on August 8, 1983, tendered for filing a document entitled Amendment Number Three to Agreement To Provide Specified Transmission Service Between Florida Power & Light Company and City of Kissimmee (Rate Schedule No. 65).

FPL states that under Amendment Number Three, FPL will transmit power and energy for the City of Kissimmee as is required in the implementation of its interchange agreement with Seminole Electric Cooperative, Inc.

FPL requests that waiver of Section 35.3 of the Commission's Regulations be granted and that the proposed Amendment be made effective immediately.

According to FPL, copies of the filing were served on the Director of Utilities, City of Kissimmee.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 31, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22865 Filed 8-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-668-000]

Idaho Power Co.; Filing

August 12, 1983.

Take notice that on August 8, 1983, Idaho Power Company (Idaho) tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during June, 1983, along with cost justification for the rate charged. This filing includes the following supplements:

Utah Power & Light Company—Supplement 20
Montana Power Company—Supplement 18
Sierra Pacific Power Company—Supplement 18
Portland General Electric Company—Supplement 13

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 31, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22866 Filed 8-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-665-000]

Kansas City Power & Light Co.; Filing

August 12, 1983.

Take notice that on August 8, 1983, Kansas City Power & Light Company (KCP&L) tendered for filing proposed Service Schedules for Transmission and Subtransmission Service to supersede and replace Service Schedules for Transmission, Subtransmission, and Transfer Service in contracts and agreements with the following wholesale customers:

1. Board of Public Utilities, Kansas City, Kansas (BPU), FPC No. 54.
2. Empire District Electric Company (Empire), FERC No. 88.

3. Kansas Gas and Electric Company (KGE), FPC No. 34.

4. Union Electric Company (Union), FPC No. 63.

5. Associated Electric Cooperative (AEC), FERC No. 89.

6. City of Baldwin City, Kansas (Baldwin), FERC No. 85.

7. City of Carrollton, Missouri (Carrollton), FERC No. 86.

8. City of Garnett, Kansas (Garnett), FPC No. 78.

9. City of Higginsville, Missouri (Higginsville), FERC No. 92.

10. City of Independence, Missouri (Independence), FPC No. 56.

11. City of Osawatomie, Kansas (Osawatomie), FPC No. 77.

12. City of Ottawa, Kansas (Ottawa), FERC No. 90.

13. City of Slater, Missouri (Slater), FERC No. 99.

KCPL states that the proposed changes would increase revenues from jurisdictional transmission sales and service by $617,474 based on the 12-month period ending December 31, 1982. KCPL also proposes a change in the manner of recovery for the capacity and energy losses it incurs in providing Transmission and Subtransmission Services, and a change in the charge for scheduling and accounting services.

Copies of the filing were served upon KCPL's jurisdictional transmission customers, as well as the Missouri Public Service Commission and the State Corporation Commission of the State of Kansas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.215). All such motions or protests should be filed on or before August 30, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22657 Filed 8-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-666-000]

Louisville Gas and Electric Co.; Filing

August 12, 1983.

Take notice that on August 8, 1983, Louisville Gas and Electric Company (LG&E) tendered for filing pursuant to the Agreement between LG&E, The Cincinnati Gas & Electric Company (CG&E) and Tennessee Valley Authority (TVA), an amendment by Letter Agreement.

LG&E states that the purpose of this filing is to amend said Agreement to increase the transmission toll charge by LG&E for energy transactions between CG&E and TVA from the present rate of 3.65 mill per kilowatt-hour on energy furnished by TVA to CG&E and .35 mill per kilowatt-hour on energy furnished by CG&E to TVA to a proposed rate of 1 mill per kilowatt-hour on energy furnished by either CG&E or TVA. The proposed toll charge was negotiated and agreed to by the affected parties.

Copies of the filing were served upon The Cincinnati Gas & Electric Company, Tennessee Valley Authority and the Public Service Commission of Kentucky.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 30, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22658 Filed 8-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-442-000]

Michigan Wisconsin Pipe Line Co.; Application

August 12, 1983.

Take notice that on July 25, 1983, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP83-442-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a transportation service for MAPCO Fractionator, Inc. (MAPCO), and incident therewith, the construction and operation of a number of tap facilities, and for blanket authorization to add new sources of supply with the necessary tap facilities within Custer and Washita Counties, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

It is stated that MAPCO owns and operates a hydrocarbon fractionating plant located in McPherson County, Kansas. To effectuate receipt of certain gas supplies located in Custer County, Oklahoma, which MAPCO has contracted to purchase for fuel usage in the plant, Applicant states that it has agreed to assist MAPCO by providing transportation for such supplies. Applicant states that the terms and conditions of the proposed transportation are set forth in a letter agreement dated as of May 2, 1983, which provides for the transportation by it of up to 4,500 dt equivalent of natural gas per day. Applicant states that the arrangement is subject to the availability of capacity necessary to provide such service without detriment or disadvantage to Applicant's existing customers. Applicant indicates that the source and location of the receipt points where it proposes to take the gas supplies for the account of MAPCO are as follows:

Well—Location of Receipt Point

Lloyd Smith No. 1-6—Custer County, Oklahoma

LaRue No. 1-17—Custer County, Oklahoma

Vineyard No. 1-12—Custer County, Oklahoma

Applicant further states that the point where it would make redeliveries of gas to MAPCO, is at a point where an existing pipeline of MAPCO crosses Applicant's southwest transmission system in Rice County, Kansas. As consideration for providing the service, Applicant indicates that the letter agreement provides that MAPCO has agreed to pay Applicant 49.0 cents for each dt equivalent transported. Applicant further indicates that the term of the letter agreement is for a primary term of two years commencing with initial deliveries, and is extendable from year to year thereafter unless terminated by either Applicant or MAPCO.

Incident to taking receipt of the gas from MAPCO's seller, Applicant states that it further proposes to construct and operate three taps on its Custer County

gathering system, one at each of the receipt points described above. Moreover, Applicant states that a tap would be constructed and operated at the point of delivery to MAPCO to facilitate making redeliveries at the intersecting point described above. Applicant further states that the total estimated cost of the various taps is $87,020, such cost to be fully reimbursable to Applicant by a contribution in aid of construction from MAPCO.

Any persons desiring to be heard or to make any protest with reference to said application should on or before September 2, 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 wil be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22660 Filed 8-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-432-000]

Northwest Central Pipeline Corp.; Request Under Blanket Authorization

August 12, 1983.

Take notice that on July 20, 1983, Northwest Central Pipeline Corporation (Northwest Central), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP83-432-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Northwest Central proposes to abandon and reclaim metering and appurtenant facilities used to make a direct sale of gas to the City of Morrill in Brown County, Kansas, under the authorization issued in Docket No. CP82-479-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northwest Central states that in Docket No. G-15342 it was authorized to install and operate the subject metering and appurtenant facilities, to sell gas directly to the City of Morrill, Kansas, to operate a water well pump. However, Northwest Central states that it was advised by the City of Morrill that the gas service is not longer required because that pump has been switched to electricity.

Consequently, Northwest Central is proposing to abandon and reclaim a sales tap and related facilities in Brown County, Kansas, and the transportation of gas by means of such facilities. Northwest Central further states no other customer is being served through these facilities. The estimated cost to reclaim these facilities is $500 with an estimated salvage value of $130, it is submitted.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to the Section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22643 Filed 8-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-446-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Request Under Blanket Authorization

August 12, 1983.

Take notice that on July 28, 1983, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP83-446-000, a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Northern proposes to consolidate two delivery points and abandon facilities at one under the authorization issued in Docket No. CP82-401-000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern states that it would consolidate its deliveries to Iowa Electric Power and Light (Iowa Electric) in LeGrand, Iowa, delivering its total volumes for LeGrand, Iowa, at one delivery point, LeGrand TBS #1, instead of two. Northern asserts that this would permit the abandonment of facilities at the other delivery point, LeGrand TBS #2. It is stated that the consolidation would require installation of a new meter at the LeGrand TBS #1 delivery point at a cost of $5,000. It is asserted that deliveries would remain within Iowa Electric's firm entitlement and that no customers would be effected by the modification or abandonment.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22642 Filed 8-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC83-19-000]

Pacific Power & Light Co.; Application

August 12, 1983.

Take notice that on August 8, 1983, Pacific Power & Light Company, ("Pacific"), submitted for filing its "Application for Authority To Sell Utility Plant Near Portland, Oregon."

Pacific states that it proposes to sell to Crown Zellerbach Corporation a portion of three transmission lines extending from Pacific's Troutdale substation to the point of interconnection with Crown's transmission lines near the South bank of the Columbia River

Therefore, Pacific seeks an order authorizing it to sell to Crown Zellerbach Corporation approximately 5,510 feet of 69kV transmission line.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 31, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22644 Filed 8-17-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[Docket No. ECAO-CD-78-3; ORD-FRL 2418-6]

Revised Evaluation of Health Effects Associated With Carbon Monoxide Exposure: An Addendum to the 1979 EPA Air Quality Criteria for Carbon Monoxide

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability of External Review Draft.

SUMMARY: In October 1979, the U.S. Environmental Protection Agency (EPA) completed a document entitled "Air Quality Criteria for Carbon Monoxide" and made it available for use in dicision-making regarding the Agency's possible revision of the National Ambient Air Quality Standards (NAAQS) for carbon monoxide (CO). Recently, some of the then available key scientific evidence discussed in the health effects chapters of that document has been reevaluated; and several new scientific studies have been published. EPA's Environmental Criteria and Assessment Office, Research Triangle Park, NC, is preparing a draft addendum to the CO criteria document which summarizes and discusses the newly published studies and addresses the re-evaluation of some of the previous scientific evidence bearing on the health effects of CO.

This notice announces the availability to the public of an external review draft of the addendum to the 1979 Air Quality Criteria Document for Carbon Monoxide. The EPA report number assigned to the addendum is: EPA-600/8-83-033A. The comment period for the draft addendum will run from August 22, 1983 through the close of business on September 22, 1983. At its regularly scheduled meeting on September 26-27, 1983, The Clean Air Science Advisory Committee (CASAC) will discuss this draft addendum.

Those persons interested in commenting on the scientific merit of the draft addenum will be able to obtain copies as follows:

1. The draft document will be available on August 22, 1983 in single copy quantity from EPA at the following address: ORD Publications—CERI-FRN, U.S. Environmental Protection Agency, 26 West St. Clair Street, Cincinnati, OH 45268, Telephone: (513) 684-7562.

Requestors should be sure to submit their full names and addresses to CERI as post office box numbers are not acceptable. Requestors should cite EPA effort number EPA-600/8-83-033A.

2. The draft document also will be available for public inspection and copying at the EPA Library at Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

Comments must be received by close of business on September 22, 1983 in order to be considered.

Address written comments to: Project Officer for CO Addendum, Environmental Criteria and Assessment Office, MD-52, U.S. Environmental Protection Agency, Telephone: (919) 541-4173.

FOR FURTHER INFORMATION CONTACT: Ms. Diane Chappell, Environmental Criteria and Assessment Office, MD-52, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, Telephone: (919) 541-3637.

SUPPLEMENTARY INFORMATION: The Air Quality Criteria Document for Carbon Monoxide, October 1979 (EPA-600/8-79-022), is available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, Telephone: (703) 487-4650. The NTIS ordering number is PB-81-244840 and the cost is $19.00.

Dated: August 12, 1983.

Courtney Riordan,

Acting Assistant Administrator for Research and Development (RD-672).

[FR Doc. 83-22611 Filed 8-17-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 83-785; File No. BP-8110 15AC et al.]

Central Pacific Broadcasting Corp. et al.; Hearing

Hearing Designation Order

In re Applications of Central Pacific Broadcasting Corporation, Rancho Mirage, California; MM Docket No. 83-785, File No. BP-811015AC; Req: 1200 kHz, 1kW, 5 kW-LS, DA-2, U; Fred W. Volken, d.b.a. Radio San Jacinto, San Jacinto, California; MM Docket No. 83-786, File No. BP-811015AN; Req: 1210 kHz, 0.25 kW, 1 kW-LS, U; Robert A. Jones et al., d.b.a. North County Broadcasters, San Marcos, California; MM Docket No. 83-787, File No. BP-811015AO; Req: 1210 kHz, 1 kW, 10 kW-LS, DA-D, U; For Construction Permit.

Adopted: July 22, 1983.

Released: August 10, 1983.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications for a new AM broadcast station.

2. *Initial Matters:* North County Broadcasters (NCB), on December 27, 1982, timely filed an amendment to its application which purported to remove electrical conflict between its proposal and the proposals of Central Pacific Broadcasting Corporation (Central) and another.[1] In addition, NCB filed a

[1] An application of KEZY Radio, Inc., to improve the facilities of station KEZY, Anaheim, California, was initially mutally exclusive with the above applications. The electrical conflict between the above proposals and the KEZY application was removed and the KEZY application was granted March 18, 1983 (BP-810731AL).

request for approval of agreement and a settlement agreement between it and Fred W. Volken, d.b.a. Radio San Jacinto (Volken) which provided that the Volken application will be dismissed; NCB will be incorporated and Volken will purchase a 20% interest. In addition, Volken will dispose of his interest (15%) in the license of station KMLO, Vista, California. The parties also request Commission consent to the manner in which Mr. Volken will dispose of his stock; to that end an "Assignment and Agreement" has been submitted. The settlement agreement is contingent on a Commission finding that withdrawal will not unduly impede the achievement of a fair, efficient and equitable distribution of radio services among the several states and communities and that local publication to afford others the opportunity to apply for the facilities pursuant to Section 73.3525 of the Rules will not be required. In support of its contention that publication should not be required NCB asserts that San Marcos has a population of 17,479, San Jacinto has a population of 7098, and neither community has an authorized broadcast facility; therefore, according to NCB, since approval of the agreement will permit the larger community of San Marcos to receive a first broadcast service, withdrawal of the application for the smaller community will not impede the goals of Section 307(b) of the Communications Act.

3. NCB asserts that its technical amendment removes electrical conflict between its proposal and the central proposal because both proposals will furnish a first local service to their communities. According to NCB, the "respective 0.5 mV/m coutours can overlap, as long as said overlap does not extend up to the respective 1.0 mV/m contours." We do not agree. The NCB proposal will not be the first AM facility for San Marcos. An application filed by Western Radio Group for San Marcos (BP–810209AE) was cut off May 1, 1981, (Report No. B–11, released March 23, 1981) and designated for comparative hearing on March 23, 1983. See *Oceanside Radio, Inc.*, 48 FR 13260 (1983) (MM Docket No. 83–251). Note 8 to Section 73.37 states that applications having protection under cut-off procedures will be considered existing stations. When the NCB application was filed on October 15, 1981, the Western Radio Group application was already cut off. Thus the NCB proposal is subject to the provisions of Section 73.37(a) and not 73.37(b).[2] Section 73.37(a) limits contour overlap between first adjacent channel proposals, as are these, to the 0.5 mV/m contours. NCB concedes (and our analysis confirms) that its proposed 0.5 mV/m contour will overlap the 0.5 mV/m contour of the Central proposal. Therefore, since the two applications cannot be granted because of prohibited overlap, they are mutually exclusive and a comparative hearing is required.

4. The request for approval of the NCB/Volken withdrawal agreement without affording other persons the opportunity to apply for the facilities cannot be granted. NCB's analysis of the 307(b) question may be correct, but is, as of now, unfinished. In deciding between two first service communities, the Commission takes into account not only the population of each community, but the number of aural services each community receives. See *Country Radio Broadcasting, Inc.*, 27 F.C.C. 2b 569 (Rev. Bd. 1970); *Outer Banks Radio Co.*, 13 F.C.C. 2d 948 (Rev. Bd. 1968). The reason for this is that the larger community may be in an area very well served by many received signals, whereas the smaller community might receive only a few signals and consequently would need the additional service more. In the case before us, San Marcos is a community in the San Diego area, presumably well served, while San Jacinto is located in an area of California considerably more remote. NCB has not supplied the Commission with the number of services each community receives. Therefore, we are not able to determine whether the withdrawal of the San Jacinto application will unduly impede the objectives of Section 307(b). See *Mobile Broadcasting Service, Inc.*, 52 RR 2d 670 (1980). Thus we must deny the request for approval of agreement. The settlement agreement and the "Assignment and Agreement" will be returned to NCB. We also note that the withdrawal agreement and the amendment purporting to remove the conflict between NCB and Central were filed at the same time and may have been intended to be a complete "package" resolving all mutual exclusivity among the three applicants.[3] However, the amendment did not remove the conflict, and approval of the settlement agreement and the "Assignment and Agreement" may no longer be the wish of the parties. Therefore, we are designating all parties for comparative hearing. If approval of the settlement agreement is still desired, a determination as to whether republication is necessary will be made by the presiding Administrative Law Judge upon resubmission of the agreements by the parties along with sufficient information demonstrating that grant of the dismissal request will not unduly impede the goals of Section 307(b) of the Communications Act.

5. *Local Public Notice:* Applicants for new broadcast stations are required to give local notice of the filing of their applications in accordance with § 73.3580 of the Commission's Rules. They must then file proof of such notice or certify that they have or will comply with the public notice requirement. We have no evidence, however, that Central Pacific Broadcasting and North County Braodcasters have done either. If they have not already done so, they will be required to give local public notice and to file a statement that they have complied with the public notice requirement with the Administrative Law Judge within 30 days of the release of this Order or an appropriate issue will be specified by the Judge.

6. *Environmental Impact Information.* The proposals of Central, Volken and NCB constitute major environmental actions as defined by § 1.1305 of the Commission's Rules, and these applicants are required to submit the environmental impact information described in § 1.1311. The environmental narrative statements submitted by these applicants, however, did not contain all of the required information.[4] Consequently, we can not

[2] Even if its proprosal were for a first AM facility for San Marcos it would not be eligible for consideration pursuant to Section 73.37(b); that Rule generally limits consideration to first AM facility proposals for communities outside urbanized areas or to communities wholly or partly within urbanized areas provided the proposed community has a population of 25,000 or more. For purposes of the Rule an urbanized area is an incorporated place of at least 50,000 population along with the adjacent densely settled territory surrounding it. See *Amendment of Section 73.37 of the Commission's Rules Concerning Applicotions for New AM Stations*, FCC 83–258, released June 7, 1983. San Marcos has a population of 17,479 (1980 Census) and is located within the San Deigo urbanized area (San Diego has a population of 875,538). Thus, since San Marcos does not have the 25,000 population required by § 73.37(b), the NCB proposal must be considered pursuant to § 73.37(a).

[3] The cover letter to the NCB December 27, 1982, amendment states that the purpose of the amendment is to eliminate mutual exclusivity and the necessity for a hearing. The consulting engineer's statement contained in the amendment notes that the Volken application will be no bar to grant of the NCB application because it will be dismissed.

[4] The environmental statement submitted by Central did not contain information concerning the access roads and power lines to its proposed site as required by § 1.1311(a)(2); the statement submitted by Volken did not contain information concerning the access roads, power lines, zoning classification and whether the proposal has been a source of controversy in the local community as required by §§ 1.1311(a) (2), (3) and (4) of the Rules; the statement submitted by NCB did not contain information concerning the access roads and power lines as required by § 1.1311(a)(2) of the Rules.

determine whether grant of the applications will have a significant effect on the quality of the human environment. Accordingly, Central, Volken and NCB will each be required to file within 30 days of the release of this Order amended environmental narrative statements with the presiding Administrative Law Judge. In addition, a copy shall be filed with the Chief, Audio Services Division, who will then proceed regarding this matter in accordance with the provisions of § 1.1313(b). Section 1.1317 of the Rules is waived to the extent that the comparative phase of the case will be allowed to begin before the environmental phase is completed. See *Golden State Broadcasting Corp.*, 71 F.C.C. 2d 229 (1979), *recon denied sub nom. Old Pueblo Broadcasting Corp.*, 83 F.C.C. 2d 337 (1980).

7. *Central Pacific Broadcasting Corporation:* Section 73.1125 of the Commission's Rules requires, among other things, that each AM broadcast station maintain a main studio in the station's principal community which it is licensed to serve except that an AM station may locate its main studio at its transmitter which is situated outside the station's principal community of license. We cannot determine from the information submitted if Central's proposal conforms to § 73.1125 of the Rules. Central must submit to the Administrative Law Judge, within thirty days of the release of this Order, sufficient information to demonstrate its compliance with the Rule or an appropriate issue will be specified by the Judge.

8. Section 73.24(g) of the Commission's Rules requires that the population within the proposed 1000 mV/m contour not exceed 1% of the population within the 25 mV/m contour except where the number of persons within the 1000 mV/m contour is 300 or less. We cannot determine from the information submitted if Central's proposal conforms to § 73.24(g) of the Rules. Central must submit, to the Administrative Law Judge, within thirty days of the release of this Order, sufficient information to demonstrate its compliance with § 73.24(g) of the Rules or an appropriate issue will be specified by the Judge.

9. On May 11, 1983, Central filed a petition for leave to amend and an amendment. The amendment contains a financial certification as required by the new FCC Form 301. The new Form 301 became effective December 2, 1981. See *Revision of Form 301*, 50 RR 2d 381 (1981). Previously, when applications had been filed using the 1977 version of the form and applicants had not demonstrated their financial qualifications, they had been permitted to certify their financial qualifications as required on the new 301 Form. See *Minority Broadcasters of East St. Louis, Inc., et al.*, 52 RR 2d 687 (1982). Recently, however, this policy, initially promulgated pursuant to delegated authority by the Chief of the Broadcast Bureau, was overturned by the Commission. See *South Florida Broadcasting Company, Inc., et al.*, FCC 83-265, released June 2, 1983 (BC Docket No. 82-731-742). In *South Florida*, the Commission determined that the East St. Louis policy misapplied the certification procedure in a manner inconsistent with its intent. The Commission stated that "when an applicant submits insufficient information to demonstrate its financial qualifications, a substantive and material question of fact arises" and "[t]he subsequent submission of a certification by the applicant is not sufficient to resolve the factual issue the applicant itself has raised by its prior submission of specific and inconsistent information." Thus, questions concerning an applicant's financial qualification that arose through the use of the 1977 FCC Form 301 can only be resolved by full documentation as required by that form and not by certification. Central's application was filed using the old form which shows construction costs and first three months operation will cost $237,520. To cover these costs Central has a $150,000 bank loan commitment from the Merchants National Bank and, in addition, asserts that McMartin Industries will finance quipment costing $208,420. No documentation has been submitted to demonstrate McMartin's commitment to finance the equipment; therefore, Central will be given no credit for the $208,420. Since construction costs and first three months operation are estimated by Central to be $237,520, and Central has only demonstrated the availability of $150,000, a financial qualification question is raised. We must deny Central's petition for leave to amend; its amendment containing certification of its financial qualifications will be returned. A limited financial issue will be specified.

10. *Fred W. Volken d/b/a Radio San Jacinto:* Volken is 15% stockholder of the licensee of Station KMLO, Vista, California. The 1mV/m contour of the proposed San Jacinto station and the 1 mV/m contour of KMLO will overlap in violation of § 73.35(a) of the Rules. Volken has stated he will sell the 15% interest to finance the construction of the new facility. We will place an appropriate condition on the construction permit, should the Volken application be granted, to require divestiture of the interest prior to grant of program test authority.

11. *North County Broadcasters:* Scott L. Smith, one of four general partners of NCB, is vice president and director of Family Stations, Inc., a non-profit, noncommercial corporate licensee of various broadcast stations, two of which are relevant here. Station KECR(FM), El Cajon, California, and station KFRN, Long Beach, California, are both within 100 miles of the proposed NCB station at San Marcos. It appears that the proposal does not conform to § 73.35(a) of the Rules in that the 1 mV/m contours of Station KFRN and the proposed station will overlap. In addition, the proposed station will be within 100 miles of the other two stations, and there is primary service contour overlap in conformance with § 73.35(b). NCB has requested a waiver of the Rules; it asserts that Mr. Smith would not have *de jure* or *de facto* control of any one of the stations and, in addition, according to NCB, the AM stations will not be "competitive". NCB further states that if the Commission determines that waiver of the Rules is not in the public interest, Mr. Smith will terminate all connections with KFRN. We cannot determine from the record if waiver of the Rules is warranted; therefore, an appropriate issue will be specified.

12. NCB filed its application on the 1977 FCC Form 301 which shows that $101,445 will be required to construct the station and operate for three months. To cover these costs NCB has a loan commitment of $30,000 from its general partner, Scott L. Smith, and, in addition, asserts that it has a commitment from Masters Equipment Leasing Corporation to lease equipment in the amount of $81,000 for a term of seven years. No documentation was submitted demonstrating the equipment lease commitment, and no credit can be accorded to NCB for the equipment. Thus, since NCB estimates it will cost $101,445 to construct and operate the station for three months and can demonstrate the availability of only $30,000, it has not shown it is financially qualified. A limited financial issue will be specified.

13. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed.[5] However, since the

[5] Operation with the facilities specified herein is subject to modification, suspension or termination without right to hearing, is found by the Commission to be necessary in order to conform to the Final Acts of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. Although the applications are for different communities, they would serve substantial areas in common. Therefore, in addition to an issue to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will be specified.

14. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrtive Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, in light of paragraph 9, above, whether Central is financially qualified to construct the station and operate as proposed.

2. To determine, in light of paragraph 12, above, whether NCB is financially qualified to construct the station and operate as proposed.

3. To determine, with respect to the NCB proposal, whether waiver of § 73.35 of the Commission's Rules is warranted.

4. If a final environmental impact statement is issued with respect to the proposals of Central, Volken or NCB which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment,

(a) to determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by Sections 1.1301–1319 of the Commission's Rules; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

5. To determine the areas and populations which would receive primary service for each proposal, and the availability of other primary aural services to such areas and populations.

6. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service.

7. To determine, in the event it is concluded that a choice among the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

8. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications, if any, should be granted.

15. It is further ordered, That the NCB request for approval of agreement is denied and the settlement agreement and the "Assignment and Agreement" will be returned to the applicant.

16. It is further ordered, That Central and NCB comply with the local notice requirements of Section 73.3580 of the Commission's Rules, if they have not done so, and certify as to compliance with the Administrative Law Judge within thirty (30) days of the release of this Order.

17. It is further ordered, That Section 1.1317 of the Commission's Rules is waived to the extent indicated herein. Within 30 days of the release of this Order, Central, Volken and NCB shall submit the environmental impact information as set out in Paragraph six (6), above, and required by Section 1.1311 of the Rules, to the presiding Administrative Law Judge, with a copy to the Chief, Audio Service Division.

18. It is further ordered, That the Petition for Leave to Amend filed by Central is denied and the amendment contained therein will be returned to the applicant.

19. It is further ordered, That Central shall file with the Administrative Law Judge, within thirty (30) days of the release of this Order, sufficient information as set out in paragraphs seven (7) and eight (8), above, to demonstrate its proposals conforms to Sections 73.1125 and 73.24(g) of the Commission's Rules.

20. It is further ordered, That the construction permit for the Volken application, if it should be granted, shall contain the following condition:

Before program test authority (PTA) is granted, Fred W. Volken shall divest himself of any interest in Station KMLO, Vista, California.

21. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to Section 1.221(c) of the Commission's Rules, the applicants shall, within 20 days of the mailing of this Order, in person or by attorney, file with the Commission, in triplicate, written appearances stating an intention to appear on the dates fixed for the hearing and to present evidence on the issues specified in this Order.

22. It is further ordered, That pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing as prescribed by the Rule, and shall advise the Commission of the publication of the notices as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-22841 Filed 8-17-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-772; File No. BPH-811021AI; et al.]

R-F Broadcasting Co. et al.; Hearing

Hearing Designation Order

In re Applications of R-F Broadcasting Company, Rockport, Texas; MM Docket No. 83-772, File No. BPH-811021AI; Req: 102.3 MHz, Channel 272A, 3 kW (H&V), 300 feet (H&V); Lori Ann Brotman, Rockport, Texas; MM Docket No. 83-773, File No. BPH-811106AO; Req: 102.3 MHz, Channel 272A, 3 kW (H&V) 300 feet (H&V) For Construction Permit for a New FM Station.

Adopted: July 19, 1983.

Released: August 8, 1983.

By the Chief, Mass Media Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by R-F Broadcasting Co. (R-F) and Lori Ann Brotman (Brotman).

2. *R-F.* The material submitted by R-F in its application does not demonstrate the applicant's financial qualification. Analysis of the financial information submitted reveals that $101,068.54 will be required to construct the proposed station and to operate it for three months. The applicant relies on a bank loan of $125,000 from the Live Oak State Bank of Rockport-Fulton, Texas to Mr. Oliver J. Hensler, the president and sole stockholder of the company. However, the bank loan letter fails to specify the terms of interest, repayment or collateral, if any. Accordingly a limited financial issue will be specified.

3. *Brotman.* Because Brotman has failed to respond to Federal Aviation Administration inquiries regarding its proposed antenna, the F.A.A. has been unable to determine whether the antenna proposed by Brotman would constitute a hazard to air navigation.[1]

[1] Arkansas County Medical Services (Medical) filed an objection to Brotman's application on December 1, 1981. Medical alleges that the tower proposed by Brotman would constitute a hazard to the heliport which it operates. As noted above, the F.A.A. has attempted to clarify the situation regarding the proposed tower in order to render a determination as to whether it will pose a hazard to the heliport. At the time the F.A.A. renders a decision, Medical's objection will be resolved and consequently, we have not dealt with it in this order.

Accordingly, an issue with respect thereto will be included and the F.A.A. made a party to the proceeding.

4. Data submitted by the applicants indicate that there would be significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to either of the applicants.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to R–F Broadcasting Company:

(a) the source and availability of necessary funds; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine whether there is a reasonable possibility that the tower height and location proposed by Brotman would constitute a hazard to air navigation.

3. To determine which of the proposals would on a comparative basis, better serve the public interest.

4. To determine in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted, if either.

7. It is further ordered, That The Federal Aviation Administration is made a party to the proceeding with respect to the air hazard issue only.

8. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 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.

9. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-22640 Filed 8-17-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group, Definitions and Rules Subcommittee Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group's (TIAG) Definitions and Rules Subcommittee scheduled to meet on Monday, August 29, and Tuesday, August 30, 1983. The meeting will begin on August 29 at 9:00 a.m. in the offices at Central Telephone Company, 5745 N.E. River Road, Chicago, Illinois and will be open to the public. The agenda is as follows:

I. General Administrative Matters.

II. Review of Minutes of Previous Meeting.

III. Discussion of the Other Income Accounts.

IV. Other Business.

V. Presentation of Oral Statements.

VI. Adjournment.

With prior approval of Subcommittee Chairman John Utzinger, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the subcommittee and wishing to make an oral presentation should contact Mr. Utzinger (203/965–2800) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-22638 Filed 8-17-83; 8:45 am]

BILLING CODE 6712-01-M

Meeting of TIAG; Auditing and Regulatory Subcommittee

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a two day meeting of the Telecommunications Industry Advisory Group's (TIAG) Auditing and Regulatory Subcommittee scheduled to meet on Monday, August 29, 1983 and Tuesday, August 30, 1983. The meeting will be held on Monday, August 29 at 10:00 a.m. in Room 300 1200 19th Street, NW., of the Federal Communications Commission and at 8:00 a.m. on Tuesday, August 30, 1983 in Room 5119 of the Commission at 2025 M Street, NW., Washington, DC.

I. General Administrative Matters.

II. Pending and Deferred Issues.

III. Results of Revenue Requirements Study.

IV. Comments on Drafts of Discussion Paper.

V. Other Business.

VI. Presentation of Oral Statements.

VII. Adjournment.

With prior approval of Subcommittee Chairman Hugh A. Gower, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Gower (404/658–1776) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-22639 Filed 8-17-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities; Michigan National Corp.

Correction

In FR Doc. 83–22023 beginning on page 36650 in the issue of Friday, August 12, 1983 make the following correction:

On page 36651, column three, line fifteen, "August 3, 1983" should read "August 31, 1983".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Family Therapy and Prevention Research Grants

AGENCY: National Institute on Drug Abuse, ADAMHA, PHS, DHHS.

ACTION: Issuance of Program Announcement for Family Therapy and Prevention Research Grants.

SUMMARY: The National Institute on Drug Abuse announces the availability of a program announcement for Family Therapy and Prevention Research Grants. These awards will support research to study the efficacy of brief, systems oriented family therapy in the treatment of adolescent drug abusers and in the prevention of drug abuse among their younger siblings. Support may be requested for up to five years. In fiscal Year 1984, up to $750,000 will be available for these awards.

Receipt date of applications for FY 1984 funding: November 1, 1983.

For further information or a copy of the announcement contact: Robert J. Battjes, D.S.W., Chief, Prevention Research Branch, Division of Clinical Research, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10A–16, Rockville, Maryland 20857 (301) 443–1514.

William Mayer,

Administrator, Alcohol, Drug Abuse and Mental Health Administration.

[FR Doc. 83–22739 Filed 8–17–83 8:45 am]

BILLING CODE 4160–20–M

Research on the Prevention of ADM Disorders in Children and Adolescents

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration, DHHS.

ACTION: Issuance of Program Announcement for Research on the Prevention of ADM Disorders in Children and Adolescents.

SUMMARY: The Alcohol, Drug Abuse, and Mental Health Administration announces the availability of program announcement for Research on the Prevention of Alcohol, Drug Abuse, and Mental Health (ADM) Disorders in Children and Adolescents. These awards will support research that will contribute to the development of preventive intervention models by examining prospectively the processes involved in the development of ADM disorders in children and adolescents. Support may be requested for up to 3 years. In Fiscal Years 1984 and 1985, up to $500,000 will be available for these awards.

Receipt date of applications for fiscal year 1984 funding: November 1, 1983.

For further information or a copy of the announcement, contact: Morton Silverman, M.D., Chief, Center for Prevention Research, Division of Prevention and Special Mental Health Programs, National Institute of Mental Health, 5600 Fishers Lane, Room 11C–06, Rockville, Maryland 20857, (301) 443–6374.

William Mayer,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 83–22736 Filed 8–17–83 8:45 am]

BILLING CODE 4160–20–M

Health Resources and Services Administration

September; Advisory Committee Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of September 1983:

Name: National Advisory Council on Migrant Health

Date and Time: September 26–28, 1983, 9:00 a.m.—5:00 p.m.

Place: Conference Rooms 7, 8, & 9, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205

The entire meeting is open.

Purpose: The Council is charged with advising, consulting with, and making recommendations to the Secretary and the Administrator, Health Resources and Services Administration, concerning the organization, operation, selection, and funding of Migrant Health Centers and other entities under grants and contracts under section 329 of the Public Health Service Act.

Agenda: The agenda will cover opening remarks, an overview and current status of the Migrant Health Program, including legislative status, funding level, organization, and administrative and programmatic postures. Also to be discussed are issues regarding an upcoming program review, the migrant population, migrant health services, the allocation of resources, the organizational structure of the Migrant Health Program in relation to other public and private entities, and the future program activities for 1984, the Year of the Migrant Child.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact Dr. Michael Samuels, Executive Secretary, National Advisory Council on Migrant Health, Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration, Room 7A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1153.

Agenda items are subject to change as priorities dictate.

Dated: August 4, 1983.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 83–22746 Filed 8–17–83 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

Biometry and Epidemiology Contract Review Committee; Amended Notice of Meeting

The notice of the meeting of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, August 24, 1983, published in the **Federal Register** on August 10 (48 FR 36338) is hereby amended.

The *beginning time* of the meeting will be changed from 9 a.m. to 10 a.m.; the closed portion of the meeting will be changed from 9:30 a.m. to 10:30 a.m. The place of the meeting will remain the same: Building 31, A Wing Conference Room 2, National Institutes of Health.

For further information, please contact Dr. Wilna A. Woods, Westwood Building, Room 822, National Institutes of Health, Bethesda, MD 20205 (301/496–7153).

Dated: August 11, 1983.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 83–22834 Filed 8–17–83 8:45 am]

BILLING CODE 4140–01–M

Meeting; Board of Scientific Counselors, Division of Resources, Centers, and Community Activities

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Resources, Centers, and Community Activities, National Cancer Institute, National Institutes of Health, October 20–21, 1983, Building 31, C Wing, Conference Room 10, Bethesda, Maryland 20205. The entire meeting will be open to the public from 8:30 a.m. through recess on October 20 and from 8:30 a.m. through adjournment on October 21 to discuss the current and future programs of the Division of

Resources, Centers, and Community Activities. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of meetings and rosters of committee members upon request.

Dr. Mary E. Sears, Acting Executive Secretary, National Cancer Institute, National Institutes of Health, Blair Building, Room 614, Bethesda, Maryland 20205 (301/427-8630) will furnish substantive program information.

Dated: August 12, 1983.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 83-22633 Filed 8-17-83; 8:45 am]

BILLING CODE 4140-01-M

National Arthritis Advisory Board; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Arthritis Advisory Board on September 19, 1983, 9:00 a.m. to adjournment, at the Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814. The meeting which will be open to the public, is being held to discuss the Board's activities and to continue the evaluation of the implementation of the long-range plan to combat arthritis. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the conference center lobby.

Certain subcommittees of the Board will meet the day after, September 20, 1983. Further information, times and meeting locations of the subcommittees may be obtained by contacting Mr. William Plunkett, Executive Director, National Arthritis Advisory Board, P.O. Box 30286, Bethesda, Maryland 20205, (301) 496-1991. The agenda and rosters of the members can also be obtained from his office. Summaries of the meeting may be obtained by contacting Carole A. Frank, Committee Management Office, NIADDK, National Institutes of Health, Room 9A47, Building 31A, Bethesda, Maryland, 20205, (301) 496-6917.

Dated: August 10, 1983.

Betty J. Beveridge,

National Institutes of Health, Committee Management Officer.

[FR Doc. 83-22630 Filed 8-17-83; 8:45 am]

BILLING CODE 4140-01-M

National Diabetes Advisory Board; Meeting and Conference

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Diabetes Advisory Board on September 25, 1983, 1:30 p.m. to adjournment, at the Sheraton International Conference Center, 11810 Sunrise Valley Drive, Reston, Virginia. The meeting which is open to the public is being held to discuss the Board's activities and to continue the evaluation of the implementation of the long-range plan to combat diabetes mellitus. Attendance by the public will be limited to space available. The meeting room location may be obtained by contacting Mr. Raymond M. Kuehne, Executive Director, National Diabetes Advisory Board, P.O. Box 30174, Bethesda, Maryland 20814, (301) 496-6045, he will also provide an agenda and roster of members. Summaries of the meeting may be obtained by contacting Barbara Shapiro, Secretary, National Diabetes Advisory Board, National Institutes of Health, P.O. Box 30174, Bethesda, Maryland 20814, (301) 496-6045.

The meeting will precede the Board's Second National Conference on Diabetes to be held September 26 through September 28, 1983. The Conference will consist of 12 separate and simultaneous workgroups on subjects related to diabetes mellitus and its complications. Each workgroup will be composed of a small number of invited experts (18 to 15 members each), who will assess the progress and identify opportunities and needs in their assigned subject areas. The workgroup will present brief oral reports to the Board at the conclusion of the conference. Written reports will be completed and made available to the public after the Conference. Further information about the Conference may be obtained from Mr. Raymond M. Keuhne at the above address.

Dated: August 11, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-22631 Filed 8-17-83; 8:45 am]

BILLING CODE 4140-01-M

Planning Subcommittee of the National Digestive Diseases Advisory Board; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Planning Subcommittee of the National Digestive Diseases Advisory Board on September 23, 1983, 10:00 a.m. to adjournment, at the Marriott Hotel, 102 Ditmas Blvd., East Elmhurst, New York. The meeting, which will be open to the public, is being held to discuss the 1984 plans for the Board. Attendance by the public will be limited to space available. Notice of the meeting room location will be posted in the hotel lobby.

Further information may be obtained by contacting Dr. Ralph Bain, Executive Director, National Digestive Diseases Advisory Board, P.O. Box 30377, Bethesda, Maryland 20814, (301) 496-2232. The agenda and rosters of the members can also be obtained from his office. Summaries of the meeting may be obtained by contacting Carole A. Frank, Committee Management Office, NIADDK, National Institutes of Health, Room 9A46, Building 31, Bethesda, Maryland 20205, (301) 496-6917.

Dated: August 12, 1983.

Betty J. Beveridge,

NIH, Committee Management Officer.

[FR Doc. 83-22629 Filed 8-17-83; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Neurological and Communicative Disorders and Stroke; Meeting of the Scientific Programs Advisory Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Scientific Programs Advisory Committee, National Institute of Neurological and Communicative Disorders and Stroke, October 28, 1983, Lister Hill Auditorium, Building 38A, Lister Hill National Center, National Library of Medicine, National Institutes of Health, Bethesda, Maryland 20205.

The entire meeting will be open to the Public from 9:00 a.m. to 5:00 p.m. to discuss research progress and research plans related to the Institute's scientific programs. Attendance by the public will be limited to space available.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A06, NINCDS, NIH, Bethesda, Maryland 20205, telephone (301) 496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. John C. Dalton, Executive Secretary, Federal Building, Room 1016, Bethesda, Maryland 20205, telephone (301) 496-9248, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.854, Biological Basis Research; No. 13.853, Clinical Basis Research.)

Dated: August 10, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83-22632 Filed 8-17-83; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Toxicology Program Meeting; Ad Hoc Panel on Chemical Carcinogenesis Testing and Evaluation

Notice is hereby given of a meeting of the Ad Hoc Panel on Chemical Carcinogenesis Testing and Evaluation, Subgroup on Regulatory Aspects, National Toxicology Program (NTP) Board of Scientific Counselors, U.S. Public Health Service, to be held on September 14, 1983, in the first floor auditorium, Hubert Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. The meeting will begin at 12:00 noon and end at approximately 4:00 p.m. The meeting is open to the public.

The meeting will be held to review regulatory aspects of chemical carcinogenesis testing and evaluation, to review the progress of the Subgroup on the agenda items that were identified at the earlier meeting May 17, 1983, Federal Register [48 FR 19476], and to receive comments from interested parties.

Items to be discussed include but are not limited to:

—Carcinogenicity Data as Basis for Regulatory Decisions
—Confounding Variables in Bioassay Results
—Other Issues
—"Pipeline" Agents
—Revalidation of Previously Tested Agents
—Publication of Testing Criteria

Those wishing to make public presentations on these and other issues related to the regulatory aspects will be given that opportunity. These presentations should be limited to 10–15 minute oral presentations. In order to accommodate as many people wishing to speak as possible, the Subgroup chairpersons request that persons wishing to make oral presentations contact the Panel Secretary, Ms. Riley, at the address below no later than September 12, 1983:

Drs. Ian Munro and Sanford Miller, Subgroup on Regulatory Aspects, c/o Ms. Janet Riley, Secretary to the Panel, P.O. Box 12233, Research Triangle Park, NC 27709.

Oral presentations should be supported by written documents that can be left with the Subgroup for their use in preparing their draft report. With respect to the written documents, the Subgroup will need to make use of the best thinking and evaluation of the scientific and public community at large. The positions offered in these documents should be well referenced by published literature citations so that they will have maximum usefulness to the Subgroup in generating a series of scientifically supportable recommendations.

Attendance is limited only by space available. For further information regarding the meeting, please contact the Panel Secretary, Ms. Riley, at the above address or telephone 919/541–7621 or FTS 629–7621. The official Government representative for this meeting will be Dr. David P. Rall, NTP.

Dated: August 12, 1983.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 83-22628 Filed 8-17-83; 8:45 am]

BILLING CODE 4140-01-M

Social Security Administration

Privacy Act of 1974; Report of Routine Use

AGENCY: Social Security Administration (SSA), Department of Health and Human Services.

ACTION: New Routine Use Disclosure.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(11)), we are issuing public notice of our intent to establish a new routine use of information we maintain in the majority of our systems of records. The proposed routine use will enable us to disclose information, as necessary, when utilizing a contractor or other Federal agency to assist in the efficient administration of our programs.

We invite public comments on this proposal.

DATES: The proposed routine use will become effective as proposed without further notice on September 19, 1983, unless we receive comments on or before that date which would result in a contrary determination.

ADDRESSES: Interested individuals may comment on this proposal by writing to the SSA Privacy Officer, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235. Copies of comments received will be available for public inspection at 3–F–1 Operations Building, at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Bernard A. Oehlers, Chief, Privacy Branch, Office of Regulations, Social Security Administration, 3–F–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (area code 301) 594–6978.

SUPPLEMENTARY INFORMATION:

A. Discussion of Proposed Routine Use Disclosure

In the administration of our programs, we find that it is not always administratively feasible or cost effective to do certain operations in-house. In such instances, we may use the services of contractors or other Federal agencies pursuant to an interagency reimbursable agreement to assist in performing various agency functions. In situations in which we recognize that it may be necessary to disclose information to these third parties from a system of records under the Privacy Act to accomplish an agency function, we either disclose information in accordance with the routine use provision of the Privacy Act or "scramble" the information so that personally identifiable information is not provided.

The purpose of this publication is to announce our plans to establish a routine use which will permit us to disclose information to contractors and to other Federal agencies, as necessary, to assist in accomplishing agency functions. For example, we may employ a contractor to print and mail various notices to Social Security beneficiaries. To perform this operation, it would be necessary to provide the contractor a minimum of the beneficiary's name and address to print and mail the material.

We have determined that it would be appropriate to include the proposed routine use statement in 48 of the 70 notices of systems of records which we maintain. Because of the volume of notices involved and the costs for republishing, we are publishing only the identification numbers, names and the **Federal Register** (*FR*) citations (volume, page number and date) of the notices in this publication. With the exception of the notice for the Claims Folder System (09–60–0089), individuals may review the most recent published version of notices by referencing volume 47 of the October 13, 1982, issue of the **Federal Register**, pages 45589–45673, Books 2 and 3. The most recent published version of the notice for the Claims Folder system can be found in volume 48 of the February 15, 1983, issue of the FR, page 6786. The proposed routine use statement to be added to the following systems of records provides:

Information may be disclosed to contractors and other Federal agencies, as necessary, for the purpose of assisting SSA in the efficient administration of its program. We contemplate disclosing information under this routine use only in situations in which SSA may enter into a

contractual or similar agreement with a third party to assist in accomplishing an agency function relating to this system of records.

09-60-0002—Automated Controlled Correspondence Extraction System (**Federal Register**, Volume 47, page 45591, October 13, 1982, Book 2).

09-60-0003—Hearing File (**Federal Register**, Volume 47, page 45592, October 13, 1982, Book 2).

09-60-0004—Appeals File (**Federal Register**, Volume 47, page 45593, October 13, 1982, Book 2).

09-60-0005—Hearing Office File (**Federal Register**, Volume 47, page 45594, October 13, 1982, Book 2).

09-60-0006—Storage of Hearing Records: Tapes and Cassettes and Audiograph Discs (**Federal Register**, Volume 47, page 45595, October 13, 1982, Book 2).

09-60-0008—Administrative Law Judge's File (**Federal Register**, Volume 47, page 45596, October 13, 1982, Book 2).

09-60-0009—Hearings and Appeals Case Control System (**Federal Register**, Volume 47, page 45597, October 13, 1982, Book 2).

09-60-0012—Listing and Alphabetical Name File (Folder) of Vocational Experts, Medical Advisors and Medical Consultants (**Federal Register**, Volume 47, page 45597, October 13, 1982, Book 2).

09-60-0013—Records of Usage of Medical Advisors and Medical Consultants, (**Federal Register**, Volume 47, page 45598, October 13, 1982, Book 2).

09-60-0014—Curriculum and Professional Qualifications of Staff Physicians, Medical Advisors, Medical Consultants and Resume of Vocational Experts (**Federal Register**, Volume 47, page 45599, October 13, 1982, Book 2).

09-60-0015—List of Physicians Utilized as Readers of Black Lung X-Ray Films (**Federal Register**, Volume 47, page 45600, October 13, 1982, Book 2).

09-60-0017—Personnel Research and Merit Promotion Test Records (**Federal Register**, Volume 47, page 45601, October 13, 1982, Book 2).

09-60-0031—Employee Production and Accuracy Records (**Federal Register**, Volume 47, page 45602, October 13, 1982, Book 2).

09-60-0032—Employee Indebtedness Counseling System (**Federal Register**, Volume 47, page 45603, October 13, 1982, Book 2).

09-60-0033—Employee Identification Card Files (**Federal Register**, Volume 47, page 45605, October 13, 1982, Book 2).

09-60-0040—Quality Review System (**Federal Register**, Volume 47, page 45606, October 13, 1982, Book 2).

09-60-0042—Quality Review Case Files (**Federal Register**, Volume 47, page 45607, October 13, 1982, Book 2).

09-60-0044—Disability Determination Service Processing File (**Federal Register**, Volume 47, page 45609, October 13, 1982, Book 2).

09-60-0045—Black Lung Payment System (**Federal Register**, Volume 47, page 45610, October 13, 1982, Book 2).

09-60-0046—Consultative Physician File (**Federal Register**, Volume 47, page 45611, October 13, 1982, Book 2).

09-60-0047—Critical Case Processing Time (**Federal Register**, Volume 47, page 45612, October 13, 1982, Book 2).

09-60-0050—Completed Determination Record—Continuing Disability Determinations (**Federal Register**, Volume 47, page 45612, October 13, 1982, Book 2).

09-60-0052—Disposition of Vocational Rehabilitation Report to Social Security Administration (**Federal Register**, Volume 47, page 45613, October 13, 1982, Book 2).

09-60-0053—Reimbursement From Trust Fund for Vocational Rehabilitation Services (**Federal Register**, Volume 47, page 45614, October 13, 1982, Book 2).

09-60-0056—Vocational Rehabilitation Savings Calculations (**Federal Register**, Volume 47, page 45615, October 13, 1982, Book 2).

09-60-0057—Quality Evaluation Data Records (**Federal Register**, Volume 47, page 45615, October 13, 1982, Book 2).

09-60-0058—Master Files of Social Security Number Holders (**Federal Register**, Volume 47, page 45616, October 13, 1982, Book 2).

09-60-0059—Earnings Recording and Self-Employment Income System (**Federal Register**, Volume 47, page 45618, October 13, 1982, Book 2).

09-60-0063—Resource Accounting and Project Management System (**Federal Register**, Volume 47, page 45618, October 13, 1982, Book 2).

09-60-0089—Claims Folder System (**Federal Register**, Volume 48, page 6786, February 15, 1983).

09-60-0090—Master Beneficiary Record (**Federal Register**, Volume 47, page 45626, October 13, 1982, Book 2).

09-60-0091—Social Security Administration Claims Control System (**Federal Register**, Volume 47, page 45628, October 13, 1982, Book 2).

09-60-0092—Automated Control System For Case Folder, (**Federal Register**, Volume 47, page 45629, October 13, 1982), Book 3.

09-60-0094—Recovery Accounting for Overpayments (Federal Register, Volume 47, page 45630, October 13, 1982), Book 3.

09-60-0095—Health Insurance Overpayment Ledger Cards (**Federal Register**, Volume 47, page 45631, October 13, 1982), Book 3.

09-60-0103—Supplemental Security Income Record (**Federal Register**, Volume 47, page 45635, October 13, 1982), Book 3.

09-60-0110—Supplemental Security Income File of Refunds (**Federal Register**, Volume 47, page 45636, October 13, 1982), Book 3.

09-60-0111—Debit Voucher File (Supplemental Security Income) (**Federal Register**, Volume 47, page 45637, October 13, 1982, Book 3).

09-60-0128—Retirement, Survivors and Disability Insurance Claims Study (**Federal Register**, Volume 47, page 45640, October 13, 1982, Book 3).

09-60-0129—Adjudication of Supplemental Security Income Policy Analysis Review (**Federal Register**, Volume 47, page 45640, October 13, 1982, Book 3).

09-60-0184—Hearing Office Master Calendar (**Federal Register**, Volume 47, page 45644, October 13, 1982, Book 3).

09-60-0206—Repatriate Records System (**Federal Register**, Volume 47, page 45652, October 13, 1982, Book 3).

09-60-0212—Supplemental Security Income Operational Quality Maintenance System (**Federal Register**, Volume 47, page 45654, October 13, 1982, Book 3).

09-60-0213—Quality Review of Hearing Processing System (**Federal Register**, Volume 47, page 45655, October 13, 1982, Book 3).

09-60-0214—Personal Identification Number File, (PINFile), (**Federal Register**, Volume 47, page 45656, October 13, 1982, Book 3).

09-60-0216—Indochina Refugee, Refugee Financial Assistance System (**Federal Register**, Volume 47, page 45657, October 13, 1982, Book 3).

09-60-0217—Cuban Refugee Registration Records (**Federal Register**, Volume 47, page 45658, October 13, 1982, Book 3).

We will not disclose any tax return information under the proposed routine use unless disclosure would otherwise be authorized by section 6103 of the Internal Revenue Code.

B. Compatibility of Proposed Routine Use

The Privacy Act (5 U.S.C. 552a(B)(3) and our disclosure regulation (20 CFR 401.310) permit us to disclose information as a routine use for purposes which are compatible with the purpose for which we collect the information. We consider disclosure where necessary to administer our programs as disclosure for a compatible purpose. Once effective, we would disclose information under the proposed routine use only as necessary to accomplish an agency function. Thus, the disclosure would be compatible and consistent with the Privacy Act and the regulation.

C. Effect of Disclosure on Individual Rights

All contractors or other Federal agencies which we may utilize under contract or interagency reimbursable agreement to perform agency functions involving the maintenance, use or operation of a system of records must agree to abide by the Privacy Act. The Privacy Act requirements and responsibilities are explained to the third parties and delineated in the contracts or agreements. For example, contracts with third parties contain provisions which: (1) Require the contractor to establish safeguards to protect personal information received from SSA; (2) restrict the contractor's use of the information to that which is provided in the contract; and (3) subject the contractor to criminal penalties for violation of the Privacy Act. Similar safeguards are included in the reimbursable agreements which we enter into with other Federal agencies. Each proposed disclosure under this

routine use will be reviewed by the SSA Privacy Officer to insure compliance with Privacy Act requirements. Further, the Privacy Officer will insure that only the minimum information needed to satisfy the terms of the contract or agreement is released. Consequently, we do not anticipate that disclosure under the routine use would result in any clearly unwarranted invasion of the privacy rights of individuals.

Dated: August 9, 1983.

John A. Svahn,

Commissioner of Social Security.

[FR Doc. 83-22730 Filed 8-17-83; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition For Federal Acknowledgement of Existence as an Indian Tribe; MaChis Lower Creek Indian Tribe of Alabama

August 5, 1983.

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.8(a)) notice is herey given that the MaChis Lower Creek Indian Tribe of Alabama, c/o Mrs. Pennie Wright, 708 South John Street, New Brockton, Alabama 36351, has filed a petition for acknowledgement by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on June 27, 1983. The petition was forwarded and signed by members of the group's governing body.

This a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) (formerly § 54.8(d)) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20242.

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 83-22744 Filed 8-17-83; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[A-17000]

Arizona; Notice of Application for Public Lands for State Indemnity Selection; Segregation Term Extended

August 11, 1983.

1. Under the provisions of Sections 2275 and 2276 of the Revised Statutes 43 U.S.C. Sections 851, 852, the State of Arizona filed application A-17000 to acquire public lands in lieu of certain school lands that were encumbered by other rights or reservations before the State's title could attach. Pursuant to the provisions of 43 CFR 2091.2-6, the lands described below were segregated from settlement, sale, locations or entry under the public land laws, including the mining laws, but not the mineral leasing laws or Geothermal Steam Act. The notice of segregation was for a period of two years from August 27, 1981 and was published in the **Federal Register**, Volume 46, No. 195, October 8, 1981.

2. Because of review actions by Arizona State Land Department and Department of Interior officials, transfer of the following described parcels has been delayed. It is, therefore, necessary to extend the segregative effect on these lands to August 26, 1984.

Gila and Salt River Meridian, Arizona

T. 21 N., N. 21 W.
Section 28: All;
Section 30: Lot 4, SE¼SW¼, S½SE¼.
T. 20 N., R. 21 W.
Section 30: All.
T. 16 S., R. 10 E.
Section 4: Lot 9, S½SW¼NE¼SE¼, W½SE¼SE¼.
T. 2 S., R. 1 E.
Section 29: N½, NE¼SW¼, N½NW¼SW¼, SE¼NW¼SW¼, E½NE¼SW¼SW¼, N½SE¼SW¼, E½SW¼SE¼SW¼, SE¼SE¼SW¼, SE¼;
Section 30: NE¼NE¼, E½NE¼NW¼NE¼, NE¼SE¼NE¼, E½SE¼SE¼NE¼;
Section 32: N½NE¼, E½SW¼NE¼, E½NW¼SW¼NE¼, SE¼NE¼, NE¼NE¼NW¼, N½NE¼SE¼, E½SW¼NE¼SE¼, SE¼NE¼SE¼, NE¼SE¼SE¼.
T. 8 N., R. 4 W.
Section 34: Lot 1.
T. 2 N., R. 5 W.
Section 23: W½E½NE¼NE¼NE¼, W½E½E½NE¼, W½E½NE¼, W½E½NE¼SE¼, W½NE¼SE¼, NW¼NE¼SE¼SE¼, NW¼SE¼SE¼, NW¼SW¼SE¼SE¼.
T. 1 N., R. 8 E.
Section 14: NE¼.
Total: 2637.45 acres, more or less.

3. The segregation of the above described public lands shall terminate upon issuance of a document of conveyance to such lands, or upon publication in the **Federal Register** of a notice of termination of the segregation, or on August 26, 1984, whichever occurs first. However, where administrative appeal or review actions have been sought pursuant to Part 4 or Subparts 2450 of 43 CFR, the segregative period shall continue in effect until publication of notice of termination of the segregation in the **Federal Register**.

4. Inquiries concerning the segregation of the lands referenced above should be addressed to the District Manager, Bureau of Land Management, Phoenix District Office, 2929 West Clarendon Avenue, Phoenix, Arizona 85017.

Glendon E. Collins,

Deputy State Director for Operations.

[FR Doc. 83-22729 Filed 8-17-83; 8:45 am]

BILLING CODE 4310-84-M

Prineville District, Advisory Council; Meeting

A field tour of the Prineville BLM District Advisory Council is scheduled for Thursday, September 22, 1983. The purpose of the tour is to review various wilderness study areas within the Prineville District and discuss the Bureau's wilderness study policy as it relates to those areas. The tour will leave the Prineville BLM District Office located at 185 East 4th Street, Prineville, Oregon, at 8:00 a.m. The tour is open to the public. Members of the public wishing to attend the tour should contact the District Manager by September 19 so that arrangements for transportation can be made.

Dated: August 11, 1983.

Gerald E. Magnuson,

District Manager.

[FR Doc. 83-22717 Filed 8-17-83; 8:45 am]

BILLING CODE 4310-84-M

[Group 674]

California, Filing of Plat of Survey

August 12, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian

T. 28 S., R. 40 E.
T. 27 S., R. 40 E.

2. These plats, representing the (1) dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines, and certain mineral survey boundaries, the survey of the subdivision-of-sections 13, 23, 24, 25, and 26, and the metes-and bounds survey of Tracts 40, 41, 42, and 43, T. 28 S., R. 40 E., and (2) the dependent resurvey of a portion of the south boundary, and the metes-and-bounds survey of Tract 37, T. 27 S., R. 40 E., Mount Diablo Meridian, under Group No. 674, California were accepted July 28, 1983.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 83-22721 Filed 8-17-83; 8:45 am]

BILLING CODE 4310-84-M

[Group 793]

California; Filing of Plat of Survey

August 12, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian

T. 4 N., R. 18 E.

2. This plat, representing the entire record of survey of the metes-and-bounds survey of Lot 15, and other new lottings in section 30, T. 4 N., R. 18 E., Mount Diablo Meridian, under Group No. 793, California, was accepted July 8, 1983.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of the U.S. Department of Agriculture, Forest Service, and this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 83-22722 Filed 8-17-83; 8:45 am]

BILLING CODE 4310-84-M

[Group 819]

California; Filing of Plat of Survey

August 12, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian

T. 17 N., R. 10 E.

2. This plat, in two (2) sheets, representing the dependent resurvey of a portion of the south boundary, a portion of the subdivisional lines, and certain boundaries of mineral surveys, and the survey of the subdivision of sections 20, 21, and 34, T. 17 N., R. 10 E., Mount Diablo Meridian, under Group No. 819, California, was accepted August 5, 1983.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 83-22723 Filed 8-17-83; 8:45 am]

BILLING CODE 4310-84-M

California; Filing of Plat of Survey

August 12, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Humboldt Meridian

T. 5 S., R. 2 E.

2. This supplemental plat of amended lottings for the SE¼, section 19, T. 5 S., R. 2 E., Humboldt Meridian, California, was accepted July 21, 1983.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This plat was prepared to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 83-22724 Filed 8-17-83; 8:45 am]

BILLING CODE 4310-84-M

Coal Lease Offering Fort Union Federal Coal Production Region

August 10, 1983.

U.S. Department of the Interior, Bureau of Land Management, Montana State Office, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

Notice is hereby given that certain coal resources in the tracts described below in Mercer, Oliver, Dunn, McLean, and Golden Valley Counties, North Dakota; and Wibaux County, Montana, will be offered for competitive lease by sealed bid in accordance with the provisions of the Mineral Leasing Act of 1920 (30 U.S.C. 181 *et. seq.*), as amended. The lease sale will be held at 10:00 a.m., Wednesday, September 14, 1983, in the Whitetail Room, Third Floor of the Billings Sheraton Hotel, 27 North 27th Street, Billings, Montana.

Each tract will be leased to the qualified bidder of the highest cash amount provided that the high bid equals fair market value of the tract. The minimum bid for each tract is $100 per acre, or fraction thereof. No bid that is less than $100 per acre, or fraction thereof, will be considered. The minimum bid is not intended to represent fair market value. The fair market value of each tract will be determined by the authorized officer after the sale.

Sealed bids must be submitted on or before 4:30 p.m., Tuesday, September 13, 1983, to the Cashier, Montana State Officer, Second Floor, Granite Tower, at the above address. The bids should be sent by certified mail, return receipt; or be hand delivered. The Cashier will issue a receipt for each hand-delivered bid. Bids received after that time will not be considered.

If identical high sealed bids are received, the tying high bidders will be requested to submit follow-up sealed bids until a high bid is received. All tie-breaking sealed bids must be submitted within five (5) minutes following the sale

official's announcement at the sale that identical high bids have been received.

All tracts in this lease offering contain split estate lands. Regulations 43 CFR 3427 set out the protection that shall be afforded qualified surface owners of split estate lands (43 CFR 3400.0–5).

Coal Offered

Antelope Tract

M 59114

The coal resource to be offered consists of all recoverable reserves in the following described lands located approximately seven miles north of Beulah, North Dakota:

T. 145 N., R. 87 W., 5th P.M.
Sec. 6: SE¼;
Sec. 20: NW¼;
Sec. 32: NE¼, NE¼SE¼.
T. 145 N., R. 88 W., 5th P.M.
Sec. 2: Lot 1, SE¼NE¼.

Containing 598.33 acres, Mercer County, North Dakota.

Total recoverable reserves are estimated to be 12.4 million tons. The Beulah-Zap seam is lignite and averages (as-received) 6,919 BTU/lb. with 36.1 percent moisture, 0.82 percent sulfur, 6.2 percent ash, 30.5 percent fixed carbon and 27.2 percent volatile matter.

Surface Owner Consent Information: This tract has two surface owners presumed to be unqualified and six unqualified surface owners.

Consents granted by the surface owners presumed to be unqualified have been filed with the Bureau of Land Management, however, the consents have not been verified. Copies of these consents are attached to the detailed statement of sale. The lands and the purchase price of these consents are shown below:

T. 145 N., R. 87 W., 5th P.M. Sec. 6: SE¼	$1,600.00
T. 145 N., R. 87 W., 5th P.M. Sec. 32: NE¼SE¼	3,840.00

If the surface owner is determined to be unqualified, the successful bidder will not be required to acquire transfer of the consent from the current holder.

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North Beulah Tract

M 59115

The coal resource to be offered consists of all recoverable reserves in the following described lands located approximately two miles northwest of Beulah, North Dakota:

T. 144 N., R. 88 W., 5th P.M.
Sec. 10: SE¼, NW¼SE¼, S½SE¼;
Sec. 14: N½SW¼, SW¼SW¼;
Sec. 22: N½NE¼NE¼, W½NE¼, NW¼.

Containing 660.00 acres, Mercer County, North Dakota.

Total recoverable reserves are estimated to be 5.8 million tons. The Beulah-Zap seam is lignite and averages (as-received) 6,919 BTU/lb. with 36.1 percent moisture, 0.82 percent sulfur, 6.2 percent ash, 30.5 percent fixed carbon, and 27.2 percent volatile matter.

Surface Owner Consent Information: This tract has eight qualified surface owners.

Consents granted by the qualified surface owners have been filed with and verified by the Bureau of Land Management. Copies of these consents are attached to the detailed statement of sale. The lands and the purchase price of the consents are shown below:

T. 144 N., R. 88 W., 5th P.M. Sec. 10: SW¼	$15,200.00
T. 144 N., R. 88 W., 5th P.M. Sec. 10: NW¼SE¼, S½SE¼	11,400.00
T. 144 N., R. 88 W., 5th P.M. Sec. 14: N½SW¼, SW¼SW¼	1,344.00
T. 144 N., R. 88 W., 5th P.M. Sec. 22: N½NE¼NE¼	120.00
T. 144 N., R. 88 W., 5th P.M. Sec. 22: W½NE¼, NW¼	1,440.00

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Center Tract

M 59116

The coal resource to be offered consists of all recoverable reserves in the following described lands which surround Center, North Dakota:

T. 141 N., R. 84 W., 5th P.M.
Sec. 2: Lots 3, 4, SW¼NW¼;
Sec. 10: N½NE¼, NE¼NW¼.
T. 142 N., R. 84 W., 5th P.M.
Sec. 14: NE¼, N½NW¼, N½S½NW¼, SE¼SW¼NW¼, S½SE¼NW¼;
Sec. 20: N½NE¼, SW¼NE¼.

Containing 669.93 acres, Oliver County, North Dakota.

Total recoverable reserves are estimated to be 13.9 million tons. The Upper Hagel and Lower Hagel seams are lignite and average (as-received), 7,087 BTU/lb. with 32.0 percent moisture, 0.95 percent sulfur, 6.3 percent ash, 30.3 percent fixed carbon, and 31.4 percent volatile matter.

Surface Owner Consent Information: This tract has eight qualified surface owners and two surface owners presumed to be unqualified.

Consents granted by the qualified surface owners have been filed with and verified by the Bureau of Land Management. Copies of these consents are attached to the detailed statement of sale. The lands and the purchase price of the consents are shown below:

T. 142 N., R. 84 W., 5th P.M. Sec. 14: NE¼	$9,600.00
T. 142 N., R. 84 W., 5th P.M. Sec. 14: N½NW¼, N½S½NW¼, SE¼SW¼NW¼, S½SE¼NW¼	1,960.00
T. 142 N., R. 84 W., 5th P.M. Sec. 20: N¼NE¼, SW¼NE¼	1,560.00

Consents granted by the surface owners presumed to be unqualified have been filed with the Bureau of Land Management, however, the consents have not been verified. Copies of these consents are attached to the detailed statement of sale. The lands and the purchase price of these consents are shown below:

T. 141 N., R. 84 W., 5th P.M. Sec. 2: Lots 3, 4, SW¼NW¼	$1,280.00
T. 141 N., R. 84 W., 5th P.M. Sec. 10: N½NE¼, NE¼NW¼	720.00

If the surface owner is determined to be unqualified, the successful bidder will not be required to acquire transfer of the consent from the current holder.

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Dunn Center Tract

M 59117

The coal resource to be offered consists of all recoverable reserves in the following described lands located approximately three miles southeast of Dunn Center, North Dakota:

T. 144 N., R. 93 W., 5th P.M.
Sec. 4: Lots 1, 2, 3, 4, S½N½, SE¼;
Sec. 6: Lots 4, 5, 6, E½SW¼;
Sec. 8: W½NE¼, NW¼, SE¼;
Sec. 18: Lots 1, 2, 3, 4, E½W½, SE¼.
T. 143 N., R. 94 W., 5th P.M.
Sec. 2: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 4: Lots 1, 2, 3, 4, S½N½, S½.
T. 144 N., R. 94 W., 5th P.M.
Sec. 2: Lots 1, 2, S½NE¼, SE¼;
Sec. 10: NW¼, S½;
Sec. 12: All;
Sec. 14: NE¼, S½;
Sec. 22: All;
Sec. 24: All;
Sec. 26: NW¼, SE¼;
Sec. 28: NE¼NW¼, SE¼;
Sec. 32: SE¼SE¼;
Sec. 34: All.

Containing 7,163.06 acres, Dunn County, North Dakota.

Total recoverable reserves are estimated to be 226.5 million tons. The Dunn Center bed is the major resources within the tract. Three overlying beds ("A," "B" and "C") also contribute to the total reserve. The Dunn Center, "A", "B" and "C" seams are lignite and average (as-received) as follows: *Dunn Center seam:* 6,076 BTU/lb. with 37.67 percent moisture, 0.82 percent sulfur and 7.20 percent ash. *"A" seam:* 5,071 BTU/lb. with 38.07 percent moisture, 0.88 percent sulfure and 9.45 percent ash. *"B" seam:* 5,807 BTU/lb. with 38.07 percent moisture, 1.03 percent sulfur, and 7.95 percent ash. *"C" seam:* 5,936 BTU/lb. with 36.79 percent moisture, 0.88 percent sulfur, and 8.20 percent ash. The Dunn Center, "A," "B," and "C" seams average (as-received) 29.0 percent fixed carbon and 27.0 percent volatile matter.

Surface Owner Consent Information: This tract has 29 qualified surface owners, four surface owners presumed to be unqualified and three surface owners unqualified.

Consents granted by the qualified surface owners have been filed with and verified by the Bureau of Land Management. Copies of these consents are attached to the detailed statement of sale. The lands and the purchasing price of the consents are shown below:

T. 144 N., R. 93 W., 5th P.M. Sec. 4: Lots 1, 2, S½NE¼	376.20
T. 144 N., R. 93 W., 5th P.M. Sec. 4: Lots 3, 4, S½NW¼, SE¼	759.00
T. 144 N., R. 93 W., 5th P.M. Sec. 6: Lots 4, 5, 6, E½SW¼	398.40
T. 144 N., R. 93 W., 5th P.M. Sec. 8: W½NE¼, NW¼	640.00
T. 144 N., R. 93 W., 5th P.M. Sec. 8: SE¼ Less 2.53 acres	409.50
T. 144 N., R. 93 W., 5th P.M. Sec. 18: Lots 1, 2, E½NW¼	366.60
T. 144 N., R. 93 W., 5th P.M. Sec. 18: Lots 3, 4, E½SW¼, SE¼	722.40
T. 144 N., R. 94 W., 5th P.M. Sec. 2: Lots 1, 2, S½NE¼, SE¼; Sec. 26: NW¼; Sec. 28: SE¼; Sec. 34: N½, SW¼	2,687.16
T. 143 N., R. 94 W., 5th P.M. Sec. 2: Lots 3, 4, S½NW¼, SW¼. T. 144 N., 94 W., 5th P.M. Sec. 34: SE¼	1,153.20
T. 143 N., R. 94 W., 5th P.M. Sec. 4: Lots 1, 2, 3, 4, S½N½	832.91
T. 143 N., R. 94 W., 5th P.M. Sec. 4: E½SW¼, SE¼	576.00
T. 144 N., R. 94 W., 5th P.M. Sec. 10: NW¼	416.00
T. 144 N., R. 94 W., 5th P.M. Sec. 10: S½	768.00
T. 144 N., R. 94 W., 5th P.M. Sec. 12: NE¼	416.00
T. 144 N., R. 94 W., 5th P.M. Sec. 12: NW¼, S½; Sec. 14: NE¼	1,536.00
T. 144 N., R. 94 W., 5th P.M. Sec. 14: SW¼	1,920.00
T. 144 N., R. 94 W., 5th P.M. Sec. 22: E½	768.00
T. 144 N., R. 94 W., 5th P.M. Sec. 22: NW¼	416.00
T. 144 N., R. 94 W., 5th P.M. Sec. 26: SE¼	384.00
T. 144 N., R. 94 W., 5th P.M. Sec. 28: NE¼NW¼	96.00
T. 144 N., R. 94 W., 5th P.M. Sec. 32: SE¼SE¼	96.00

Consents granted by the surface owners presumed to be unqualified have been filed with the Bureau of Land Management, however, the consents have not been verified. Copies of these consents are attached to the detailed statement of sale. The lands and the purchase price of these consents are shown below:

T. 143 N., R. 94 W., 5th P.M. Sec. 4: W½SW¼	$192.00
T. 144 N., R. 94 W., 5th P.M. Sec. 14: SE¼	384.00

If the surface owner is determined to be unqualified, the successful bidder will not required to acquire transfer of the consent from the current holder.

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Renner Tract

M 59118

The coal resource to be offered consists of the recoverable reserves in the following described lands located approximately two miles north of Zap, North Dakota:

T. 145 N., R. 87 W., 5th P.M.
Sec. 32: NW¼SW¼, S½SW¼.
T. 144 No., R. 88 W., 5th P.M.
Sec. 2: Lots 3, 4, S½NW¼, NW¼SE¼;
Sec. 6: Lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 8: NW¼SW¼;
Sec. 18: Lot 1, N½NE¼, NE¼NW¼.
T. 145 N., R. 88 W., 5th P.M.
Sec. 4: Lot 4, SW¼NW¼, SW¼;
Sec. 22: All;
Sec. 26: N½NE¼, SW¼NE¼, W½, NW¼SE¼;
Sec. 28: NE¼NE¼, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 32: NE¼NW¼, S½NW¼, SW¼;
Sec. 34: N½N½, SE¼NE¼, SW¼, NE¼SE¼, S½SE¼.
T. 144 N., R. 89 W., 5th P.M.
Sec. 2: Lots 2, 3, 4, SW¼NE¼, S½NW¼, SW¼, W½SE¼;
Sec. 4: Lots 1, 2, 3, 4, S½N½, S½;
Sec. 10: NE¼, N½NW¼, SE¼NW¼;
Sec. 12: All.

Containing 5,741.54 acres, Mercer County, North Dakota.

Total recoverable reserves are estimated to be 77.8 million tons. The Beulah-Zap seam is lignite and averages (as-received) 6,919 BTU/lb. with 36.1 percent moisture, 0.82 percent sulfur, 6.2 percent ash, 30.5 percent fixed carbon and 27.2 percent volatile matter.

Surface Owner Consent Information: This tract has 16 qualified surface owners, six surface owners presumed to be unqualified, and nine surface owners unqualified.

Consents granted by the qualified surface owners have been filed and verified by the Bureau of Land Management. Copies of these consents are attached to the detailed statement of sale. The lands and the purchase price of the consents are shown below:

T. 144 N., R. 88 W., 5th P.M. Sec. 2: Lots 3, 4, S½NW¼ less 18.14 acres, and NW¼SE¼	$446.52
T. 144 N., R. 88 W., 5th P.M. Sec. 6: Lots 3, 4, 5, SE¼NW¼. T. 145 N., R. 88 W., 5th P.M. Sec. 34: N½N½, SE¼NE¼, NE¼SE¼, S½SE¼	5,329.28
T. 144 N., R. 88 W., 5th P.M. Sec. 8: NW¼SW¼	80.00
T. 145 N., R. 88 W., 5th P.M. Sec. 22: N½, SW¼	5,260.00
T. 145 N., R. 88 W., 5th P.M. Sec. 22: SE¼	896.00
T. 145 N., R. 88 W., 5th P.M. Sec. 26: N¼NW¼, SW¼NW¼, NW¼SW¼	1,344.00
T. 145 N., R. 88 W., 5th P.M. Sec. 26: NE¼NE¼	224.00
T. 145 N., R. 88 W., 5th P.M. Sec. 26: W½NE¼, SE¼NW¼, NE¼SW¼, S½SW¼	1,344.00
T. 145 N., R. 88 W., 5th P.M. Sec. 26: NW¼SE¼	224.00
T. 144 N., R. 89 W., 5th P.M. Sec. 2: Lots 2, 3, 4, SW¼NE¼, S½NW¼, N½SW¼, N½S½SW¼, SE¼SW¼SW¼, S½SE¼ SW¼, W½SE¼	1,230.19
T. 144 N., R. 89 W., 5th P.M. Sec. 4: Lots 1, 2, 3 4, S½NE¼, SE¼NW¼, NE¼SW¼, SE¼	1,267.24
T. 144 N., R. 89 W., 5th P.M. Sec. 4: SW¼NW¼, NW¼SW¼, S½SW¼	1,600.00
T. 144 N., R. 89 W., 5th P.M. Sec. 10: N½N½, SE¼NW¼	520.00
T. 144 N., R. 89 W., 5th P.M. Sec. 12: N½, SE¼	4,800.00
T. 144 N., R. 89 W., 5th P.M. Sec. 12: SW¼	14,400.00

Consents granted by the surface owners presumed to be unqualified have been filed with the Bureau of Land Managements, however, the consents have not been verified. Copies of the consents are attached to the detailed statement of sale. The lands and the purchase price of these consents are shown below:

T. 145 N., R. 87 W., 5th P.M. Sec. 32: W½SW¼ less 18.67 acres	$159.51
T. 145 N., R. 87 W., 5th P.M. Sec. 32: SE¼SW¼	160.00
T. 144 N., R. 88 W., 5th P.M. Sec. 6: Lots 1, 2 S½NE¼	420.16
T. 144 N., R. 88 W., 5th P.M. Sec. 6: Lots 6, 7, E½SW¼, SE¼	835.64
T. 145 N., R. 87 W., 5th P.M. Sec. 4: Lots 4, SW¼NW¼, S½SW¼	3,096.60
T. 145 N., R. 87 W., 5th P.M. Sec. 28: NE¼NE¼, S½NE¼, SE¼NW¼, E½SW¼, SE¼	4,400.00
T. 145 N., R. 87 W., 5th P.M. Sec. 34: SW¼	416.00

If the surface owner is determined to be unqualified, the successful bidder will not be required to acquire transfer of the consent from the current holder.

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Underwood Tract

M 59119

The coal resource to be offered consists of the recoverable reserves in the following described lands which surround Underwood, North Dakota:

T. 146 N., R. 81 W., 5th P.M.
Sec. 30: Lot 4, SE¼SW¼, S½SE¼.
T. 146 N., R. 82 W., 5th P.M.
Sec. 10: E½ (U.S. Int. =50%);
Sec. 24: NE¼NW¼;
Sec. 34: NE¼NE¼, NW¼SW¼, S½SW¼.

Containing 678.75 acres, McLean County, North Dakota.

Total recoverable reserves are estimated to be 4.8 million tons. The Underwood seam is lignite and averages (as-received) 6,600 BTU/lb. with 37.3 percent moisture, 0.46 percent sulfur, 5.5 percent ash, 27.2 percent fixed carbon and 30.0 percent volatile matter.

Surface Owner Consent Information: This tract has one qualified surface owner, seven surface owners presumed to be unqualified, and six surface owners unqualified.

Consent granted by the qualified surface owner has been filed with and verified by the Bureau of Land Management. A copy of the consent is attached to the detailed statement of sale. The lands and the purchase price of the consent is shown below:

T. 146 N., R. 82 W., 5th P.M. Sec. 34: NE¼NE¼	$240.00

Consents granted by the surface owners presumed to be unqualified have been filed with the Bureau of Land

Management, however, the consents have not been verified. Copies of these consents are attached to the detailed statement of sale. The lands and the purchase price of these consents are shown below:

T. 146 N., R. 81 W., 5th P.M. Sec. 30: Lot 4, SE¼SW¼, S½SE¼	$1,746.25
T. 146 N., R. 82 W., 5th P.M. Sec. 34: W½SW¼	480.00

If the surface owner is determined to be unqualified, the successful bidder will not be required to acquire transfer of the consent from the consent holder.

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Werner Tract

M 59120

The coal resource to be offered consists of the recoverable reserves in the following described lands located approximately two miles north of Werner, North Dakota:

T. 145 N., R. 92 W., 5th P.M.
Sec. 6: Lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼.
T. 145 N., R. 93 5th P.M.
Sec. 2: Lots 1, 2, 3, 4, S½N½, S¼;
Sec. 4: Lots 1, 2, S½NE¼, S½;
Sec. 8: NW¼, S½;
Sec. 10: N½, SE¼;
Sec. 12: N½, SW¼.

Containing 3,028.64 acres, Dunn County, North Dakota.

Total recoverable reserves are estimated to be 74.0 million tons. The Dunn Center and "B" beds exist in this tract. The Dunn center bed is the major resource. The Dunn Center and "B" seams average (as-received) as follows: *Dunn Center seam:* 6,076 BTU/lb. with 37.67 percent moisture, 0.82 percent sulfur and 7.20 ash. *"B" seam:* 5,807 BTU/lb. with 38.07 percent moisture, 1.03 percent sulfur and 7.95 percent ash. The Dunn Center and "B" seams average (as-received) 29.0 percent fixed carbon and 27.0 percent volatile matter.

Surface Owner Consent Information: This tract has 14 qualified surface owners and four surface owners presumed to be unqualified.

Consents granted by the qualified surface owners have been filed and verified by the Bureau of Land Management. Copies of these consents are attached to the detailed statement of sale. The lands and the purchase price of the consents are shown below:

T. 145 N., R. 92 W., 5th P.M. Sec. 6: Lots 1, 2, S½NE¼	$382.92
T. 145 N., R. 92 W., 5th P.M. Sec. 6: Lots 6, 7, E½SW¼	345.62
T. 145 N., R. 93 W., 5th P.M. Sec. 2: Lots 1, 2, S½NE¼	379.44
T. 145 N., R. 93 W., 5th P.M. Sec. 2: Lots 3, 4, S½NW¼, S½; Sec. 12: NW¼	1,148.40
T. 145 N., R. 93 W., 5th P.M. Sec. 4: Lots 1, 2, S½NE¼	381.48
T. 145 N., R. 93 W., 5th P.M. Sec. 4: S½	768.00
T. 145 N., R. 93 W., 5th P.M. Sec. 6: NW¼	384.00
T. 145 N., R. 93 W., 5th P.M. Sec. 6: SW¼	352.00
T. 145 N., R. 93 W., 5th P.M. Sec. 8: SE¼; Sec. 10: NE¼	704.00
T. 145 N., R. 93 W., 5th P.M. Sec. 10: NW¼	384.00
T. 145 N., R. 93 W., 5th P.M. Sec. 12: NE¼, SW¼	768.00

Consents granted by the surface owners presumed to be unqualified have been filed with the Bueau of Land Management; however, the consents have not been verified. Copies of these consents are attached to the detailed statement of sale. The lands and the purchase price of these consents are shown below:

T. 145 N., R. 92 W., 5th P.M. Sec. 6: Lots 3, 4, 5, SE¼NW¼	$375.72
T. 145 N., R. 93 W., 5th P.M. Sec. 10: SE¼	384.00

If the surface owner is determined to be unqualified, the successful bidder will not be required to acquire transfer of the consent from the consent holder.

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South Wibaux-Beach Tract

M 59121

The coal resource to be offered consists of the recoverable reserves in the following described lands located west of Beach, North Dakota:

T. 13 N., R. 60 E., P.M.M.
Sec. 2: Lots 1, 2, 3, 4, S½NE¼, N½SE¼
Sec. 10: NE¼NE¼, S½NE¼
Sec. 12: N½, SW¼
Sec. 14: NE¼, NE¼SW¼
T. 14 N., R. 60 E., P.M.M.
Sec. 26: S½SE¼
Sec. 28: NW¼NW¼, S½NW¼, S½
Sec. 34: W½
T. 13 N., R. 61 E., P.M.M.
Sec. 6: Lots 1, 2, 3, 4
Sec. 18: Lots 1,2
Sec. 30: Lots 1, 2, 3, 4
T. 139 N., R. 106 W., 5th P.M.
Sec. 10: Lots 1, 2, 3, 4
Sec. 14: NW¼
Sec. 22: Lots 1, 2, 3, 4
T. 140 N., R. 106 W., 5th P.M.
Sec. 34: Lots 3, 4

Containing 2,367.00 acres, Wibaux County, Montana, and, containing 653.87 acres, Golden Valley, North Dakota: Total 3,020.87 acres.

Total recoverable reserves are estimated to be 127.5 million tons. The Harmon seam is lignite and averages (as-received) 6,209 BTU/lb. with 39.1 percent moisture, 0.80 percent sulfur, 7.9 percent ash, 27.5 percent fixed carbon and 25.5 percent volatile matter.

Notice to Potential Bidders: There are serious uncertainties that surround the ability of a lessee or any other person to develop coal in the South Wibauz-Beach tract in light of potential adverse impacts of associated air pollution on nearby Theodore Roosevelt National Park. The Clean Air act contains certain requirements protective of the park's resources with which a coal development project would have to comply. Specifically, given the probable need for on-site coal processing facilities, a coal development project would in all likelihood require a Prevention of Significant Deterioration (PSD) permit to operate under Section 165 of the Clean Air Act. Because the available 24-hour sulfur dioxide increment for the park is already exceeded, the applicant would have to obtain a certification from the Federal Land Manager of Theodore Roosevelt National Park that the emissions associated with an on-site coal processing facility will not adversely affect the air quality related values of the park in accordance with Section 165(d) of the Clean Air Act. Without a finding of no adverse impact, the Federal Land Manager cannot issue the certification, and, therefore, the applicant would be left with two alternatives for obtaining the required PSD permit. The applicant could request that the Governor seek a Presidential variance under Section 165(d)(2)(D)(ii) of the Act, based on a finding of "national interest," to allow limited exceedances on not more than 18 days a year for the short-term sulfur dioxide increments. The applicant could also seek emission offsets from other facilities in the area sufficient both to counterbalance the increases in pollutants that its proposed facilities would add to the air and to preclude any adverse impacts on the park.

Surface Owner Consent Information: this tract has 15 qualified surface owners, four surface owners presumed to be unqualified, and one surface owner unqualified.

Consents granted by the qualified surface owners have been filed and verified by the Bureau of Land Management. Copies of these consents are attached to the detailed statement of sale. The lands and the purchase price of the consents are shown below:

T. 13 N., R. 60 E., P.M.M. Sec. 2: Lots 1, 2, 3, 4. T. 14 N., R. 60 E., P.M.M. Sec. 26: S½SE¼(less 28.00 acres in SE¼ on west side)	$71,144.15
T. 13 N., R. 60 E., P.M.M. Sec. 2: S½NE¼, N½SE¼	7,400.00
T. 13 N., R. 60 E., P.M.M. Sec. 12: NE¼	6,490.00
T. 13 N., R. 60 E., P.M.M. Sec. 14: NE¼	7,840.00
T. 14 N., R. 60 E., P.M.M. Sec. 28: S½	11,200.00
T. 14 N., R. 60 E., P.M.M. Sec. 34: W½	4,160.00
T. 13 N., R. 61 E., P.M.M. Sec. 6: Lots 1, 2, 3, 4	1,598.50
T. 13 N., R. 61 E., P.M.M. Sec. 18: Lots 1, 2	2,858.56
T. 13 N., R. 61 E., P.M.M. Sec. 30: Lots 1, 2, 3, 4	1,791.02
T. 139 N., R. 106 W., 5th P.M. Sec. 10: Lots 1, 2, 3, 4	26,663.81
T. 139 N., R. 106 W., 5th P.M. Sec. 14: NW¼	2,560.00
T. 139 N., R. 106 W., 5th P.M. Sec. 22: Lot 1	545.16

T. 139 N., R. 106 W., 5th P.M. Sec. 22: Lots 2, 3, 4	1,629.76

Consents granted by the surface owners presumed to be unqualified have been filed with the Bureau of Land Management, however, have not been verified. Copies of these consents are attached to the detailed statement of sale. The lands and the purchaes price of these consents are shown below:

T. 13 N., R. 60 E., P.M.M. Sec. 12: W½	$12,160.00
T. 13 N., R. 60 E., P.M.M. Sec. 14: NE¼SW¼	1,440.00
T. 14 N., R. 60 E., P.M.M. Sec. 25: 28.00 acres in Se¼	[1] 365.68
T. 14 N., R. 60 E., P.M.M. Sec. 26: NW¼NW¼, S½NW¼	10,200.00
T. 140 N., R. 106 W., 5th P.M. Sec. 34: Lots 3, 4	3,417.05

[1] Figured on 28.00 acres.

If the surface owner is determined to be unqualified, the successful bidder will not be required to acquire transfer of the consent from the consent holder.

* * * * *

Rental and Royalty

Leases issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre, or fraction thereof, per year and a royalty payable to the United States of 12.5 percent of the value of coal mined by surface methods and 8.0 percent of the value of the coal mined by underground methods. The value of the coal will be determined in accordance with 30 CFR 211.63.

Notice of Availability

Bidding instructions for each tract offered, the terms and conditions of surface owner consents filed, and details on the post-sale transfer or assignment of surface owner consents are included in the Detailed Statements of Lease Sale. Copies of the Detailed Statements together with the proposed coal leases are available in the Montana State Office. Case file documents are also available for inspection.

Michael J. Penfold,

State Director.

[FR Doc. 83-22714 Filed 8-17-83; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-18530]

Idaho; Conveyance of Public Lands, Caribou County

August 12, 1983.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), a patent was issued to Floyd J. Banks and Erma M. Banks, Bancroft, Idaho, for the following-described public land:

Boise Meridian, Idaho

T. 6 S., R. 38 E.,
Sec. 13, lot 24.
Containing 7.90 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the conveyance.

Louis B. Bellesi,

Deputy State Director for Operations.

[FR Doc. 83-22726 Filed 8-17-83; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-18530]

Idaho; Conveyance of Public Lands, Caribou County

August 12, 1983.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), a patent was issued to Samuel Reed, Inc., Soda Springs, Idaho, for the following-described public lands:

Boise Meridian, Idaho

T. 8 S., R. 40 E.,
Sec. 13, E½E½NE¼SE¼NE¼.
T. 8 S., R. 41 E.,
Sec. 7, NE¼SW¼, W½NE¼SE¼;
Sec. 18, lot 4.
Containing 98.90 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the conveyance.

Louis B. Bellesi,

Deputy State Director for Operations.

[FR Doc. 83-22727 Filed 8-17-83; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-18530]

Idaho; Conveyance of Public Lands, Caribou County

August 12, 1983.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), a patent was issued to Lau Farms, Inc., Soda Springs, Idaho, for the following-described public land:

Boise Meridian, Idaho

T. 8 S., R. 42 E.,
Sec. 19, NE¼NW¼.
Containing 40.00 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the conveyance.

Louis B. Bellesi,

Deputy State Director for Operations.

[FR Doc. 83-22728 Filed 8-17-83; 8:45 am]

BILLING CODE 4310-84-M

[M 58097]

Montana; Conveyance of Public Land

August 10, 1983.

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of conveyance of public land in Carbon County, Montana.

SUMMARY: Notice is hereby given that pursuant to Section 203 of the Act of October 21, 1976 (43 U.S.C. 1701, 1713 (1976)), the following described land was conveyed to Mildred H. Wallin:

Principal Meridian, Montana

T. 9 S., R. 27 E.,
Sec 25, NE¼SW¼NW¼SW¼, S½SW¼ NW¼SW¼ and W½SW¼SW¼.
Containing 27.50 acres.

The purpose of this notice is to inform the State and local governments and interested parties of the conveyance of the land to Mrs. Wallin.

Edgar D. Stark,

Chief, Land Adjudication Section.

[FR Doc. 83-22715 Filed 8-17-83; 8:45 am]

BILLING CODE 4310-84-M

[M 57041]

Montana; Order Providing for Opening of Public Lands

August 11, 1983.

AGENCY: Bureau of Land Management, Interior.

ACTION: Opening order.

SUMMARY: This order restores certain lands and interest in lands that have been transferred to the Bureau of Land Management (BLM) by the Bureau of Reclamation (BR) to the operation of the public land laws and the mineral leasing laws applicable to acquired lands.

EFFECTIVE DATE: September 27, 1983.

FOR FURTHER INFORMATION CONTACT: Ray Brubaker, District Manager, BLM, Miles City District Office, West of Miles City, P.O. Box 940, Miles City, Montana 59301, phone (406) 232-4331.

SUPPLEMENTARY INFORMATION: The lands were acquired by the BR in connection with the Moorhead Dam and Reservoir Project. They have been administered by the BLM under a memorandum of understanding between the two agencies since 1973. Full jurisdiction over the lands was transferred to the BLM in 1982. They are an integral part of the Federal holdings in the vicinity. They provide access to other Federal lands, river frontage on the Powder River, wildlife habitat and recreational potential, besides being a

significant factor in the grazing program in the area.

By virtue of the authority vested in me, it is ordered as follows:

1. The acquired lands located in Powder River County that have been transferred to the BLM by the BR are hereby restored to the operation of those public land laws and mineral leasing laws applicable to such lands at 9 a.m. on the effective date of this order. The lands affected by the order are described as follows:

Principal Meridian

T. 9 S., R. 47 E.,
Sec. 22, N½SE¼, SE¼SE¼;
Sec. 23, NW¼SW¼;
Sec. 24, E½NE¼; and
Sec. 36, Lot 2 and NE¼NW¼.

T. 9 S., R. 48 E.,
Sec. 17, Lot 3, SW½, W½SE¼, SE¼SE¼ and that part of Lot 2 more particularly described as follows:

Beginning at the Northwest corner of said lot thence S. 39°38' E., 800.00 feet, more or less to a point on the Northern right-of-way boundary of the County Road; thence Southwesterly along the Northern right-of-way boundary of the County Road to a point on the South line of said Lot 2; thence Northwesterly along the South line of said Lot 2; to the West line of said Lot 2; thence Northerly along the west line of said Lot 2, 396.00 feet to the point of beginning;

Sec. 18, Lots 1, 2, 3, 4, 5, 6, 10, 15, S½NE¼, SE¼NW¼, E½SE¼, NW¼SE¼, and that part of Lot 7 more particularly described as follows:

Beginning at a point on the East line of said lot, 350.00 feet Southerly from the Northeast corner of said Lot 7, thence S. 43°33' W., 1338.40 feet to a point on the South line of said Lot 7; thence Easterly along the South line of said Lot 7, 175.00 feet to a point on the left bank of the Powder River; thence N. 45°00' E., along said left bank, 1,195.00 feet to a point on the East line of said Lot 7; thence Northerly along the East line of said Lot 7, 125.00 feet to the point of beginning.

Sec. 19, Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 15 and SE¼NW¼; and
Sec. 20, N½ and NW¼SW¼.

Aggregating 1,786.61 acres more or less.

2. The entire mineral estate in some of the lands and the coal estate in the remaining lands described in paragraph 1 have always been in the United States and those interests are not affected by the order. Lands with the entire mineral estate reserved to the United States are described as follow:

Principal Meridian

T. 9 S., R. 47 E.,
Sec. 22, N½SE¼, SE¼SE¼; and
Sec. 23, NW¼SW¼.

T. 9 S., R. 48 E.,
Sec. 17, NW¼SW¼;
Sec. 19, Lot 8; and
Sec. 20, NE¼, N½NW¼ and SE¼NW¼.

Aggregating 517.29 acres more or less.

3. This restoration is subject to valid existing, the provisions of existing withdrawals, and the requirements of applicable law.

Ronald L. Bartley,

Acting Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 83-22713 Filed 8-17-83; 8:45 am]

BILLING CODE 4310-84-M

[N-38196]

Nevada; Airport Lease Application

August 10, 1983.

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211-214), General Recreation Products Corporation has applied for an airport lease for the following land:

Mount Diablo Meridian

T. 18 S., R. 59 E.
Secs. 25, 26, 35 & 36 (NE side of Hwy 95).

The area described is located in Clark County, Nevada. The application was filed on June 14, 1983, and on that date the land was segregated from all other forms of appropriation under the public land laws.

Insterested persons may submit comments to the District Manager, Bureau of Land Management, P.O. Box 26569, Las Vegas, Nevada 89126.

Wm. J. Malencik,

Deputy State Director, Operations.

[FR Doc. 83-22718 Filed 8-17-83; 8:45 am]

BILLING CODE 4310-84-M

Southwest North Dakota and McKenzie-Williams Management Framework Plans; Comment Period Extended and Hearings Rescheduled

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice.

SUMMARY: The Comment period for the Southwest North Dakota and McKenzie-Williams Management Framework Plans (MFPs) has been extended. Hearings on the plans (orginally scheduled for August) have been rescheduled.

LOCATION, DATE, AND TIME: Comments on the planning recommendations will be accepted through September 30, 1983. Formal hearings for taking oral testimony on the plans will be held as follows: New England, N.D., Memorial Hall, 7:30 p.m. (MDT)—September 26, 1983, Williston, N.D., County Courthouse, Memorial Room, 7:30 p.m. (CDT)—September 27, 1983.

ADDRESS: Written comments may also be submitted at any time prior to the close of the comment period to the Bureau of Land Management, Dickinson District, 204 Sims Street, P.O. Box 1229, Dickinson, ND 58602. Documents containing the land use recommendations for the two plans can be obtained by writing to the above address or by calling the District Office at (701) 225-9148.

SUPPLEMENTARY INFORMATION: On July 14, 1983, a notice appeared in the Federal Register inviting public comments on land use recommendations for the Southwest North Dakota and McKenzie-Williams MFPs. These plans address management of federal minerals and certain federal lands. The Southwest North Dakota MFP covers Billings, Slope, Bowman, Adams, Hettinger, and Grant counties. The McKenzie-Williams MFP covers the two counties indicated by the title, as well as the southernmost tier of townships in Divide County.

Reed L. Smith,

District Manager.

[FR Doc. 83-22712 Filed 8-17-83; 8:45 am]

BILLING CODE 4310-84-M

[W-81324 D]

Wyoming; Conveyance Sale of Public Land in Laramie County, Wyoming

August 12, 1983.

Notice is hereby given that pursuant to Section 203 of the Act of October 21, 1976; 43 U.S.C. 1713 (1976), David R. Baker has purchased and received a patent for the following described public land in Laramie County, Wyoming.

Sixth Principal Meridian

T. 12 N., R. 63 W.,
Sec. 20, lot 1.

Containing 0.36 acres.

James L. Edlefsen,

Chief, Branch of Land Resources.

[FR Doc. 83-22719 Filed 8-17-83; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Filing of Plats of Survey

August 11, 1983.

The plats of survey of the following described lands were officially filed in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, effective 10:00 a.m., August 9, 1983.

Sixth Principal Meridian

T. 15 N., R. 82 W.

The plat representing the dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines, and the subdivision of section 23, T. 15 N., R. 82 W., Sixth Principal

Meridian, Wyoming, Group No. 395, was accepted July 14, 1983.

T. 15 N., R. 85 W.

The plat, in two sheets, representing the dependent resurvey of a portion of the Sixth Standard Parallel North, through Range 85 West, portions of the east and north boundaries, the subdivisional lines, portions of Mineral Survey Nos. 37, 38, 39, 50A and 53, and the subdivision of section 6, T. 15 N., R. 85 W., Sixth Principal Meridian, Wyoming, Group No 388, was accepted July 14, 1983

T. 25 N., R. 86 W.

The plat, in two sheets, representing the corrective dependent resurvey of the east boundary, the dependent resurvey of a portion of the Sixth Standard Parallel North, through Range 86 West, a portion of the west boundary, the subdivisional lines, and portions of Mineral Survey Nos. 380, 424 and 541, T. 25 N., R. 86 W., Sixth Principal Meridian, Wyoming, Group No. 388, was accepted July 14, 1983.

T. 26 N., R. 86 W.

The plat representing the dependent resurvey of the exterior boundaries and subdivisional lines, T. 26 N., R. 86 W., Sixth Principal Meridian, Wyoming, Group No. 386, was accepted July 14, 1983.

T. 24 N., R. 87 W.

The plat representing the dependent resurvey of a portion of the Sixth Standard Parallel North, through Range 87 West, and the south and east boundaries, a portion of the west boundary, and the subdivsional lines, T. 24 N., R. 87 W., Sixth Principal Meridian, Wyoming Group No. 388, was accepted July 14, 1983.

These surveys were executed to meet certain administrative needs of this Bureau.

All inquiries concerning these lands should be sent to the Wyoming State Office, Bureau of Land Management, P. O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.

Dennis D. Bland,

Acting Chief Codastral Surveyor.

[FR Doc. 83-22720 Filed 8-17-83; 8:45 am]

BILLING CODE 4310-84-M

[W-79576]

Wyoming; Sale of Public Lands in Sweetwater County

August 10, 1983.

AGENCY: Bureau of Land Management, Interior.

ACTION: Sale of Public Lands in Sweetwater County, Wyoming (W-79576).

SUMMARY: Notice is hereby given that the following described lands which were offered for sale on June 22 and July 27, 1983, will remain available for purchase on a first come-first served basis beginning August 29, 1983, at 7:45 a.m. at the Salt Wells Resource Area Office, 79 Winston Drive, Gateway Building, Rock Springs, Wyoming. The lands will be offered for sale at the appraised fair market value at the time of purchase.

Sixth Principal Meridian, Wyoming

Township 18 North, Range 105 West, Section 18:

Legal Description—Acreage

Lot 5, N½NE¼, NE¼NW¼—157.22

The appraised fair market value of the parcel as of May 3, 1983, is $220,000.00.

Sale of these lands is subject to existing rights-of-way of record and any other valid, existing rights. Conveyance of these lands by the Department of the Interior shall not exempt the purchasers from compliance with applicable Federal or State law and compliance with State and local land use plans.

All minerals in the lands will be reserved to the United States in accordance with Section 209(a) of the Federal Land Policy and Management Act of 1976. A *Right-of-way for ditches and canals* will be reserved under 43 U.S.C. 945.

The Federal Land Policy and Management Act requires that bidders be U.S. citizens or, in the case of a corporation, subject to the laws of any state of the U.S. Bids must be made by the principal (the one desiring to purchase the land) or his agent (someone representing him).

No bid will be accepted for less than the appraised price and bids must include all the lands contained in the parcel. Bidders can make full payment of the purchase price at the sale or pay a nonrefundable 20 percent (20%) and the balance within 29 days. Payment may be made by personal check, certified check, money order, or cashier's check, made payable to the Bureau of Land Management, or by cash.

All bids will be either returned, accepted, or rejected no later than 30 days after the sale date. Once a high bid is accepted and citizenship or corporate qualifications are met, the patent (deed of title) will be issued.

The lands will remain available for sale on a continuing basis until the parcel is sold or withdrawn. Detailed information concerning the parcel can be obtained from the Salt Wells Resource Area office.

Gene C. Herrin,

Associate District Manager.

[FR Doc. 83-22711 Filed 8-17-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 5610, Block 194, South Timbalier Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838-0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 10, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-22733 Filed 8-17-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Huffco Petroleum Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 4523, Block 235, South Marsh Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 10, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-22734 Filed 8-17-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 1241, Block 52, South Timbalier Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules govering practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 11, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-22735 Filed 8-17-83; 8:45 am]

BILLING CODE 4310-MR-M

Office of the Secretary

Privacy Act of 1974—Revision of System of Records Notice

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)), the Office of Inspector General System of Records Notice titled "Investigative Records, OIG–2," is being republished to document certain exemptions from the Privacy Act of 1974. The new system notice is published in its entirety below.

Notice of proposed rulemaking to exempt this system of records from certain provisions of the Privacy Act of 1974, pursuant to 5 U.S.C. 522a(j)(2), was published on March 11, 1983 (48 FR 10382). A companion rulemaking document amending 43 CFR 2.79(a) and setting forth the reasons for such exemption is published in the Rules Section of today's **Federal Register**. Other minor editing changes have been made in the revised notice.

This System of Records Notice is effective on or before September 19, 1983.

For Further Information Contact: Danny P. Danigan, Assistant Inspector General for Administration, at (202) 343–8231, or Maurice O. Ellsworth, Associate Solicitor, Audit and Inspection, at (202) 343–8275. These are not toll free numbers.

Dated: August 12, 1983.

Richard R. Hite,

Deputy Assistant Secretary of the Interior.

INTERIOR/OIG–2

SYSTEM NAME:

Investigative Records—Interior, Office of Inspector General—2

SYSTEM LOCATION:

(1) Office of Inspector General, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240; (2) Office of Inspector General Regional Offices and Regional Suboffices (A current listing of such offices and their locations can be obtained from the System Manager); (3) Investigative site during course of an investigation.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past, present, and prospective Departmental employees, contractors, subcontractors, grantees, subgrantees, lessees, licensees, and other persons doing official business with theDepartment, or having contact with the Department or geographical areas under its jurisdiction.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative reports and materials pertaining to allegations of fraud, waste, abuse, mismanagement, danger to public health or safety, violations of law, misconduct and irregularities by individuals covered by the system, including irregularities involving the policies and practices of the Department and real and personal property under its jurisdiction; a list of individuals having records subpoenaed in connection with investigations; and their subpoenaed records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) Inspector General Act of 1978, 5 U.S.C. app. 1, sections 1–12; (2) 5 U.S.C. 7301; (3) Executive Order No. 11222, 18 U.S.C. 201 note; (4) 18 U.S.C. 437, as amended by Pub. L. 96–277, 94 Stat. 544; (5) 30 U.S.C. 6; (6) 43 U.S.C. 11; (7) 43 U.S.C. 31; (8) 43 U.S.C. 1466; (9) Reorgan. Plan No. 3 of 1950, 64 Stat. 1262, as amended, 5 U.S.C. app.; (10) 43 CFR Part 20; (11) 25 CFR 11.30(n)(2)(ii) (12) 28 CFR 20.3; and (13) 355 and 356 DM.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are: (a) to conduct and report investigations of fraud, waste, abuse and mismanagement in the programs and activities of the Department and real and personal property under its jurisdiction, including violations of law, waste of funds, abuse of authority, serious employee misconduct, other irregularities, or danger to public health and safety, to insure compliance by Departmental employees, contractors, subcontractors, grantees, lessees, licensees and other persons doing business, or having contact, with the Department with federal statutes, regulations, policies, and procedures; and (b) to prevent and detect fraud and abuse, and to promote economy, efficiency, and effectiveness in the programs and operations of the Department of the Interior.

Disclosures outside of the Department may be made: (1) to the U.S. Department of Justice when related to litigation or prosecution or anticipated litigations or prosecution; (2) to a Member of Congress from the record of an individual in response to an inquiry made at the request of that individual; (3) to federal, state, tribal, territorial, or local agencies where necessary to obtain information relevant to the firing or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit; (4) to a federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; (5) to appropriate federal, state, tribal, territorial, local, or foreign agencies responsible for investigating or prosecuting the violation of, or for enforcing, implementing, or administering a statute, rule, regulation, program, facility, order, lease, license, contract, grant, or other agreement; (6) to a federal, state, tribal, territorial, local, or foreign agency, or an organization, or an individual when reasonably necessary to obtain information or assistance relating to an audit, investigation, trial, hearing, preparation for trial or hearing, or any other authorized activity of the Office of Inspector General; (7) to an actual or potential party or his or her attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (8) to a foreign government pursuant to an international treaty, convention, or executive agreement entered into by the United States.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders and wood processing equipment storage media.

RETRIEVABILITY:

Indexed by name and subpoena number.

SAFEGUARDS:

File folders and word processing equipment storage media are in locked rooms; manual files, standard passworded files, automated data processing equipment, and software are accessible to authorized persons only.

RETENTION AND DISPOSAL:

Reports of cases selected for their continuing historical value are retained for 10 years after they become inactive and then they are offered to the National Archives; reports on nonselected cases are destroyed 10 years after they become inactive; subpoena log and subpoenaed records are destroyed or returned when no longer needed for agency use.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations, Office of Inspector General, U.S. Department of the Interior, 18th & C Sts., N.W., Washington, D.C. 20240.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific authority provided by 5 U.S.C. 552a(k)(2), the Department of the Interior has adopted a regulation, 43 CFR 2.79(b), which exempts this system from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H) and (I), and (f) and the portions of 43 CFR, Part 2, Subpart D which implement these provisions. The reasons for adoption of this regulation are set out at 40 FR 37217 (August 26, 1975).

Under the specific authority provided by 5 U.S.C. 552a(j)(2), the Department of the Interior has adopted a regulation, 43 CFR 2.79(a) which exempts this system from all of the provisions of 5 U.S.C. 552a and Department of Interior regulations in 43 CFR, Part 2, Subpart D—Privacy Act, except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11) and (i) of 5 U.S.C. 552a and the portions of the regulations in Subpart D implementing these subsections.

[FR Doc. 83-22668 Filed 8-17-83; 8:45 am]
BILLING CODE 4310-10-M

Commission on Fair Market Value Policy for Federal Coal Leasing; Establishment

AGENCY: Department of the Interior.

ACTION: Notification of Commission Establishment.

SUMMARY: Notice is hereby given that the Secretary of thge Interior has established a Commission on Fair Market Value Policy for Federal Coal Leasing. The Commission is to report its recommendations to the Secretary no later than January 30, 1984.

FOR FURTHER INFORMATION CONTACT: William D. Bettenberg, Federal Representative, Department of the Interior Building, 18th and "C" Streets, NW., Washington, D.C. 20240. Phone: (202) 343-4123.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to the authority and requirements of Pub. L. 98-63, approved July 30, 1983, making supplemental appropriations for fiscal year 1983, and for other purposes, and in accordance with Section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463).

The purpose of the Commission will be to review the Department of the Interior's coal leasing procedures to ensure receipt of fair market value. To complete its mission, the Commission will:

(a) Examine the procedures of the Department of the Interior to ensure receipt of fair market value from Federal coal leases;

(b) Evaluate efforts to improve the Department's fair market value procedures for the coal leasing program; and

(c) Recommend improvements in those procedures.

David F. Linowes has been appointed Chairman of the Commission by the Secretary. Mr. Linowes is an international authority in management and political economics. He recently chaired the Commission on Fiscal Accountability of the Nation's Energy Resources, which recommended ways to improve the royalty management system of the Department of the Interior. Mr. Linowes will be joined on the Commission by four other members.

The Chairman has indicated a strong desire to secure the services of a well-qualified Executive Director for the Commission, preferably one with

previous independent commission experience, as quickly as is possible. The Executive Director would support the Commissioners and manage a staff of approximately 5 persons in completing the work of the Commission and issuing a final report. The Commission will also need the services of an attorney and research director.

The Commission is to make its recommendations as soon as is possible, but no later than January 30, 1984.

Dated: August 16, 1983.

William D. Bettenberg,

Deputy Assistant Secretary, Policy, Budget and Administration, U.S. Department of the Interior.

[FR Doc. 83-22827 Filed 8-17-83; 8:45 am]

BILLING CODE 4310-10-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-139]

Antidumping Investigation on Certain Caulking Guns; Commission Decision Not To Review Initial Determination Terminating Respondent

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the presiding officer's initial determination (Order No. 26) terminating The Mega Group, Inc. (Mega) as a respondent in the above-captioned investigation. Accordingly, the initial determination has become the Commission's determination with respect to this matter.

Authority: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in §§ 210.53(c) and 210.53(h) of the Commission's Rules of Practice and Procedure (47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983; to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: On July 11, 1983, complainant Peter. J. Chang and respondent Mega jointly moved (Motion No. 139-21) to terminate the Commission's investigation with respect to Mega on the basis of a settlement agreement. On July 18, 1983, the presiding officer issued an initial determination granting Motion No. 139-21 and terminating Mega as a respondent in the investigation. The initial determination was served on the parties and on the Department of Health and Human Servfces, the Department of Justice, the Federal Trade Commission, and the U.S. Customs Service on July 19, 1983. No petitions for review, or agency or public comments were received.

Pursuant to § 210.53(h)(2), an initial determination of the presiding officer under § 210.53(c) becomes the determination of the Commission no later than 30 days from the date of service, unless the Commission orders review of the initial determination.

Having examined the record in this investigation, including Motion No. 139-21, the papers filed in connection therewith, and the initial determination of the presiding officer, the Commission found no grounds for review of the initial determination.

Copies of the initial determination 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: William E. Perry, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0499.

Issued: August 12, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-22677 Filed 8-17-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-141]

Antidumping Investigation on Certain Copper-Clad Stainless Steel Cookware; Commission Determination Not To Review Initial Determination Terminating Respondent

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 42) to terminate this investigation as to respondent Progressive International Corporation. Accordingly, the I.D. has become the Commission's determination as to this matter.

Authority: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53(c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of I.D. was published in the Federal Register of July 27, 1983, 48 F.R. 34138. The Commission has received neither a petition for review of I.D. nor comments from the public or other Government agencies.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202-523-0493.

Issued: August 12, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-22678 Filed 8-17-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-139]

Antidumping Investigation on Certain Caulking Guns; Commission Decision Not To Review Initial Determination Terminating Respondent

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the presiding officer's initial determination (Order No. 25) terminating Art-Co Distributors, Inc. (Art-Co) as a respondent in the above-captioned investigation. Accordingly, the initial determination has become the Commission's determination with respect to this matter.

Authority: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in § 210.53(c) and 210.53(h) of the Commission's Rules of Practice and Procedure (47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983; to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: On June 29, 1983, complainant Peter J. Chang and respondent Art-Co jointly moved (Motion No. 139-19) to terminate the Commission's investigation with respect to Art-Co on the basis of a settlement agreement. On July 18, 1983, the presiding officer issued an initial determination granting Motion No. 139-19 and terminating Art-Co as a respondent in the investigation. The initial determination was served on the parties and on the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and the U.S. Customs Service on July 19, 1983. No petitions for review, or agency or public comments were received.

Pursuant to § 210.53(h)(2), an initial determination of the presiding office under § 210.53(c) becomes the determination of the Commission no later than 30 days from the date of service, unless the Commission orders review of the initial determination.

Having examined the record in this investigation, including Motion No. 139-19, the papers filed in connection therewith, and the initial determination of the presiding officer, the Commission

found no grounds for review of the initial determination.

Copies of the initial determination 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: William E. Perry, Esq., Office of the General Counsel, U.S. International Commission, telephone 202–523–0499.

Issued: August 12, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–22879 Filed 8–17–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 731–TA–108 and 109 (Final)]

Antidumping Investigation on Portland Hydraulic Cement From Australia and Japan; Location of Hearing

AGENCY: United States International Trade Commission.

ACTION: Announcing the location of the hearing to be held in connection with the subject investigation.

EFFECTIVE DATE: August 12, 1983.

SUMMARY: The Commission will hold the hearing scheduled in connection with these investigations (see 48 FR 24799 and 48 FR 28565) at the Los Angeles Hilton, 930 Wilshire Blvd, Los Angeles, California, beginning at 10:00 a.m. on September 12, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Judith C. Zeck (202–523–0339), Office of Investigations, United States International Trade Commission.

Issued: August 15, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–22880 Filed 8–17–83; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 438]

Motor Carriers; Acquisition of Motor Carriers by Railroads

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed policy statement.

SUMMARY: The Commission is proposing to modify its policy governing applications by rail carriers seeking to acquire motor carriers pursuant to 49 U.S.C. 11343–11347. The Commission would no longer require that "special circumstances" be shown to justify the acquisition of motor carriers whose operations extend beyond those which can be classified as auxiliary or supplemental to rail service. Such intermodal ownership would no longer be presumed to result in a restraint of competition but this would be a factor considered in individual cases. This proposed change in policy is intended to improve competition and coordination between rail carriers and motor carriers consistent with recent amendments to the Interstate Commerce Act.

DATE: Comments should be filed by October 3, 1983. A final decision will be issued within 60 days of final comment.

ADDRESSES: An original and 10 copies of any comments should be sent to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

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, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

Dated: August 10, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–22565 Filed 8–17–83; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 35]

Motor Carriers; Applications, Alternate Route Deviations, and Intrastate Applications

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carriers of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this **Federal Register** notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

By the Commission.

Agatha L. Mergenovich,

Secretary.

Motor Carriers of Passengers

New York Docket T–10215, filed May 17, 1983. Applicant: INDEPENDENT MOVERS INC., 48 Swan Lane, Levittown, NY 11756. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *Household Goods:* Between all points in Nassau and Suffolk Counties and the City of New York. Intrastate, interstate and foreign commerce authority sought. Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

Alabama Docket 18825, filed July 27, 1983. Applicant: JAT, INC., P.O. Box 2868, Birmingham, AL 35212. Representative: J. Douglas Harris, 200 South Lawrence St., Montgomery, AL 36104. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Passengers, newspapers, baggage, express and mail between Birmingham, AL and Jasper, AL via Highway 78, serving all intermediate points. Intrastate, interstate and foreign commerce authority sought. Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to the State of Alabama Public Service Commission, State Office Bldg., P.O. Box 991, Montgomery, AL 36102, and should not be directed to the Interstate Commerce Commission.

[FR Doc. 83–22567 Filed 8–17–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Approved Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of approved exemptions.

SUMMARY: The motor carriers shown below have been granted exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte

No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 1343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: The exemptions will be effective on September 19, 1983. Petitions for reconsideration must be filed by September 7, 1983. Petitions for stay must be filed by August 29, 1983.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION: For further information, see the decision(s) served in the proceeding(s) listed below. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, DC 20423; or call (202) 289–4357 in the DC metropolitan area; or (800) 424–5403 Toll-free outside the DC area.

By the Commission, Division 1. Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

[No. MC–F–15161]

Vernon G. Sawyer—Purchase Exemption—Sawyer Transport, Inc. (Nathan Yorke, Trustee-in-Bankruptcy)

ADDRESSES: Send pleadings to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

and

(2) Petitioner's representative: D. Paul Stafford, Winkle, Wells & Stafford, Suite 1125—Frito Lay Tower, P.O. Box 45538, Dallas, TX 75245

Pleadings should refer to No. MC–F–15161.

Decided: August 10, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a)(2), the purchase by Vernon G. Sawyer of a portion of the operating rights of Sawyer Transport, Inc. in No. MC–123407 (Sub-No. 668X), [paragraphs 2, 19, 25, 45, 51, 56, 65, 77, 79, 87, 93, 98, 101, 103, 107, 113, 116, 120, 141, 148, 158, 161, 164, 166, 172, 180, 182, 187, 193, 197, 203, 214, 221, 224, 227, 229, 10, 20, 27, 59, 73, 88, 12, 237, 243, 245, 248, 262, 265, 268, 270, 274, 277, 331, 278, 295, 308, 310, 312, 316, 320, 6, 44, 15, 35, 296, 135, 160, 202, 216, 272] and additional paragraphs [81, 168, 199, 204, 239, 288, 8, and 233] and the involved underlying authority.

[No. MC–F–15277]

Ohio Fast Freight, Inc.—Purchase Exemption—Sun Express, Inc.

ADDRESSES: Send pleadings to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

and

(2) Petitioner's representative: Mr. Paul F. Berry, Berry & Spurlock Co., L.P.A., 275 East State Street, Columbus, OH 43215

Pleadings should refer to No. MC–F–15277.

Decided: August 11, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirements of prior review and approval under 49 U.S.C. 11343, the purchase by Ohio Fast Freight, Inc., (Ohio) (No. MC–14702), and in turn Orin S. Nieman, who controls Ohio, of the Sub-No. 186 certificates of Sun Express, Inc. (No. MC–119531).

[No. MC–F–15303]

U.S. Truck Company, Inc.—Continuance in Control—Adams Cartage, Limited

ADDRESSES: Send pleadings to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

and

(2) Petitioner's representative: Leonard R. Kofkin, Esq., Suite 1515, 140 South Dearborn Street, Chicago, IL 60603

Pleadings should refer to No. MC–F–15303.

Decided: August 10, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343, the continuance in control of Adams Cartage, Limited, by U.S. Truck Company, Inc., which is in turn controlled by McKinley Transport, Inc. (a Michigan corporation), whose stock is wholly owned by Flanvi Transport, Ltd. (an Ontario corporation), and the stock of the latter by A. A. Moroun.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-22571 Filed 8-16-83; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP5–FC–424]

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, 10928, 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.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 3, (202) 275–7289.

MC–FC–81135. By decision of August 5, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, the Review Board Members Krock, Williams and Carleton approved the transfer to ARCHER-DANIELS-MIDLAND COMPANY, of Decatur, IL, of Certificate No. MC–116328, issued October 5, 1978, Sub 2 issued November 20, 1980, Sub 3 issued May 4, 1981 and Sub 4 issued April 26, 1982 authorizing the transportation, over irregular routes, of (1) edible corn syrup, liquid sugar, and blends thereof, in bulk, in tank vehicles, from named points in MN to

points in MN, points in that part of ND on and east of US Hwy 51, including points in that part of WI north of US Hwy 18 and west of US Hwy 51, including points on the indicated portions of the Hwys specified, and Mason City, IA (2) liquid sugar and edible corn syrup, in bulk, in tank vehicles, from Cedar Rapids, IA to Fargo, ND, Sioux Falls, SD and points in MN and WI. (3) food and related products, between Minneapolis, MN, on the one hand, and, on the other, points in IA, SD and NE. and (4) liquid sugar and corn syrup, between points in Linn County, IA, on the one hand, on the other, points in Woodbury County, IA, and points in NE and SD. Representative: Denise M. O'Brien, 888 Sixteenth St., N.W., Washington, DC 20006.

FC–81609. By decision of August 8, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, the Review Board Members Carleton, Joyce and Krock approved the transfer to OZARK COACHES DALES AND SERVICE, INC., of Elm Springs, AR of Certificate No. MC–30608 Sub 10 issued December 13, 1973 to K.G. LINES, INC., of Tulsa, OK authorizing the transportation of passengers and their baggage, and express, and newspapers in the same vehicle with passengers, (a) between Tulsa, Claremore, Pryor, Chouteau, Jay and Grove, OK and Gravette, Rogers, Springdale and Fayetteville, AR; From Tulsa, OK., over OK Hwy 33 to junction US Hwy 66, then over U.S. Hwy 66 to Claremore, OK, then over OK Hwy 20 to OK-AR State-Line, then over AR Hwy 72 to Gravette and junction U.S. Hwy 71, then over U.S. Hwy 71 to Rogers, AR, then over U.S. Hwy 71 via Lowell and Springdale to Fayetteville, AR; (b) between Grove and Jay OK over U.S. Hwy 59; (c) between Pryor and Chouteau, OK over U.S. Hwy 60 and return over the same routes; serving all intermediate points in (a) and (b) above, and serving no intermediate points in (c) above. Temporary authority has been filed. Representative: Curtis M. Long, 510 Oklahoma Natural Bldg., Tulsa, OK 74119.

[FR Doc. 83-22568 Filed 8-17-83; 8:45 am]

BILLING CODE 7035-01-M

[OP4F–536]

Motor Carriers; Finance Application; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: August 9, 1983.

By the Commission members, Carleton, Dowell, and Williams.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries about the following to Team Four at (202) 275–7669.

MC–F–15375, filed July 27, 1983. FRANK TEDESCO and JOSEPHINE TEDESCO (1515 Jefferson Street, Hoboken, NJ 07030)—continuance in control—COMMUTER BUS LINE, INC. (Commuter) (1515 Jefferson Street, Hoboken, NJ 07030), ACADEMY BUS TOURS, INC. (Academy) (1515 Jefferson Street, Hoboken, NJ 07030), NEW YORK–KEANSBURG–LONG BEACH BUS CO., INC. (NKL) (50 Hwy 36, Leonardo, NJ 07737), and CONSOLIDATED BUD SERVICE, INC. (CBS) (1515 Jefferson Street, Hoboken, NJ 07030). Representative: Sidney J. Leshin, 3 East 54th Street, New York, NY 10022. Frank Tedesco and Josephine Tedesco seeks to continue in control of Commuter, Academy, NKL, and CBS through ownership of all their capital stock, upon the institution by Academy of operations as a common carrier. Frank Tedesco and Josephine Tedesco, individuals in control, seek to continue in control of Commuter, Academy, NKL and CBS through the transaction. NKL is a motor common carrier operating pursuant to certificate No. MC–106207 and subnumbers thereunder. The carriers' operating authorities have not been described, but complete descriptions are on file at the Commission's office in Washington, D.C.

[FR Doc. 83-22570 Filed 8-17-83; 8:45 am]

BILLING CODE 7035-01-M

[Volu ne No. OP5-417]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: August 11, 1983.

The following restriction removal applications, are governed by 49 CFR Part 1165. Part 1165 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of coments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board Members Krock, Williams and Dowell.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 5, at (202) 275-7289.

MC 144189 (Sub-20X), filed July 13, 1983. Applicant: CORPORATE TRANSPORT, INC., 107 7th North St., Liverpool, NY 13088. Representative: James T. Darby, 1021 Irving Ave., Colonial Beach, VA 22443, (804) 224-0773. Authority acquired under MC-F-15059, described as MC-125023 Sub. Nos. 19, 27, 33, 40, 44, 49, 53F, 54F, 60F, 74F, 75F, and 79F: Broaden (1) to county-wide authority: Fort Wayne, IN (Allen, Whitley, and Wells Counties) Milwaukee, WI (Washington, Ozaukee, Waukesha, Milwaukee, and Racine Counties), Vandergrift, PA (Westmoreland County), Rochester, NY (Monroe and Wayne Counties), Utica, NY (Oneida and Herkimer Counties), Cleveland, OH (Lorain, Cuyahoga, Medina, Summit, Geauga, and Lake Counties), Weirton, WV (Hancock and Brooke Counties), and Washington, PA (Washington County); and (2) one-way authority to radial authority.

[FR Doc. 83-22568 Filed 8-17-83; 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 demsontrated 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.

Agatha L. Mergenovich,

Secretary.

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 in for a named shipper "under contract."

For the following, please direct status calls to Team 5 at 202-275-7289.

Volume No. OP5-421

Decided: August 10, 1983

By the Commission, Review Board Members Fortier, Dowell, and Carleton.

MC 169549, filed July 28, 1983. Applicant: INTRA-MARKETING CORPORATION, d.b.a., IMCOR, 10 Harding Lane, Westport, CT 06880. Representative: George W. Underhill (Same address as applicant), (203) 227-8364. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 169558, filed July 29, 1983. Applicant: JERROLD L. AND LAURA M. POOLE, d.b.a., LAURA'S TOURS, 2689 Orange Rd., Orange, CA 92665. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667-8107. 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 169649, filed August 2, 1983. Applicant: A.E.F. ENTERPRISES, INC., 1400 Industrial Hwy., Eddystone, PA 19013. Representative: Maxwell A. Howell, 2554 Massachusetts Avenue NW., Washington, DC 20008, (202) 483-8833. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 169659, filed August 3, 1983. Applicant: UNITED OWNER/OPERATORS, INC., P.O. Box 737, South St. Paul, MN 55075. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542-1121. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP5-422

Decided: August 10, 1983.

By The Commission, Review Board Members Fortier, Krock, and Dowell.

MC 169528, filed July 29, 1983. Applicant: BARCLAY TRANSPORTATION SERVICES, INC., 6 Just Rd., Fairfield, NJ 07007. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, (703) 893-3050. Transporting *Passengers*, in charter and special operations, between points in the U.S. (except HI). Condition: the person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or (3) 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 this filing to Team 5, Room 2414.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 169598, filed August 2, 1983. Applicant: HARLEY D. HAMILTON & SARAH A. HAMILTON, d.b.a. S & H TRUCK BROKERS, Route 3, Box 11 Glenwood, IA 51534. Representative: Sarah A. Hamilton (same address as applicant), (712) 527-4940. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 169599, filed August 2, 1983. Applicant: DENNIS M. BAUMGART, RR Box 165, Marietta, MN 56257. Representative: Dennis M. Baumgart (same address as above), (605) 678-2461. 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).

Volume No. OP5-423

Decided: August 11, 1983.

By The Commission, Review Board Members Joyce, Krock, and Williams.

MC 169588, filed August 2, 1983. Applicant: AMERICAN AMBULANCE SERVICE, INC., d.b.a. AMERICAN COACH, One American Way, Norwich, CT 06360. Representative: Ron D. Aliano, 262 Broadway, Norwich, CT 06360, (203) 887-9530. Transporting *passengers*, in special and charter operations, between points in PA, NY, NJ, CT, MA, RI, ME, VT, and NH.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 169609, filed August 3, 1983. Applicant: R & S BROKERAGE, Rural Route #1, P.O. Box 47, Modale, IA 51556. Representative: James F. Crosby, 7363 Pacific St., Suite #210B, Omaha, NE 68114, (402) 397-9900. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 169619, filed August 3, 1983. Applicant: AGRICULTURAL TRANSPORTATION SERVICES, INC., 300 Mt. Lebanon Blvd., Suite 2217, Pittsburgh, PA 15234. Representative: Donald R. Chichilla, Jr. (same address as applicant), (412) 341-8343. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

Please direct status inquiries to Team 1, (202) 275-7030.

Volume No. OP1-334(F)

Decided: August 11, 1983.

By the Commission, Review Board Members Fortier, Williams, and Dowell.

MC 134030 (Sub-4), filed July 26, 1983. Applicant: ATLANTIC DISTRIBUTION SYSTEMS, INC., 774 Forest St., Atlanta, GA 30318. Representative: Robert J. Gallagher, 1435 G St., N.W., Suite 848, Washington, DC 20005, (202) 628-1642. (1) As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI), and (2) transporting (a) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions), (b) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, and (c) *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. (except AK and HI).

MC 169531, filed July 29, 1983. Applicant: KMK TRANSPORT, INC., 5138 Foothill Rd., Carpinteria, CA 93013. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, (805) 872-1106. 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).

Volume No. OP1-336

Decided: August 10, 1983.

By the Commission, Review Board Members Williams, Carleton, and Joyce.

MC 116140 (Sub-12), filed August 3, 1983. Applicant: CONCORD COACH LINES, INC., South Main St., Concord, NH. Representative: J. G. Dail, Jr., 6810 Fleetwood Rd., P.O. Box LL, McLean, VA 22101, (703) 893-3050. 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 169451, filed July 25, 1983. Applicant: MINORITY TRANSPORT, INC., 4126 Pleasantdale Rd., Suite B-117, Atlanta, GA 30340. Representative: Robert W. Gerson, 127 Peachtree St., N.E., Suite 1400, Atlanta, GA 30043, (404) 658-8045. 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), and (2) *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).

Volume No. OP1–338

Decided: August 10, 1983.

By the Commission, Review Board Members Dowell, Krock, and Williams.

MC 144241 (Sub-3), filed July 27, 1983. Applicant: EXPRESS MARCO, INC., 336 Main Street, East Broughton, Quebec, Canada GON 1GO. Representative: Jean-Marc Giguere, Highway No. 112, East Broughton, Quebec, Canada GON 1GO, (418) 427–3418. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 164690 (Sub-1), filed August 1, 1983. Applicant: SAFE, INC., d.b.a. SAFE EXPRESS, 2510 Channing Ave., San Jose, CA 95131. Representative: Eugene Q. Carmody, 15523 Sedgeman St., San Leandro, CA 94579, (415) 357–6236. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 169520 ,filed July 28, 1983. Applicant: DURANGO TRANSPORTATION, INC., P.O. Box 1445, Durango, CO 81301. Representative: Lee E. Lucero, 601 E. 18th Ave. Suite 107, Denver, CO 80203, (303) 861–8046. 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 169530, filed July 29, 1983. Applicant: TRANSPORTATION BROKERS, INC., 138 East 26th Street, Erie, PA 16504. Representative: Maxwell A. Howell, 2554 Massachusetts Ave., N.W., Washington, DC 20008, (202) 483–8633. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 169591, filed August 2, 1983. Applicant: GRANSTON TRUCKING COMPANY, INC., Hook Creek Blvd. and 145th Ave., Valley Stream, NY 11581. Representative: Brian S. Stern, North Springfield Professional Centre II, 5411–D Backlick Road, Springfield, VA 22151, (703) 941–8200. 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.

MC 169620, filed August 3, 1983. Applicant: CANIO D. VERRASTRO, d.b.a. ASTRO ASSOCIATES, INC., 20 Connolly Street, Randolph, MA 02368. Representative: Canio D. Verrastro (same address as applicant) (617) 963–3125. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 169651, filed August 2, 1983. Applicant: JOHNNY UNITAS AIR FREIGHT & COURIER SERVICE, INC., 793 Elkridge Landing Road, Linthicum, MD 21090. Representative: Steven C. Bohle, 5000 Crosswood Avenue, Baltimore, MD 21224, (303) 426–1507. 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).

[FR Doc. 83–22572 Filed 8–17–83; 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 of 49 CFR Part 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 useful 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 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.

Agatha L. Mergenovich,

Secretary.

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 interstate commerce over regular routes as a motor common carrier of passengers are duly noted.

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–418

Decided: August 10, 1983.

By the Commission, Review Board Members Fortier, Dowell and Carleton.

MC 50069 (Sub-576), filed July 19, 1983. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, OH 43616. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566–5639. Transporting (1) *building materials*, under continuing contract(s) with manufacturers and distributors of building materials, (2) *cement*, under continuing contract(s) with manufacturers and distributors of cement, (3) *chemicals*, under continuing contract(s) with manufacturers and distributors of chemicals, (4) *lumber and wood products*, under continuing contract(s) with manufacturers and distributors of lumber and wood products, (5) *coal and petroleum products*, under continuing contract(s) with manufacturers and distributors of coal and petroleum products, (6) *food products*, under continuing contract(s) with manufacturers and distributors of food products, and (7) *fabricated metal products*, under continuing contract(s) with manufacturers and distributors of fabricated metal products, between points in the U.S.

MC 57239 (Sub-61), filed August 1, 1983. Applicant: RENNER'S EXPRESS, INC., 1350 South West St., Indianapolis, IN 46225. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. 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 General Motors Corporation, of Troy, MI.

MC 103798 (Sub-58), filed August 3, 1983. Applicant: MARTEN TRANSPORT, LTD., Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *such commodities* as are dealt in, or used by, manufacturers and distributors of food and related products, between points in the U.S. (except AK and HI), under continuing contract(s) with person who are manufacturers and distributors of food and related products.

MC 114048 (Sub-6), filed August 2, 1983. Applicant: LOXTERCAMP TRANSPORT, INC., 307 So. 3rd Ave., West Melrose, MN 56352. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Minneapolis, MN 55424, (612) 927–8855. Transporting *food and related products* between points in MO, on the one hand, and, on the other, points in MN, ND, SD, IA, NE, WI, and IL.

MC 118159 (Sub-387), filed July 27, 1983. Applicant: DISTRIBUTION SERVICE SYSTEMS, INC., 2961 Interstate St., Unit 2, Charlotte, NC 28208. Representative: Thomas E. Vandenberg, P.O. Box 2298, Green Bay, WI 54306, (414) 498–7689. 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 Montgomery Ward & Co. and its subsidiaries.

MC 141458 (Sub-3), filed July 28, 1983. Applicant: NORMAN L. COOK, d.b.a., COOK'S TRANSPORTATION, Route 5, Box 700, Dover, DE 19901. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *general commodities* (except classes A and B explosives and households goods), between points in OH, NY, NJ, DE, PA, VA, MD, and NC, on the one hand, and, on the other, points in the U.S. (except HI).

MC 151158 (Sub-7), filed July 7, 1983. Applicant: BROWN TRANSIT, INC., 325 Ingram, Conway, AR 72032. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064, 615–790–2510. 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 169209 filed July 12, 1983. Applicant: BARCO TRANSPORTATION, INC., 2750 Holmes Road, Houston, TX 77051. Representative: Michael Gibson (same address as applicant), (713) 799–9910. Transporting (1) *alcoholic beverages*, between points in IL, MI, NY, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *food and related products*, between points in TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 169629, filed August 3, 1983. Applicant: E. H. WELSH TRUCKING, P.O. Box 272, Perkasie, PA 18944. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966, (215) 357–7220. Transporting (1) *such commodities* as are dealt in or used by dairy processing businesses, under continuing contract(s) with Rosenberger's Dairies, Inc., of Hatfield, PA, and (2) *such commodities* as are dealt in or used by retail stores and mill supply businesses, under continuing contract(s) with Moyer & Son, Inc., of Souderton, PA.

Volume No. OP5–419

Decided: August 10, 1983.

By the Commission, Review Board Members Fortier, Krock and Williams.

MC 35358 (Sub-67), filed July 29, 1983. Applicant: BERGER TRANSFER & STORAGE, INC., 3720 Macalaster Drive, NE., Minneapolis, MN 55421. Representative: Andrew R. Clark, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with International Business Machines Corporation of Armonk, NY.

MC 83539 (Sub-547), filed July 28, 1983. Applicant: C & H TRANSPORTATION CO., INC., 9757 Military Parkway, Dallas, TX 75227–9989. Representative: Thomas E. James, P.O. Box 270535, Dallas, TX 75227–9989, (214) 288–3000. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except HI), under continuing contract(s) with Phillips Petroleum Company, of Bartlesville, OK, and its subsidiaries.

MC 86539 (Sub-4), filed August 1, 1983. Applicant: HIPKE TRUCKING, INC., Route 5, Atkinson, NE 68713. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501, (402) 465–6761. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Holt County, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 145559 (Sub-21), filed July 29, 1983. Applicant: NORTH ALABAMA TRANSPORTATION, INC., P.O. Box 38, Ider, AL 35981. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210, (703) 525–4050. Transporting *general commodities* (except classes A

and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 163509 (Sub-2), filed August 2, 1983. Applicant: DELTA FREIGHT, INC. R.D. 2, Box 4, Parkesburg, PA 19365. Representative: Lynn Hanaway (same address as applicant), (215) 593–2481. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 166219, filed August 3, 1983. Applicant: HICKS PRODUCE COMPANY, Rt. #5, Box 409, Boone, NC 28607. Representative: Walter Mack Hicks (same address as applicant), (704) 264–2617). Transporting (1) *furniture and fixtures* between points in Alexander County, NC, on the one hand, and, on the other, points in TX, FL, and CA, and (2) *containers* between points in Caldwell County, NC, on the one hand, and, on the other, points in TX, FL, and CA.

Volume No. OP5–420

Decided: August 11, 1983.

By the Commission, Review Board Members Joyce, Krock and Williams.

MC 156359 (Sub-9), filed July 29, 1983. Applicant: HARBOR CARTAGE, INC., 312 West End, Detroit, MI 48209. Representative: Alex J. Miller, 555 South Woodward, Suite 512, Birmingham, MI 48011, (303) 647–3350. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MI, OH, IN, and IL.

MC 167658 (Sub-1), filed August 3, 1983. Applicant: COMMERCIAL TRUCKING & LEASING, INC., 1115 E. Hennepin Avenue, Minneapolis, MN 55414. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Minneapolis, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 169219, filed July 29, 1983. Applicant: WILLIAM CARR, d.b.a. BILCAR REFRIGERATED SERVICE CO., 115 Jacobus Ave., South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *such commodities* as are dealt in or sold by chain or discount grocery houses, between New York, NY and points in NJ and CT.

MC 169518, filed July 27, 1983. Applicant: AKERS TRANSFER AND STORAGE, INC., 910 Union St., Salem, VA 24153. Representative: Anthony F. Anderson, 126 W. Church Ave., SW., Suite 100, Roanoke, VA 24011, (703) 982–1525. Transporting *household goods* between points in VA, WV, MD, NC, SC, GA, AL, TN, KY, PA, FL, and DC.

MC 169538, filed July 28, 1983. Applicant: RALPH D. LOOK, RFD #1, Box 820, Addison, ME 04606. Representative: Ralph D. Look (same address as applicant), (207) 483–2209. Transporting *boats and mobile homes*, between points in ME, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 169548, filed July 28, 1983. Applicant: TARKINGTON TRUCKING, INC., 202 Grace Street, Council Bluffs, IA 51501. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506, (402) 488–4841. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of sanitation and maintenance products, (a) between points in Douglas County, NE, on the one hand, and, on the other, points in CO, ID, IL, KS, MO, OR, MT, WA, and WY, (b) between points in St. Louis County, MO, on the one hand, and, on the other, points in Oklahoma County, OK, and (c) between points in San Mateo County, CA on the one hand, and, on the other, points in King County, WA.

Please direct status inquiries to Team 1, (202) 275–7030.

Volume No. OP1–335(N)

Decided: August 10, 1983.

By the Commission, Review Board Members Fortier, Williams, and Dowell.

MC 108380 (Sub-115), filed July 28, 1983. Applicant: JOHNSTON'S FUEL LINERS, INC., Box 100, New Castle, WY 82701. Representative: M. A. Andrade, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210, (703) 525–4050. Transporting *food and related products*, between points in CO, NE, SD and WY.

MC 140971 (Sub-1), filed July 29, 1983. Applicant: R & J LEASING CO., INC., 43 Porete Ave., North Arlington, NJ 07032. Representative: Harold L. Reckson, 33–28 Halsey Rd., Fair Lawn, NJ 07410, (201) 791–2270. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between New York, NY, and points in NJ, on the one hand, and, on the other, points in CT, MA, RI, NY, NJ, DE, PA, MD, VA, and DC.

MC 144790 (Sub-5), filed August 3, 1983. Applicant: HOWARD HERLEE LISK, d.b.a., HOWARD LISK, Route 1, Box 166, Wadesboro, NC 28170. Representative: Georgia W. Clapp, P.O. Box 836, Taylors, SC 29687. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in NC, 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 150341 (Sub-4), filed July 29, 1983. Applicant: HOOVESTOL, INC., 3110 Mike Collins Drive, St. Paul, MN 55121. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Minneapolis, MN 55424, (612) 927–8855. 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 Trans-Brokerage, Inc., of St. Paul, MN. Condition: Issuance of a certificate in this proceeding is conditioned upon issuance of a license in MC–169291.

MC 155070 (Sub-8), filed August 3, 1983. Applicant: APX, INC., 817 McDonald St., Green Bay, WI 54306. Representative: Thomas E. Vandenberg, P.O. Box 2545, Green Bay, WI 54306, (414) 498–7689. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of food and related products, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers and distributors of food and related products.

MC 169621, filed August 3, 1983. Applicant: JOHNNY J. STRAIN, d.b.a., JOHNNY J. STRAIN TRUCKING, 190 S. E. 32nd Ave., Hillsboro, OR 97123. Representative: Johnny J. Strain (same address as applicant), (503) 640–4999. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S., under continuing contract(s) with Cascade West Transportation Brokers, of Lake Oswego, OR.

Volume No. OP–1–337

Decided: August 10, 1983.

By the Commission, Review Board Members, Williams, Carleton, and Joyce.

MC 144630 (Sub-71), filed August 1, 1983. Applicant: STOOPS EXPRESS, INC., P.O. Box 287, Anderson, IN 46015. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in the U.S., under continuing contract(s) with The Kroger Co., of Cincinnati, OH.

MC 152610 (Sub-4), filed August 3, 1983. Applicant: RAVEN

DISTRIBUTORS, INC., P.O. Box 80414, Seattle, WA 98108. Representative: Jim Pitzer, P.O. Box 895, Renton, WA 98057, (206) 235–1111. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S. (except HI), under continuing contract(s) with (1) E. A. Nord Co., of Everett, WA, (2) Scott Paper Company, of Philadelphia, (3) Alaska Brick Company, of Anchorage, AK, and (4) Pacific Western Lines, of Seattle, WA.

MC 156361 (Sub-12), filed August 1, 1983. Applicant: BIGBEE TRANSPORTATION COMPANY, P.O. Box 3610, American Lane, Greenwich, CT 06836–3610. Representative: Richard W. LaPointe (same address as applicant), (203) 552–2366. 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 Amchem Products, Inc., of Ambler, PA.

MC 162630 (Sub-1), filed August 3, 1983. Applicant: TRIPLE L TRANSPORTATION, INC., 1047 Lowell Drive, Apple Valley, MN 55124. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Minneapolis, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 166691 (Sub-4), filed August 2, 1983. Applicant: EMERSON ELECTRIC COMPANY, 514 Earth City Expressway, Suite 100, Earth City, MO 63045. Representative: Fred Lenkman (same address as applicant), (314) 291–8281–Ext. 214. 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) Alton Packaging Corporation, of Alton, IL, (2) Automotive Controls Corporation, of Independence, KS, (3) Certified Brokerage Services, Inc., of Hagerstown, MD, (4) Federal Mogul Corporation, of Southfield, MI, (5) MGM Brakes, of Murphy, NC, (6) Knight Transportation, of Atlanta, GA, and (7) TDS Brokerage, Inc., Des Plaines, IL.

MC 169380, filed July 29, 1983. Applicant: JAY BEHNKE d.b.a., JAY BEHNKE TRANSPORTATION, 414 S. Falcon St., Anaheim, CA 92804. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714)–667–8107. Transporting *clocks*, between points in the U.S. (except AK and HI), under continuing contract(s) with Colonial Clock Company, of Kentwood, MI.

Volume No. OP1–339

Decided: August 10, 1983.

By the Commission, Review Board Members Dowell, Krock, and Williams.

MC 115391 (Sub-10), filed July 28, 1983. Applicant: GENSIMORE TRUCKING, INC., P.O. Box L, Pleasant Gap, PA 16823. Representative: Barry L. Gensimore (same address as applicant), (814) 355–5461. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with International Minerals & Chemical Corporation, of Mundelein, IL.

MC 144660 (Sub-2), filed July 29, 1983. Applicant: G. MELVIN FLINDERS, d.b.a. MEL FLINDERS TRUCKING, 160 Old Ranch Road, Park City, UT 84060. Representative: Mel Flinders, P.O. Box 639, Bountiful, UT 84010, (801) 298–0399. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in the U.S. in and west of TX, OK, KS, CO, WY, and MT (except AK and HI).

MC 158651 (Sub-19), filed July 28, 1983. Applicant: GRAEBEL VAN LINES, INC., 719 North Third Ave., Wausau, WI 54401. Representative: John E. Koci (same address as applicant), (715) 675–9481. Transporting *household goods*, between points in the U.S., under continuing contract(s) with the Martin Marietta Corporation, of Bethesda, MD.

[FR Doc. 83-22573 Filed 8-17-83; 8:45 am]

BILLING CODE 7035-01-M

[OP3-MCF-379]

Motor Carriers; Proposed Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Proposed Exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7977.

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: August 12, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[MC–F–15336]

National Steel Corporation—Continuance in Control—Exemption—National Service Lines, Inc.

National Steel Corporation (National), a non-carrier, controls through stock ownership the Delray Connecting Railroad Company; holds a minority interest in Enamel Products and Plating Company, which in turn controls E.P.&P. Trucking Company, a motor contract carrier operating under Permit No. MC–133013 (Sub-Nos. 1 and 2); and owns all of the outstanding common stock of Integrated Distribution, Incorporated, a non-carrier with an application for contract carrier authority currently pending before the Commission in No. MC–167626. National also controls as a wholly-owned subsidiary National Service Lines, Inc. (NSL), a non-carrier seeking motor common carrier authority in No. MC–168665. Notice of the filing of the NSL application was published in the **Federal Register** on July 7, 1983. National seeks an exemption from the requirement under section 11343 of prior regulatory approval for its continuation of control of NSL should NSL's pending application for motor common carrier authority be approved.

Send comments to (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative, Joel H. Steiner, Suite 2106, 135 S. LaSalle St., Chicago, IL 60603.

Comments should refer to No. MC–F–15336.

[No. MC–F–15379]

Roadway Services (Canada) Ltd.—Control Exemption—Holmes Transportation (Quebec) Ltd.

Roadway Services (Canada) Ltd., a non-carrier holding company, and in turn, Roadway Services, Inc. which control Roadway Services (Canada) Ltd., seek an exemption from the requirements under section 11343 of prior regulatory approval to acquire control of all of the issued and outstanding common stock of Holmes

Transportation (Quebec) Ltd. (MC-140165). Roadway Express, Inc. (MC-2202) is affiliated with Roadway Services, Inc.

Send comments to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423; and

(2) Petitioners representative, William O. Turney, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20814.

Comments should refer to No. MC-F-15379.

U.S. Truck Lines, Inc. of Delaware—Continuance in Control Exemption—Stellar Distribution, Inc.

[No. MC-F-15393]

U.S. Truck Lines, Inc. of Delaware seeks an exemption from the requirement of section 11343 of prior regulatory approval for its continuance in control of Stellar Distribution, Inc., upon the latter becoming a carrier pursuant to an application filed in No. MC-169465. Under the proposed transaction, U.S. Truck Lines, Inc., of Delaware, a noncarrier holding company, would directly control Stellar Distribution, Inc., through a majority stock interest. Petitioner also controls through stock ownership (1) Be-Mac Transport Company, Inc., MC-10872, (2) Brown Express, Inc., MC-46054, (3) Central Truck Lines, Inc., MC-36473, (4) The Cleveland Columbus & Cincinnati Highway, Inc., MC-3419 and MC-3420, (5) Kanawha Cartage Company, MC-150148, (6) Ken-Dale Express, Inc., MC-166429, (7) Mercury Freight Lines, Inc., MC-113528, (8) Motor Express, Inc. of Indiana, MC-28813, (9) Motor Express, Inc. (N.J.), MC-1778, (10) Motor Express Rentals Corp. (Ohio), MC-164862, (11) National Tank Truck Delivery, Inc., MC-116132, (12) Ohio Delivery, Inc., MC-142758, (13) Seminole Intermodal Transport, Inc., MC-168239, and (14) Union Transport Company, MC-167805.

Send comments to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423; and

(2) Petitioner's representative, Earl N. Merwin, 85 East Gay Street, Columbus, OH 43215.

Comments should refer to No. MC-F-15393.

[FR Doc. 83-22569 Filed 8-17-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 83-17608 beginning on page 30214 in the issue of Thursday, June 30, 1983, make the following correction:

On page 30215, third column, MC 168348, the Feed Store and Supply Company, in the last line "MN, OK, and TX" should have read "NM, OK, and TX".

BILLING CODE 1505-01-M

Motor Carrier; Temporary Authority Application

Correction

In FR Doc. 83-18566 beginning on page 31744 in the issue of Monday, July 11, 1983, make the following correction:

On page 31746, middle column, MC 168775 (Sub-II-1TA), Murray Motors, Inc., in the eleventh line, insert "NC," between VA and SC.

BILLING CODE 1505-01-M

Motor Carrier; Temporary Authority Application

Correction

In FR Doc. 83-19215 beginning on page 32698 in the issue of Monday, July 18, 1983, make the following correction:

On page 32699, MC 168930 (Sub-II-1TA), Intermodal Freight Agencies, Inc., in the second line from the top of the third column of the page, "MS, LS, AL" should have read "MS, LA, AL".

BILLING CODE 1505-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83-70]

NASA Advisory Council (NAC), Life Sciences Advisory Committee Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Life Sciences Advisory Committee (LSAC).

DATE AND TIME: September 15-16, 1983, 8:30 a.m. to 5 p.m. each day.

ADDRESS: National Aeronautics and Space Administration, Goddard Space Flight Center, Bldg. 8, Third Floor Management Conference Center, Greenbelt, MD 20771.

FOR FURTHER INFORMATION CONTACT: Arnauld E. Nicogossian, M.D., Code EB-3, National Aeronautics and Space Administration, Washington, D.C. 20546 (202/755-9220).

SUPPLEMENTARY INFORMATION: The Life Sciences Advisory Committee consults with and advises the Council and NASA on the accomplishments and plans of NASA's Life Sciences Programs.

This meeting will be closed to the public from 4 p.m. to 5 p.m. on September 15 for a discussion of candidates being considered for Committee membership. During this session, the qualifications of proposed new members will be candidly discussed and appraised. Since this session will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that this session should be closed to the public. The remainder of the meeting will be open to the public up to the seating capacity of the room (approximately 35 persons including committee members and other participants).

Type of meeting: Open—except for a closed session as noted in the agenda below.

September 15, 1983

8:30 a.m.—Space Adaptation Research Program (Open session).

4:00 p.m.—LSAC Membership (Closed session).

September 16, 1983

8:30 a.m.—Report on the Space Station and Life Sciences (Open session).

9:30 a.m.—Question of LSAC Preparing an Advocacy Document (Open session).

1:30 p.m.—Other Life Sciences Program Areas in the Agency (Open session).

5:00 p.m.—Adjourn.

Dated: August 10, 1983.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 83-22836 Filed 8-17-83; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Music Advisory Panel (Jazz Fellowships); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Jazz Fellowships) to the National Council on the Arts will be

held on September 6–9, 1983, from 9:00 a.m.–5:30 p.m. in Room M–07 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions 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 with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: August 10, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83–22685 Filed 8–17–83; 8:45 am]

BILLING CODE 7537–01–M

Visual Arts Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Artists Nominations Section) to the National Council on the Arts will be held on August 24, 1983, from 10:00 a.m.–5:00 p.m. at the VA Medical Center, Albuquerque, New Mexico.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation regarding the selection of artists to be commissioned to create works of art for Federal buildings under construction or renovation. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions 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 with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: August 10, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83–22686 Filed 8–17–83; 8:45 am]

BILLING CODE 7537–01–M

Visual Arts Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Artists Nominations Section) to the National Council on the Arts will be held on August 23, 1983, from 10:00 a.m.—5:00 p.m. at the Denver VA Hospital, Denver, Colorado.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation regarding the selection of artists to be commissioned to create works of art for Federal buildings under construction or renovation. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions 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 with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: August 10, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83–22684 Filed 8–17–83; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–155]

Consumers Power Co. (Big Rock Point Plant); Exemption

I.

The Consumers Power Company (the licensee) is the holder of Facility Operating License No. DPR–6 which authorizes the operation of the Big Rock Point Plant, located in Charlevoix County, Michigan. This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II.

Section 50.44(c)(3)(iii) of 10 CFR requires, among other things, that high point vents be provided for the reactor coolant system. At the Big Rock Point Plant, the emergency condenser is the highest point in the reactor coolant system. Section 50.44(c)(3)(iii) requires that these vents be provided by the end of the first scheduled outage beginning after July 1, 1982.

By letter dated April 19, 1983, the licensee requested an exemption to 10 CFR 50.44(c)(3)(iii) such that the required schedule for installation of the high point vents would be extended for the Big Rock Point Plant. Big Rock Point is nearing the end of the 1983 refueling outage, the first scheduled outage beginning after July 1, 1982. The licensee also asked for an exemption from the requirement to install high point vents on the emergency condenser. The requested schedular exemption would allow time for resolution of the requested exemption from installation of high point vents. This exemption deals only with the requested schedular exemption.

The licensee gave the following explanation of why high point vents on the emergency condenser should not be required for Big Rock Point based on the unique design of the plant.

"10 CFR 50.44(c)(3)(iii) and NUREG–0737, Item II.B.1 require that remotely operated high point vents be provided for systems required to maintain adequate core cooling following small-break LOCA's if the accumulation of non-condensible gases would cause the loss of function of these systems, e.g. isolation condensers. At Big Rock Point, the emergency condenser is used for heat removal in the case of loss of the normal condenser, e.g. a loss of off-site power. However, the emergency condenser is not used, nor is any credit taken for its use, following core uncovery and actuation of the reactor depressurization system (RDS) * * * A small-break LOCA results in actuation of the RDS. For accidents that result in generation of non-condensible gases, the RDS would vent these gases to the containment building. The RDS and post-incident system provide the heat removal capability in this situation. The emergency condenser is not needed, nor is it designed to be used during core damage situations in which the RDS is actuated."

The staff is reviewing the information presented by the licensee. The need for high point vents on the emergency condenser at Big Rock Point is one of the issues the staff will address in expanded Systematic Evaluation Program Integrated Assessment for Big Rock Point. Therefore, the staff concludes that the schedule requiring installation of these vents at Big Rock Point should be extended until the end of the first

scheduled outage which begins after completion of the Integrated Assessment for Big Rock Point and is of sufficient length to allow installation. If the staff concludes in the Integrated Assessment that installation of these vents is not warranted at Big Rock Point, an exemption will be promulgated at that time.

Preliminary results from our ongoing review of the Big Rock Point Probabilistic Risk Assessment show that because of the unique plant design, no accident sequences leading to evolution of non-condensibles would be significantly affected by use of high point vents. Therefore, the probability of such an accident occurring in the time allowed by the schedule extension is extremely small. Second, information from the PRA indicates that there would no acute fatalities from a core melt accident at Big Rock Point because of the small core inventory of radioactivity and the low population density near the site. The consequences of the accident (low probability as discussed above) which might occur during the extension are quite small.

Therefore, the staff concludes that an exemption to 10 CFR 50.44 (c)(3)(iii) should be granted such that the schedule for installation of high point vents on the emergency condenser is extended until the end of the first scheduled outage after the completion of the Integrated Assessment.

III.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby grants an exemption from the requirement of 10 CFR 50.44(c)(3)(iii) that high point vents be installed on the emergency condenser by the end of the first scheduled outage which starts after July 1, 1982. This exemption extends the schedule for installation to the end of the first scheduled outage which begins after the completion of the SEP Integrated Assessment of Big Rock Point and is of sufficient length to allow installation.

The NRC staff has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 12. day of August 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing.

[FR Doc. 83-22892 Filed 8-17-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-157]

Cornell University; Consideration of Application for License Renewal at Increased Power Level

The U.S. Nuclear Regulatory Commission (the Commission), in accordance with the licensee's application dated May 27, 1980, as supplemented September 15, 1980, is considering issuing a license renewal and power increase amendment to Facility Operating License No. R-80 for Cornell University's TRIGA reactor located on the campus in Ithaca, New York.

The amendment to License No. R-80 would authorize an increase in the maxium power level of the reactor from 100 kw (thermal) to 500 kw (thermal) and the continued operation of the facility for a period of twenty years. The renewal was noticed on November 25, 1980 at 45 FR 78315, however, the Notice did not include the proposed power increase.

Prior to a decision to renew the license, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By September 19, 1983, the licensee may file a request for a hearing with respect to renewal of the subject facility license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intevene is filed by the above date, the Commission or an Atomic Safety and Licening Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petition's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specifity. Contentions shall be limited to matters within the scope of the actions under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, at 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Cecil O. Thomas: (petitioner's name and

telephone number); (date petition was mailed); (Cornell University); and (publication date and page number of this Federal Register notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to Dean Paul McIssac, College of Engineering, Carpenter Hall, Cornell University, Ithaca, New York.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a) (i)–(v) and § 2.714(d).

For further details with respect to this action, see the application for renewal dated May 27, 1980, as supplemented on September 15, 1980, which is available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555.

Dated at Bethesda, Maryland this 12th day of August 1983.

For the Nuclear Regulatory Commission.

Cecil O. Thomas,

Chief, Standardization & Special Projects Branch, Division of Licensing.

[FR Doc. 83-22693 Filed 8-17-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322-OL-3; (ASLBP No. 77-347-01B OL)]

Long Island Lighting Co., Shoreham Nuclear Power Station, Unit 1, Construction Permit No. CPPR-95; Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for *Long Island Lighting Company* (Shoreham Nuclear Power Station, Unit 1), Docket No. 50-322-OL-3, is hereby reconstituted by appointing Mr. Frederick J. Shon to the Board in place of Dr. M. Stanley Livingston, who is presently unable to continue his service on the Board.

As reconstituted, the Board is comprised of the following Administrative Judges: James A. Laurenson, Chairman; Dr. Jerry R. Kline; Mr. Frederick J. Shon.

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is: Administrative Judge Frederick J. Shon, Atomic Safety and Licensing Board, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Issued at Bethesda, Maryland, this 12th day of August 1983.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 83-22694 Filed 8-17-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-275]

Pacific Gas & Electric Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-76, issued to Pacific Gas & Electric Company, (the licensee), for operation of the Diablo Canyon, Unit 1, Nuclear Power Plant located in San Luis Obispo, California.

The proposed amendment would result in certain changes to Table 3.6-1 (Containment Isolation Valves) of the facility Technical Specifications. These changes reflect proposed containment isolation system modifications, and entail adding several valves to the table, deleting others, and revising the footnoting in the table in accordance with the licensee's application dated May 2, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance for the application of the criteria in 10 CFR 50.92 by providing examples of amendments that are considered not likely to involve significant hazards consideration (48 FR 14870). One such example is (i) a purely administrative change to technical specifications; for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or change in nomenclature. Another such example is (ii) a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications; for example, a more stringent surveillance requirement.

The Licensee is installing a Post-Accident Sampling System in compliance with license condition 2.C(8).h. This license condition was imposed by the NRC staff to upgrade the post-accident samplying system in accordance with NUREG-0737. It requires the installation of six containment isolation valves. These six valves and one other valve have been identified as subject to local leak rate testing, in accordance with Appendix J to 10 CFR Part 50 and must be added to Table 3.6.1. An additional three check valves have also been identified as being subject to Appendix J leak testing and are designated as such in Table 3.6-1. Two isolation valves are also being removed and the penetration will be closed with caps welded into the pipe penetration. The function of these valves have been replaced by hdrogen recombiners and therefore since the valves are being removed any reference to them in Table 3.6-1 must be deleted. Additionally, thirteen valves will be subject to administrative control, which is necessary in order to conduct certain activities such as sampling, and will be designed as such in Table 3.6-1. The thirteen valves consist of the six new containment isolation valves mentioned above and seven valves which are currently listed in Table 3.6-1 but which are inadvertenly not designated as being subject to administative control. Without such designation, operation of these valves for sampling purposes would violate the Technical Specifications.

The proposed amendment reflects an upgraded post-accident samplying system, provides for consistency in the Technical Specifications, permits testing during normal routine plant activities, conforms more accurately to the provisions of Appendix J to 10 CFR part 50, and, in part, reflects also the as-built condition of the plant.

Therefore, based on these considerations and the three criteria given in the fourth paragraph above, we have made a proposed determination

that this amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

By September 19, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. The request for a hearing and petitions for leave to intervene shall be filed in accordance with Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chariman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identfy the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any persons who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. by the above date. Where petitions were filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Phillip A. Crane Jr., Esq., Pacific Gas & Electric Company, 77 Beale Street, San Francisco, California 94106 and Norton, Burke, Berry & French P.C., ATTN: Bruce Norton, Esq., 2002 East Osborn Road, Phoenix, Arizona 85016, attorneys for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. The determination will be based upon a balancing of the factors specified in 10 CFR 2.174(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 2, 1983, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Bethesda, Maryland, this 11th day of August, 1983.

For the Nuclear Regulatory Commission,

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83-22895 Filed 8-17-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-275]

Pacific Gas & Electric Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-76, issued to Pacific Gas & Electric Company, (the licensee), for operation of the Diablo Canyon, Unit 1, Nuclear Power Plant located in San Luis Obispo, California.

The proposed amendment would change the response time for containment spray initiation in Table 3.3-5 of the Facility Technical Specifications from equal to or less than 27.5 seconds to equal to or less than 48.5 seconds. As a result of this change, Sections 3.3.2, 3.4.6.1.4, 4.8.1 and Table 4.8-2 of the Technical Specifications would have to be updated to reflect this change in accordance with the Licensee's submittal dated June 23, 1983 and supplemental letter dated July 26, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission regulations.

The Commission has mde a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evalauted; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance for the application of the criteria to 10 CFR 50.92 by providing examples of amendments that are considered not likely to involve significant hazards consideration (48 FR 14870). One such example is (vi) a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan; for example, a change resulting from the application of a small refinement of a previously used calculational model or design method.

The Licensee is proposing to change maximum response time for initiation of containment spray from 27.5 seconds to 48.5. The licensee performed an analysis of the change in response time. The results of the analysis indicated an increase in containment peak pressure, following a loss-of-accident, from 46.65 psig to 46.91 psig. The FSAR value of the two-hour thyroid dose at the site boundary was previously calculated to be 95.9 REM for the case of no post-LOCA delay in the containment spray. The licensee has reanalyzed the above value and the value for the proposed delay in containment spray using a current verified code and dose conversion factors provided in Revision 1 to Regulatory Guide 1.109. The results of the reanalyses indicate that two-hour thyroid does at the site would be 85.6 REM for no spray delay and 93.4 REM for the proposed delay. While there is a small reduction in the safety margin in both containment presssure and dose consideration on the basis of the analysis using the revised code, they are clearly within acceptable criteria, i.e. the design of the containment, 47 psig, and the 300 REM value in 10 CFR Part 100.

Therefore, based on these considerations, and the three criteria given in the fourth paragraph above, we have made a proposed determination that this amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

By September 19, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. The request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no

significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. by the above date. Where petitions were filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Kninghton: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Phillip A. Crane Jr., Esq., Pacific Gas & Electric Company, 77 Beale Street, San Francisco, California 94106 and Norton, Burke, Berry & French P.C., ATTN: Bruce Norton, Esq., 2002 East Osborn Road, Phoenix, Arizona 85016, attorneys for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petitioner and/or request. The determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.174(d).

For further details with respect to this action, see the application for amendment dated June 23, 1983, and supplemental information dated July 26, 1983 which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Bethesda, Maryland, this 12th day of August, 1983.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83-22606 Filed 8-17-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-275]

Pacific Gas & Electric Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards, Consideration, Determination, and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-76, issued to Pacific Gas & Electric Company (the Licensee), for operation of the Diablo Canyon, Unit 1 Nuclear Power Plant located in San Luis Obispo, California.

In accordance with the licensee's application for amendment dated July 19, 1982 and supplemental letter dated October 12, 1982, the amendment would modify the Diablo Canyon Nuclear Power Plant Physical Security Plan to eliminate certain vital access controls that exceed current regulatory requirements.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility or a new different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission's proposed determination is based on its finding that the revised Physical Security Plan would continue to meet the general and specific requirements of the regulations on physical security contained in 10 CFR 73.55 (b) through (h) and could improve access to vital equipment where a short response time is essential. This amendment will delete the use of certain internal controls that are not mandated by regulatory requirements for access to certain vital areas. Moreover, no other nuclear power plant in the United States of America contains the above cited requirement that the licensee proposes to delete. The bases for the staff's determination that the proposed amendment involves no significant hazards consideration has been documented; however, it is being withheld from public disclosure pursuant to 10 CFR 73.21.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

By September 19, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any persons whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. The request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of

Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Philip A. Crane, Jr., Esq., Pacific Gas & Electric Company, 77 Beale Street, San Francisco, California 94106 and Norton, Burke, Berry & French P.C. Attn: Bruce Norton, Esq., 2002 East Osborn Road, Phoenix, Arizona, 85016, attorneys of the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. This determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

Dated at Bethesda, Maryland, this 11th day of August, 1983.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83-22897 Filed 8-17-83; 8:45 am]

BILLING CODE 7590-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Fish Propagation Panel; Meeting

AGENCY: Fish Propagation Panel of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.. Appendix I, 1–4; correction. Activities will include:

- Approval of minutes
- Panel discussion on prioritization (working session)
- Panel discussion on Bonneville's proposed procurement process for FY 1984 (working sesion)
- Other
- Public comment

Status: Open.

SUMMARY: This document corrects a meeting notice for the Fish Propagation Panel that appeared at page 34823 in the **Federal Register** of Monday, August 1, 1983 [48 FR 148]. The action is necessary to correct the meeting date and contents.

DATE: August 29, 1983. 9:30 a.m. Correction.

ADDRESS: The meeting will be held in the Council's Public Meeting Room at 700 S. W. Taylor Street, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT:
Curt Marshall, (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 83–22745 Filed 8–17–83; 8:45 am]

BILLING CODE 0000–00–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY:

(1) Collection title: Investigation of Claim for Possible Days of Employment
(2) Form(s) submitted: ID–5i, UI–48, UI–54
(3) Type of request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection
(4) Frequency of use: On occasion
(5) Respondents: Individuals or households Small businesses or organizations
(6) Annual responses: 11,200
(7) Annual reporting hours: 1,033
(8) Collection description: Under the RUIA, unemployment benefits are not payable for any day in which remuneration is payable or accrues to the claimant. The collection obtains information from the claimant, claims agent, and non-railroad employer about work performed during the same period as unemployment benefits are claimed.

Additional information or comments: Copies of the proposed forms and supporting documents can be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Milo Sunderhauf (202–395–6880), Office of Management and Budget, Room 3208, New Executive Building, Washington, D.C. 20503.

William A. Oczkowski,

Director of Planning and Information Management.

[FR Doc. 83–22752 Filed 8–17–83; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13435; 811–1460]

Scudder Duo-Vest Exchange Fund Inc.; Application

Notice is hereby given that Scudder Duo-Vest Exchange Fund Inc. ("Applicant"), 345 Park Avenue, New York, New York 10154, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on July 20, 1983, pursuant to Section 8(f) of the Act, for an order declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and are referred to the Act and the rules thereunder for further information as to the provision to which the exemption applies.

On March 18, 1983, Applicant merged into Scudder Common Stock Fund, Inc. ("Common Stock Fund"). Applicant's shareholders approved the merger on that same day. Applicant's board of directors, on November 10, 1982, unanimously approved the merger as being in the best interests of its shareholders. On March 18, 1983, Applicant's shareholders received 3.0517 shares of the Common Stock Fund for each share they held of Applicant. Applicant declares that when it filed its application for deregistration it had no assets, no debts not assumed by the Common Stock Fund, no securityholders, and was not a party to any litigation or administrative proceeding. Applicant states that it is not engaged, and does not propose to engage, in any activities other than those necessary for the winding-up of its affairs. Applicant states that each fund agreed to bear the expenses it incurred in connection with the merger; Applicant's expenses totalled $75,148, while the Common Stock Fund's totalled $54,000.

Notice is further given that any interested person wishing to request a hearing on the application may, not latter than September 6, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues 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. 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.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–22690 Filed 8–17–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 20075; File No. SR–Amex–82–22]

American Stock Exchange, Inc.; Order Partially Approving Proposed Rule Change

August 12, 1983.

I. Introduction

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), (the "Act"), and Rule 19b–4 thereunder, the American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, NY 10006, on November 23, 1982, filed with the Commission a proposed rule change to modify its rules to accommodate the listing and trading of standardized put and call option contracts on "narrow-based" (or "industry") stock indices.[1] On May 2, 1983 and June 8, 1983, the Amex filed amendments to the proposed rule change, relating to its narrow-based index options proposal.[2] The proposed rule changes relating to narrow-based indices were filed with the Commission after its approval of Amex' general rules relating to options on indices,[3] in which

[1] Notice of the proposed rule change was given in Securities Exchange Act Release No. 19344 (December 16, 1982), 47 FR 57374 (December 23, 1982).

[2] *See* Amendments No. 3 and No. 4 to SR–Amex–82–22. Notice of the proposed amendments was given by Securities Exchange Act Release Nos. 19739 (May 6, 1983), 48 FR 21691 and 19906 (June 24, 1983), 48 FR 20497 (July 1, 1983).

Amendments No. 1 and No. 2 to SR–Amex–82–22 concerning Amex proposal to trade options on the Major Market Index were approved by the Commission in Securities Exchange Act Release No. 19709 (April 27, 1983), 48 FR 20179 (May 4, 1983).

[3] *See* Securities Exchange Act Release No. 19264 (November 22, 1982), 47 FR 53981 (November 30, 1983) in which the Commission approved by general rules proposed by the Amex, as well as similar rules proposed by the Chicago Board Options Exchange, Incorporated ("CBOE") and the New York Securities Exchange, Inc. ("NYSE") to trade options on stock indices, and, in addition, approved specific indices with respect to which the exchanges could commence index options trading. See also File Nos. SR–Amex–82–6, SR–CBOE–82–11 and SR–NYSE–82–2. Subsequently, the Amex commenced trading in two "broad-based" market indices: the Major Market Index (composed of 20 diverse New York

Amex specifically requested and received approval to trade industry index options.

II. Description of the Amex Proposed Narrow-Based Index Options

A. Description of Indices

In the proposed rule change, Amex seeks authority to trade option on eleven specific industry indices.[4] The eleven indices underlying the proposed index options vary greatly in characteristics. The smallest index, the Precious Metals-Mining/Refining Index is composed of 12 stocks while the largest each consist of 30 stocks. Pursuant to the Amex request that the Commission authorize trading in the Computer Technology and Oil and Gas indices, the Commission in this order addresses only those specific indices. As discussed below, however, the Commission has considered several other issues common to all the Amex' industry index options proposals.[5]

Both the Computer Technology and the Oil and Gas Indices are market-weighted indices[6] comprised of 30 stocks.[7] Further, both indices reflect liquid securities. 28 of the 30 stocks included in the Computer Technology Index are stocks on which options are traded;[8] the Oil and Gas Index includes 29 option stocks.

The indices vary, however, in the degree to which one or more stocks dominate the index. Because it truly reflects the computer industry, the Computer Technology Index clearly is dominated by one stock, International Business Machines ("IBM"), and is not balanced by other sizable companies. IBM comprises 54.0 percent of the index, with the next four largest companies reflecting only an additional 20.5 percent of the index' capitalization.[9] The Oil and Gas Index is not so clearly dominated by a single stock. While the five major oil companies account for nearly 50 percent of the capitalization of the index, Exxon, the largest issuer, reflects 17.3 percent. The four other very large companies in the index are somewhat comparable in size and, thus, counterbalance any possible dominance by Exxon in the index.[10] Nevertheless, the Oil and Gas Index, like the Computer Technology Index, raises concerns that, for some purposes, options on these indices could be used as surrogates for trading in options on individual stocks or the stocks themselves. It is these surrogate trading concerns that are the focus of the comments received on the Amex proposal.

B. Economic Uses of Narrow-Based Index Options

In its initial filing with respect to indices, Amex asserted that options on stock indices, including narrow-based indices, served a number of important economic functions.[11] Amex and the other exchanges indicated that indices could be used by investors or investment advisors holding or managing stock portfolios. In addition, underwriters and other persons sensitive to changes in stock prices, particularly short-term changes, could benefit from the use of stock index options.

In its submission, Amex also indicated a number of specific uses of narrow-based or industry indices. For example, an investor who believes that a particular company's stock will outperform the stocks of other companies in the same industry might buy that stock and simultaneously write calls or buy puts on the industry index. If the stock price behaves as predicted, the investor should profit regardless of whether general market forces or factors common to that particular industry cause the prices of the group of stocks to rise or decline in the aggregate. If the index rises, he would expect his profit on the individual stock to exceed his loss on the put or call option; and if the index falls, he would expect his profit on the put or call option to exceed his loss on the individual stock.

Second, if an investor believes that the prices of stock in a particular industry will rise as a whole (or fall as a whole), but does not wish to make a prediction about any particular company, the investor could attempt to profit on his general prediction by buying calls (or writing puts) on an index representing the industry segment. In this regard, it should be noted that a position in an option on an index based on an industry segment provides many of the same economic opportunities that are provided by ownership of shares in a specialized mutual fund. However, mutual funds do not provide means for investors to act on the belief that the stocks comprising an industry group will decline in value as a whole; *i.e.*, mutual fund shares cannot be sold short. With the availability of index options on industry segments, investors will have opportunities to act on such beliefs by writing calls or buying puts.

Third, institutions who have substantial holdings in a particular industry group can use industry index options to quickly and efficiently adjust the risks of that position without having to effect transactions in a large number of separate securities or individual options.

III. Comments Received

All of the comments received were either from Amex or the other options exchanges.[12] In addition, the Securities

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Stock Exchange companies) on April 11, 1983, and the Amex Index (composed of all common stocks traded on the Amex) on July 8, 1983.

[4] On July 20, 1983, the Amex filed Amendment No. 5 to the proposed rule change. Amendment No. 5 redesignates and changes the composition of several of the indices. The eleven indices as amended are:

(i) Aerospace/Defense Index
(ii) Drugs Index
(iii) Electronics Index
(iv) Financial Services Index
(v) Health Care Index
(vi) Computer Technology Index
(vii) Leisure Index
(viii) Retail Merchandising Index
(ix) Precious Metals-Mining and Refining Index
(x) Oil and Gas Index
(xi) Oil Services Index

Notice of Amendment No. 5 was given in Securities Exchange Act Release No. 20024, July 29, 1983 [48 FR 36042, August 8, 1983].

[5] The Amex has committed to make a separate filing if it proposes to trade additional narrow-based index options in the future.

[6] A market weighted index is calculated by (1) multiplying the price of one share of stock by the number of shares outstanding for each issuer included in the index; (2) adding those values; (3) then multiplying that sum by a pre-established divisor, which reflects the value of the index at a fixed historical point in time.

[7] As of April 26, 1983, the total index capitalization was $130 billion for the Computer Technology Index, and $143 billion for the Oil and Gas Index.

[8] Options exchanges rules provide that only stocks meeting certain standards, including a liquidity test, may be the subject of options trading. For example, the underlying security must have a public float of 8,000,000 shares owned by a minimum 10,000 public shareholders, and the trading volume for each of the two previous calendar years must be at least 2,000,000 shares. *See, e.g.*, Amex Rule 915 and CBOE Rule 5.3.

[9] Following IBM, the four largest companies of the Computer Technology Index by capitalization are: Hewlett-Packard Company (9.7 percent); Digital Equipment Corporation (6.4 percent); Storage Technology (4.9 percent); and Tymshares, Inc. (3.3 percent).

[10] The four other companies which, with Exxon, reflect 47.7 percent of the index capitalization are: Standard Oil of Indiana (7.9 percent); Standard Oil of California (7.9 percent); Shell Oil (7.4 percent); and Mobil Oil (7.2 percent).

[11] *See* File No. SR–Amex–82–8. That proposed rule change was approved by the Commission, together with CBOE and NYSE proposals to trade stock index options, in Securities Exchange Act Release No. 19264 (November 22, 1982).

[12] The comment letters received, in chronological order, relating to the Amex proposal to trade options on narrow-based indices, and the related CBOE proposals, are letters to George A. Fitzsimmons, Secretary, SEC, from (i) Walter E. Auch, Chairman, CBOE, dated May 31, 1983; (ii) Jim Gallagher, President, Pacific Stock Exchange, Inc. ("PSE") dated June 3, 1983; (iii) Nicholas A. Giordano, President, Philadelphia Stock Exchange, Inc. ("Phlx"), dated June 14, 1983; (iv) Robert J. Birnbaum, President, Amex, dated June 16, 1983; (v)

Industry Association Options Committee ("SIA Options Committee") has supplied the Commission with copies of letters it has sent to each of the exchanges approved to trade new options products which relate to issues raised by the new options product proposals.[13]

As a preliminary matter, the CBOE asserts that narrow-based index options raise concerns so unique and serious that the usual notice and comment procedure, as used in this instance, is inadequate to provide notice and an adequate period for public consideration of the Amex proposal. Rather, CBOE recommended that the Commission issue a general release soliciting comments on the host of issues it felt the Amex proposal raised.[14] Further, it recommends that, before any industry index options trade, the Commission should adopt broad standards to encompass all narrow-based index options proposals, after an extended period of comment.

The Commission does not believe it is necessary to follow the course of action suggested by the CBOE. The Amex proposal to trade index options, including narrow-based index options, previously was the subject of both public comment and Commission action in May and November 1982, respectively. As discussed below, the Commission is satisfied that the substantive regulatory concerns raised by the Amex proposal have been adequately resolved.

The CBOE, echoed in part by the Phlx and the PSE, also raised specific questions concerning: (1) Appropriate regulatory standards for margin, positions and exercises, trading halts, and adjustments in the composition of narrow-based index options; (2) "multiple trading" of the option and the index option, resulting in possible market fragmentation which, in turn, might have adverse effects on the liquidity of the options market; (3) the "public interest" of and "Congressional intent" regarding narrow-based index options; and, (4) the increased potential for intermarket manipulation and insider trading violations by adding another investment product which contains one or more predominant component stocks.

The SIA Options Committee, in May 24, 1983 letters to the exchanges, recommended that the exchanges voluntarily refrain from bringing on any new options products, including narrow-based index options, until the beginning of 1984 at the earliest. Citing concerns over the effect of new product proliferation on the operational and compliance capabilities of the firms, the SIA Options Committee argued that the addition of new options products at this time would adversely affect the quality of the markets for those products and might result in their failure as viable trading vehicles. This recommendation, at least as to narrow-based index options, was endorsed by the CBOE.

IV. Discussion

As noted above, the common thread underlying most of the concerns raised with respect to industry index options relates to the extent to which trading in such options could function as a substitute for trading in individual options on the stock or stocks that dominate the index.

As the Commission has stated in letters to the Commodity Futures Trading Commission ("CFTC"), derivative index products, based on indices comprised of a small number of stocks or heavily dominated by one or a small number of stocks, may in some circumstances act as surrogate investment products for stocks and stock options regulated by the Commission.[15] The Commission's principal concern is that the trading of such derivative index instruments (be they futures or options), and the manner in which those instruments are regulated, could undermine the system of regulation in effect for the stocks included in the indices, and options on those stocks.[16] For example, it could be argued that regulations such as the margin requirements and position and exercise limits in effect for individual stock options could be undermined, and the markets trading those options competitively disadvantaged, if reduced or more relaxed provisions were put in effect for industry index options. To remedy these concerns, Amex has revised its proposal to provide for margin and position limit rules that are comparable to those in effect for individual stock options. To accommodate the unique characteristics of index options, Amex also has proposed rule changes with respect to opening rotations and trading halts.

A. Margin

The authority to determine initial and maintenance margins for index options, like all other "new products," was delegated to the exchanges from the Federal Reserve Board ("FRB"), pursuant to recent amendments to Regulation T ("Reg T").[17] An exchange's determination of appropriate margin levels as set forth in exchange margin rules, however, is subject to the Commission's approval of the proposed rule change.

The Amex proposes that narrow-based index options be subject to the same margin currently applicable to options on individual stocks.[18] Thus, no

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Robert J. Birnbaum, dated July 8, 1983 ("Amex July 8 letter"). *Note:* the two comment letters from the Amex discuss the Amex proposal and the related proposals of the CBOE to trade options on Standard & Poor's 500 Stock Index ("S&P 500") (SR-CBOE-83-8) and options on five narrow-based index options (File Nos. SR-CBOE-83-14, SR-CBOE-83-15, SR-CBOE-83-16, SR-CBOE-83-17 and SR-CBOE-83-18).

The Phlx comments also incorporated by reference some comments filed previously regarding stock group options, a related concept. *See* letter to George A. Fitzsimmons, Secretary, SEC, from Harvey L. Pitt, Special Counsel to the Phlx on issues relating to stock group options as set forth in File Nos. SR-Amex-83-3, SR-CBOE-81-22, SR-MSE-81-1, SR-NYSE-82-6 and SR-PSE-82-4, dated June 7, 1982. The stock group options proposals involved five stock groups. Unlike the index options proposals, they did not call for cash settlement, but instead for the actual delivery on exercise of 100 shares of each of the five stocks. None of the exchanges are currently actively pursuing the stock group proposals.

[13] The SIA Options Committee sent identical letters to Amex, CBOE, Phlx, National Association of Securities Dealers ("NASD"), NYSE and New York Futures Exchange ("NYFE"). *See e.g.*, letter to Charles Henry, President, CBOE, dated May 24, 1983, from Howard Brenner, Chairman, SIA Options Committee. Related letters: (1) letter to Howard Brenner from Robert J. Birnbaum, President, Amex, dated June 1, 1983; (ii) letter to Howard Brenner from Walter E. Auch, Chairman, CBOE, dated June 6, 1983; and (iii) letter to Howard Brenner from John J. Phelan, Jr., President, NYSE, dated June 22, 1983.

[14] In this regard, the Commission previously had issued general fact-finding releases raising significant issues that the staff felt were raised by exchange proposals to trade GNMA and Treasury options. It did not issue such a release in connection with broad-based stock index options.

[15] *See, e.g.*, letter to James A. Culver, Director, Division of Economics and Education, CFTC, from Douglas Scarff, Director, Division of Market Regulation, dated February 18, 1983, concerning the proposals of the Chicago Mercantile Exchange, Inc. ("CME") to trade a futures contract based on the Consumer Staple Index and of the Chicago Board of Trade ("CBT") to trade options on ten 10-stock indices (especially pp. 3-7).

[16] In the stock index futures context, these regulatory disparities cover a broad range of concerns, from margin and the absence of suitability or account approval requirements, as well as other, sales practice protections, to the lack of a prohibition against insider trading in the futures markets and the difficulties of conducting inter-market surveillance when those markets are regulated by different statutes and agencies. Since most of the sales and trading practice rules and surveillance procedures for index options and individual stock options are the same, the concerns about possible regulatory differences are much more narowly focused.

[17] Amendments to Reg. T approved by the FRB, May 16, 1983.

[18] Amex initially proposed to permit minimum margins on short positions in industry index options of 10 percent, the same level allowed for broad-based index options. In response to Commission concerns about the regulatory differences between narrow-based index options and individual stock options, as well as subsequent CBOE objections, Amex amended its proposal to provide for margins

margin would be allowed in the purchase of an index option and the minimum margin on any index option, put or call, sold or "carried short" would be 30 percent of the product of the current industry index value times the index multiplier.[19]

The Commission believes that the minimum margin for industry index options proposed by the Amex is clearly adequate to meet the two primary purposes of stock and stock options margin: to provide creditor protection and "prevent the excessive use of credit in connection with the issuance * * * of puts and calls * * *."[20] Further, the Commission believes that this margin requirement ensures that index options margins do not serve to undermine, indirectly, the individual stock option margin requirement.

B. Position and Exercise Limits

The Amex proposes to establish position and exercise limits with respect to narrow-based index options which reflect the unique characteristics of each index option. The proposed rule change would establish a three-tiered position limit structure of 4,000, 6,000, and 8,000 contracts. The lowest limit, 4,000 contracts, would be applicable to options on any index which may be dominated by a single component stock and the highest limit, 8,000 contracts, is applicable to options on indices which are considered to be least affected by any particular stock or group of stocks.[21] Under these standards, persons holding positions in the Computer Technology Index would be subject to a 4,000 contract limit and those trading in the Oil and Gas index option would be able to establish positions of 8,000 contracts. These limits would compare to the recently approved position and exercise limits of 4,000 contracts for the higher tier (more active) individual stock options.

The Division believes that the proposed position and exercise limits, when viewed in conjunction with the proposed 30 percent margin, address concerns with respect to the potential use of narrow-based index options to circumvent limits applicable to positions held in options on individual stocks.[22]

C. Multiple Trading

Two types of "multiple trading" concerns have been raised in the context of trading of narrow-based indices, *i.e.*, (1) where options exchanges have competing identical or similar index options products, and (2) where an index option is perceived as a surrogate for a stock option (or the stock itself).

With respect to the first concern, the Commission intends to continue its policy of allowing the market to determine the utility of the various industry options. The Commission previously reached a determination not to prohibit multiple trading of index options when it approved the basic exchange index options rules in late 1982.[23] As the Commission has previously noted with respect to non-equity options[24] and index options, it would appear that competition in the market is most likely to result in the development of options contracts best suited to the economic needs of market participants. Second, the potential adverse economic consequences of multiple trading to certain exchanges that have been asserted in the equity options context[25] are not present here. Unlike stock options, no options market has committed significant resources to the creation of an industry stock index options market on the basis of an exclusive franchise; nor is any exchange currently heavily dependent on industry index options as a vital source of income. Finally, the Commission noted previously with respect to stock index options the difficulties raised by needing to determine when an industry index product is sufficiently different from existing products to raise a multiple trading issue.[26]

The second multiple trading issue arguably arises through concerns that an index option dominated by one or a few stocks may be traded as a surrogate for a stock option (or the stock itself). In this regard, it must be recognized that there exists a significant potential for industry index options to serve as substitutes for some investment strategies in individual stocks, or options on those stocks, particularly to the extent that such stocks dominate the underlying index. For example, CBOE, which trades options on IBM, contends that the Amex Computer Technology Index option potentially could supplant much of the investor interest that currently is focused on IBM options.

The Commission does not believe that this possibility should cause it to apply the prohibition on multiple trading of individual stock options by more than one exchange to industry index options in situations where an index options is proposed to be traded by an exchange other than the exchange that trades the stock or stocks that dominate the index. Two primary reasons have been articulated in support of the continued ban on multiple trading of individual options: (i) pricing efficiency and market fragmentation concerns; and (ii) fair field of competition concerns.[27]

With respect to the first concern, it was contended that multiple trading could lead to a dispersion of order flow that would make it less likely that the

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equivalent to those applicable to individual stock options. See amendment No. 4 to SR-Amex-82-22.

[19] Amex Rule 462, proposed subsections (d)(2) (C) and (D) (iv) and (v). Thus, if the current level of the index were 100, each contract would have a value of $10,000 (100 times the $100 index multiplier) and the minimum margin for writing an option would be $3,000.

Further, like margin on stock options, the margin on short positions in index options is: (i) for index calls, increased by an unrealized loss or reduced by any excess of the aggregate exercise price of the option over the product of the current index value times the index multiplier, or (ii) for index puts, increased by the amount that the product of the current index value times the index multiplier is less than the aggregate exercise price of the option. In addition, margin on any industry index option, like a stock option, cannot be reduced below an absolute minimum of $250.00. Amex Rule 462(d)(2)(D)(v)(b).

[20] *See* FRB Press Release dated August 12, 1975, in which the FRB announced the proposal to amend Reg. T, to provide for a 30 percent margin for the writing of options.

[21] Proposed Amex Rule 904C. Specifically, an index option contract is subject to a 4,000 contract limit if any single stock accounts, on an average of a thirty-day period fixed in the rule, for 30 percent or more of the value of the index. A 6,000 contract limit is applicable when any single stock accounts for 20 percent or more of the index, or any five stocks account for more than 50 percent of the index, but no single stock accounts for more than 30 percent of the index value. A limit of 8,000 contracts applies to all narrow-based index options not subject to the two lesser tiers.

[22] Amex rules will not require aggregation of positions in industry index options with positions in options on the individual stocks comprising the indices. The Commission believes, however, that the fact that the two proposed index options are settled in cash, combined with the number of stocks included in the indices and the substantial trading activity they enjoy (particularly the stocks that dominate the indices), makes the potential of successful joint manipulations of both these index options and individual options extremely low. The Commission intends to monitor the experience in this area, however, to determine if aggregation would be appropriate.

[23] *See* Securities Exchange Act Release No. 19264 (November 22, 1982), 47 FR 53981 (November 30, 1982).

[24] *See* Multiple Trading of Non-Equity Options Policy Statement, Securities Exchange Act Release No. 18297 (December 2, 1981), 46 FR 60376 (December 9, 1981).

[25] *See* Securities Exchange Act Release 16701 (March 26, 1980) at n. 47.

[26] Such an exercise could be particularly difficult for industry index options, where changes of just one or two stocks could produce an arguably different index and thereby avoid any multiple trading prohibition. For example, Amex, CBOE and PSE each have proposed to trade index options in the computer technology area. While the indices vary markedly in the number of stocks they reflect (30, 12 and 100 stocks, respectively), their composition is such that each would seem likely to respond similarly to the same market information, and hence cannot be distinguished easily on any kind of functional basis.

[27] *See* Securities Exchange Act Release No. 16701 (March 26, 1980).

quotes or prices from any single market would reflect a complete assessment of all buying and selling interest. This could be a particular problem if each market had a substantially different mix of buy and sell orders, which could raise the spectre of the identical option trading at dramatically different prices simultaneously on different markets, in turn imposing substantial burdens on broker-dealers to ensure best execution of their customers' orders. The CBOE is particularly concerned about this phenomenon because it speculates that there will be a systemic tendency for buying interest to gravitate toward index options and selling interest toward the individual stock options markets.[28]

While this concern cannot be totally dismissed, it must be recognized that the fragmentation concerns are much different here than in the multiple trading of individual stock options. The individual option and index option markets are in fact distinct, to an even greater extent than the markets for an individual option and the underlying security. Hence, the best execution concerns raised by identical options contracts trading at differing prices at the same time would not arise. The potential that index options may adversely affect the liquidity of some individual options is a more feasible concern. In its response to the CBOE letter, however, Amex questions CBOE's presumption that buying and selling interest will systematically diverge, and the Commission is inclined to concur with Amex' skepticism in the absence of actual trading experience. In particular, given the generally modest level of exercises of broad-based index options to date, the Commission has no reason to believe that individual investors would prefer to purchase narrow-based index options because of the cash settlement feature. In addition, industry index options simply will not provide a suitable substitute for purchasing options on the individual stock for many investment purposes.[29] While there undoubtedly will be significant arbitrage activity between the industry index options and individual options, that activity should enhance pricing efficiency and actually increase trading volume in both markets. Thus, to the extent any significant retail order flow is diverted from individual options to industry index options, it most likely will be because those options more completely fit the needs of a particular investor.[30]

The second multiple trading concern, with respect to the need to maintain a "fair field of competition," arose because of the tendency of the major wire houses to automatically route all small customer orders to a designated market center, which resulted in the elimination of much real order-by-order price competition.[31] This concern is largely absent in the industry index options context, since firms would route orders based on whether the customer had entered a stock option or index option order; a firm presumably would never route a customer stock option order to the index options market or vice versa.

Nevertheless, it could be alleged that a fair field of competition would not be present if there were features of index options that either made them preferable to customers or brokers over individual stock options and that thereby conferred an unfair competitive advantage to the exchange sponsoring the index product. The Commission has carefully attempted to avoid such a situation from arising in its review of the Amex proposal. The sales practice rules covering index options are identical to those covering stock options; Amex also has developed margin and position limit rules that are closely related to those that apply to individual options.[32] While the cash settlement feature, which is essential to the functioning of an option on a 30-stock index, arguably could confer a competitive advantage, the Commission does not find that advantage to be unfair or so substantial as to justify an adverse decision on the Amex proposal. Rather, the Commission believes that, on balance, the Amex has proposed a regulatory environment calculated to ensure that most persons shifting from the market in an individual option (or stock) to its index options market will be reflecting a *bona fide* investment choice to invest in a particular industry rather than in the industry's dominant stock.

D. Surveillance and Related Concerns

The CBOE, Phlx and PSE also have indicated their concerns that these index options will be used to accomplish illegal trading goals or circumvent practices currently proscribed by statute and exchange rules with respect to stock/options trading and manipulation. There are several separate issues that arise in connection with these concerns.

First, concerns have been expressed about the need to develop surveillance systems to monitor the trading of industry index options. Based on preliminary staff discussions with the Amex, it appears that Amex is developing an appropriate system to conduct surveillance of the proposed index options market. The Commission will continue to review the system prior to the start-up of trading.[33]

Second, concerns raised by commentators with respect to violations of exchange rules prohibiting "front-running" block trades of equity securities to establish profitable options positions (or "tape-racing") and trading in violation of Section 10(b) of the Act and Rule 10b–5 thereunder (particularly insider trading), also can arise in the context of an industry index option that is dominated by one or a small group of stocks. The Commission believes, however, that the prohibition against insider trading,[34] and related anti-fraud and anti-manipulation proscriptions, apply to industry index options trading.[35]

E. Proliferation concerns

The Commission has also considered the general concerns raised by the SIA Options Committee and the four options exchanges related to the capacity of

[28] The Cobe feels that purchasers will be attracted to index options because of the convenience of cash settlement, but that writers will prefer individual stock options in order to carry out covered writing strategies, for which index options could not be used.

[29] For example, persons desiring to write options against their holding of a particular stock in order to increase the income flow from that stock would take on much greater risks by "cross-hedging" with the index option.

[30] For example, where an investor may have an opinion on a particular industry group but no fundamental opinion on which stocks in the industry are most attractive, he may choose to purchase that industry's index option.

[31] Since the principle retail firms tend to route orders to the most active market center, the designation decisions of a few firms usually results in virtually all order flow being sent to a single exchange.

[32] The surrogate trading concern is also reflected in certain other proposed Amex rules. For example, Amex proposed Rule 918C will not allow trading in the index option to act as a surrogate market for an option in which trading has been halted. Rule 918C, Commentary .05 provides that trading in the index option will be halted if trading has been halted in the primary market for any combination of underlying stocks accounting for 20 percent or more of the current index value. Proposed Rule 918C also would prohibit the opening of index options until underlying stocks reflecting at least 50 percent of the aggregate market value of all the stocks comprising the index have opened for trading. The Amex also has proposed rules relating to index composition which require, among other things, that indices reflect at least 10 stocks and that indices of less than 25 stocks be comprised only of liquid stocks, *i.e.*, stocks eligible for options trading.

[33] The Commission is conditioning its approval order, however, as it has conditioned past new options products proposals, on the submission by Amex of a satisfactory surveillance program.

[34] Rule 10b–5, 17 CFR 240.10b–5 *See, O'Connor* v. *Dean Witter*, 529 F. Supp. 1179 (S.D.N.Y. 1981).

[35] The use of narrow-based stock index options raises concerns under Securities Exchange Act Rule 10b–6, 17 CFR § 240.10b–6. In this context, the Commission intends to monitor closely trading practices with respect to such options.

broker-dealers to sell and process the various new options products. In May 24, 1983 letters to the exchanges, the SIA Options Committee suggested that the exchanges voluntarily refrain from trading all new options products until at least January 1, 1984.[36]

The Commission does not believe that it would be appropriate for it to impose a moratorium at this time.[37] Rather, the Commission believes that a moratorium on all new products would tend to stifle new product development, including experimentation in the utility of narrow-based index options. While the Commission recognizes that narrow-based index options raise a variety of difficult questions, it believes that, with sufficient regulatory safeguards in place, there is no justification to delay permitting trading in narrow-based index options to proceed.

Nevertheless, the Commission appreciates the very valid concerns that prompted the SIA Options Committee to recommend an industry-wide new products moratorium. Like the SIA Options Committee, the Commission has perceived the perfectly natural tendency of the securities exchanges to seek to remain competitive with each other by developing a host of new options products. Whereas there currently are four broad-based index options trading, the Commission believes the potential for proliferation in the narrow-based options field is far greater,[38] as the 11 contracts proposed by Amex to date, and 5 by CBOE, make clear. Moreover, the potential for investor and registered representative confusion is made greater by the possibility of each exchange trading options on similar, but distinguishable, indices.

Accordingly, the Commission has worked with the exchanges to assure an orderly, prudent introduction of narrow-based index options. First, the Commission is requiring that there be a delay of at least two weeks between the announcement by Amex of its intention to start trading in either of the two index options contracts and the actual start-up of trading. In the Commission's view, this would provide firms a sufficient opportunity to become familarized with a new index options product and to educate their RRs about the terms of the option. Amex has consented to such a notice period in connection with the Computer Technology and Oil and Gas Index options.

Second, the Commission, as set forth in another release issued today, is proposing a pilot program that would limit each self-regulatory organization seeking to trade options on narrow-based stock indices to a maximum of two contracts.[39]

V. Findings and Conclusion

Under Section 19(b)(2) of the Act, the Commission must approve the foregoing rule change if it determines that the proposed rule change is consistent with the requirements of the Act and the rules thereunder applicable to national securities exchanges. The Commission has reviewed carefully the rules proposed by Amex to accommodate the listing and trading of options of industry stock indices and the specific characteristics of the Amex Computer Technology and Oil and Gas Indices. For the reasons set forth above, the Commission has concluded that the rules provide for adequate and proper regulation of the proposed options. Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

Prior to commencement of trading, however, the Amex must submit a satisfactory surveillance agreement to the Commission. In addition, the Commission is conditioning its approval order on agreement by Amex to delay the start-up of trading of either of its index options by at least two weeks following its announcement of the date for start-up of trading. During this period, the Commission expects that Amex will take the necessary steps to educated member firms about the indicies.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change, as amended, be, and hereby is, approved, effective August 12, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-22689 Filed 8-17-83; 8:45 am]

BILLING CODE 8010-01-M

[36] The CBOE, Phlx and PSE, have agreed in principle with the concerns expressed by the SIA Options Committee about the speed of the expansion of the market in "new products" in their letters commenting on Amex' proposed rule change (SR-Amex-82-22). Despite this objection to the Amex proposal, the CBOE and PSE, as noted earlier, have filed to trade options on narrow-based indices.

[37] In this regard, it should be emphasized that the SIA Options Committee recommendation of a moratorium was directed at the exchanges. The Committee has made it clear that it was not recommending that the Commission take that, or any other, specific action with regard to new product proliferation.

[38] For example, in its stock group options proposal, PSE proposed to trade options on 20 different stock groups. *See* File No. SR-PSE-82-4.

[39] *See* Securities Exchange Act Release No. 20076 (August 12, 1983).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2092; Amendment #4]

Mississippi; Declaration of Disaster Loan Area

The above numbered declaration (48 FR 27172), Amendment #1 (48 FR 28384), Amendment #2 (48 FR 30508) and Amendment #3 (48 FR 32425) are amended in accordance with the President's declaration of June 1, 1983, to include Issaquena, Leflore and Lowndes Counties and the adjacent Counties of Claiborne, Sharkey, Tallahatchie and Yazoo in the State of Mississippi, as a result of damage caused by severe storms, tornadoes and flooding beginning on or about May 18, 1983. All other information remains the same, i.e., the termination date for filing applications for physical damage is the close of business on August 1, 1983, and for economic injury until the close of business on March 1, 1984.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: June 20, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-22663 Filed 8-17-83; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2083; Amendment #5]

Utah; Declaration of Disaster Loan Area

The above numbered declaration (48 FR 21699), Amendment #1 (48 FR 23740), Amendment #2 (48 FR 28385), Amendment #3 (48 FR 30508) and Amendment #4 (48 FR 32425) is amended in accordance with the President's declaration of April 30, 1983, to include Weber and Sevier Counties and the adjacent Counties of Morgan, Millard and Wasatch in the State of Utah, as a result of damage caused by severe storms, landslides and flooding beginning on or about April 12, 1983. All other information remains the same, i.e., the termination date for filing applications for physical damage is the close of business on August 2, 1983, and for economic injury until the close of business on January 30, 1984.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 23, 1983.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 83-22862 Filed 8-17-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Ref. Docket No. 17326; SFAR No. 34]

Compensation for Required Security Measures in Foreign Air Transportation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Acceptance of Applications.

SUMMARY: This notice is to advise interested parties that the Federal Aviation Administration has determined that compensation may be paid to air carriers for eligible reimbursed costs for screening passengers and their carry-on baggage moving in foreign air transportation during the perioid August 5, 1974, through August 13, 1980. Applications for this compensation must be made by November 1, 1983, unless a later date is authorized by the Director of Civil Aviation Security for good cause shown.

FOR FURTHER INFORMATION CONTACT: Fred V. Rapp, Aviation Security Division, Office of Civil Aviation Security, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone (202) 426-8701.

Notice: Section 24 of Pub. L. 94-353 (90 Stat. 871, 885, 49 U.S.C. 1356a; approved July 12, 1976, effective as of July 1, 1978) directs the Secretary of Transportation to compensate any air carrier certificated under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) for the cost of screening passengers moving in foreign air transportation. Section 24 provides, in pertinent part, as follows:

> (a) The Secretary of Transportation shall compensate any air carrier certificated by the Civil Aeronautics Board under section 401 of the Federal Aviation Act of 1958 which requests such compensation for that portion of the amount expended by such air carrier for security screening facilities and procedures as required by section 315(a) of such Act, and any regulation issued pursuant thereto, which is attributable to the screening of passengers moving in foreign air transportation.

Section 315(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1356) provides in pertinent part, that "[t]he Administrator shall prescribe or continue in effect reasonable regulations requiring that all passengers and all property intended to be carried in the aircraft cabin in air transportation or intrastate air transportation be screened by weapon-detecting procedures or facilities. . .prior to boarding the aircraft for such transportation."

To implement section 24, the FAA issued Special Federal Aviation Regulation No. 34 (SFAR No. 34; 45 FR 49913; July 28, 1980) providing a procedure for compensating air carriers for this cost. SFAR No. 34 provided that all applications for compensation were to be submitted to the FAA no later than July 1, 1981, and the regulation terminated, by its own terms, on July 1, 1982.

Section 524(d) of the Airport and Airway Improvement Act of 1982 (Title V of Pub. L. 97-248, September 3, 1982, 96 Stat. 671, 697) amended section 24 of Pub. L. 94-353 by revising paragraph (c) thereof to read, in pertinent part, as follows:

> (2) No compensation shall be paid by the Secretary of Transportation under this section for amounts expended after the date which is 180 days after the date of enactment of the International Air Transportation Competition Act of 1979.

The date referred to is August 13, 1980. That is the one hundred eightieth day after February 15, 1980, the date of approval of the International Air Transportation Competition Act of 1979, Pub. L. 96-192, 94 Stat. 35. This expanded the eligibility period to include the period from October 1, 1978, to and including August 13, 1980.

In addition, following a recent indepth review of the legislation, the FAA has determined that the amendment of section 24(c) of Pub. L. 94-353 has allowed the period August 5, 1974 (the effective date of section 315(a) of the Federal Aviation Act) through June 30, 1975, to be included in the eligibility period. Thus, the entire eligibility period is August 5, 1974, through August 13, 1980.

To implement section 524(d), as amended, the FAA issued SFAR No. 34-1 (47 FR 56327; December 16, 1982) which reinstated SFAR No. 34, deleted the termination date in SFAR No. 34, and changed the deadline for submission of applications for compensation to not later than November 1, 1983, unless otherwise authorized by the Director of Civil Aviation Security for good cause shown.

Interested parties are hereby notified that applications for compensation for unreimbursed costs for screening of passengers and carry-on baggage moving in foreign air transportation during the period August 5, 1974, through August 13, 1980, will be accepted through November 1, 1983, unless a later date is authorized by the Director of Civil Aviation Security. All applications must be submitted in the manner prescribed in SFAR No. 34.

Issued in Washington, D.C., on August 2, 1983.

Billie H. Vincent,

Director of Civil Aviation Security.

[FR Doc. 83-22709 Filed 8-17-83; 8:45 am]

BILLING CODE 4910-13-M

[Docket No. 23634]

Regulatory Negotiation Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C., App. I), notice is hereby given that the meeting of the Regulatory Negotiation Advisory Committee for flight and duty time rulemaking scheduled for August 22-24, 1983, at the Sheraton National Hotel, Columbia Pike and Washington Boulevard, Arlington, Virginia, has been extended through August 28, to allow the committee additional time to develop a report on its findings. The meeting will begin at 10:00 a.m. on August 22.

The agenda for the meeting is as follows: A continuation of the Committee's review of present flight time, duty time, and rest requirements for flight crewmembers utilized by air carriers and the development of a report including a recommended rulemaking proposal.

Every attempt was made to publish notice of extension of this meeting at least 15 days prior to the scheduled meeting date, however, timely notice of the change was impossible because the decision to extend the meeting beyond its originally scheduled dates was announced at the close of the meeting held August 8-10.

Attendance is open to the interested public, but limited to space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact Mr. William J. Sullivan, Executive Secretary, Regulatory Negotiation Advisory Committee, Office of Aviation Safety, ASF-400, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-7815.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on August 15, 1983.

William J. Sullivan,

Executive Secretary, United States Regulatory Negotiation Advisory Committee.

[FR Doc. 83-22788 Filed 8-17-83; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Stockton, California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Stockton, California.

FOR FURTHER INFORMATION CONTACT: D. L. Eyres, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809, Telephone: (916) 440-3541.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation will prepare an environmental impact statement (EIS) on a proposal to construct State Route 4 as a freeway through the City of Stockton, San Joaquin County, California.

The proposed improvement will have an overall length of approximately two miles and will include construction of an interchange of State Routes 4 and 99.

There is a need to relieve traffic congestion on existing Route 4 (on a commercially lined city street) and complete the crosstown tie between Interstate 5 and State Route 99. The proposed project will satisfy this need. The proposed alignment is through an area consisting of single family residences.

The alternatives under consideration are: (1) No action; and (2) constructing a freeway on new alignment. Incorporated into and studied will be design variations in interchange location and design and number of lanes. Upgrading the existing facility is not considered to be a viable alternative.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. Public notice will be given of the time and place of meetings and a public hearing. The draft EIS will be available for public and agency review and comment. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: August 12, 1983.

D. L. Eyres,

District Engineer, Sacramento, California.

[FR Doc. 83-22737 Filed 8-17-83; 8:45 am]

BILLING CODE 4910-22-M

[Docket No. 80-62T]

Grand Island Bridge Tolls; Final Order

On July 28, 1980, the New York State Thruway Authority began collecting increased tolls for passage across the Grand Island Bridges. Complaints were subsequently filed with the Federal Highway Administration challenging the revised toll rates. As a result, the Administrator directed that an administrative hearing be held regarding the challenges to the revised toll rates. The hearing began on June 22, 1982, and continued until June 24. It was subsequently contained from August 9 through August 12. After that, the hearing was suspended pending settlement negotiations.

A Stipulation of Dismissal and Discontinuance, dated February 22, 1983, was eventually signed by the attorneys representing each of the parties and by Carol A. Siwek, a pro se Complainant. The Stipulation was contingent on the approval of the New York State Thruway Authority's Board. That approval was granted on February 28, 1983. The Administrative Law Judge approved the Stipulation and on March 28 issued a recommended decision and certified the record in the proceeding to the Administrator pursuant to 49 CFR 310.12. The recommended decision contained the Stipulation, in lieu of Findings of Fact and Conclusions of Law, and a recommended Order.

Upon consideration of the voluminous record in this matter, including the settlement agreement (Stipulation) and the recommended Order, and pursuant to the provisions of 49 CFR § 310.13, it is hereby Ordered that:

1. The attached Stipulation of Dismissal and Discontinuance is approved and incorporated into this Order;

2. The July 28, 1980 revised toll rates for the Grand Island Bridges are reasonable, just, and proper under 33 U.S.C. 494, 47 Stat. 1562 13(c) and 33 U.S.C. 529;

3. The Complaints of Daniel A. Baney, Nancy Killian Baney, Martin T. Prast, Joyce Schlifke, and Carol A. Siwek, are dismissed with prejudice;

4. Any complaints filed by other persons, who failed to appear and participate in the hearing, are deemed abandoned and dismissed with prejudice;

5. This action is discontinued and dismissed with prejudice.

Issued on: August 9, 1983

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

In the matter of the Grand Island Bridge Tolls; stipulation of dismissal and discontinuance; Docket No. 80-62T.

Whereas, on July 28, 1980 revised toll rates charged by the New York State Thruway Authority ("the Thruway Authority") for passage across the Grand Island Bridges and their approaches went into effect and have since remained in effect; and

Whereas, pursuant to 49 CFR Part 310, certain complaints were filed with the Federal Highway Administration ("the Highway Administration") challenging said toll rates; and

Whereas, by an Order dated July 20, 1981, the Administrator of the Highway Administration directed that a public, evidentiary hearing be held regarding said challenges to said toll rates; and

Whereas, such a hearing was held in Buffalo, New York before the Honorable Jerome C. Ditore, Administrative Law Judge, on June 22 through 24 and August 9 through 12, 1982, and has since been suspended; and

Whereas, the participants in the hearing were the Thruway Authority, the Highway Administration (acting as Public Counsel), and complainants Daniel A. Baney, Nancy Killian Baney, Martin T. Prast, Joyce Schlifke and Carol A. Siwek, all of whom were represented by their respective attorneys; and

Whereas, based on the testimony and evidence thus far adduced at the hearing, the participants therein seek and are ready to terminate this proceeding forthwith;

It is hereby stipulated and agreed by and among the aforenamed participants as follows:

1. The Highway Administration agrees that the aforementioned toll rates are reasonable and just, and proper under 33 U.S.C. 494, 47 Stat. 1562 13(c) and 33 U.S.C. 529.

2. Complainants Daniel A. Baney, Nancy Killian Baney, Martin T. Prast and Joyce Schlifke agree that, in light of the testimony and evidence at the hearing, including the testimony and exhibits relating to forecasted heavy maintenance expenditures at the Grand Island Bridges and their approaches in 1983-1985, and subject to the provisions of paragraph 6 hereof, the aforementioned toll rates are reasonable and just, and proper under 33 U.S.C. 494, 47 Stat. 1562 13(c) and 33 U.S.C 529.

3. Complainant Carol A. Siwek agrees that, in light of the testimony and evidence at the hearing, including the testimony and exhibits relating to forecasted heavy maintenance expenditues at the Grand Island Bridges and their approaches in 1983–1985, and subject to the provisions of paragraph 6 hereof, her complaint to the Highway Administration regarding the aforementioned toll rates be withdrawn and this proceeding be terminated, both with prejudice.

4. This Stipulation does not resolve the issue of what constitutes the "approaches" to the Grand Island Bridges, and the hearing participants' respective positions regarding said issue are preserved without prejudice.

5. It is the Thruway Authority's position that the present toll rates at the Grand Island Bridges are reasonable, just and proper based solely upon the facts and circumstances which preceded and were known at the time the 1980 toll rate revision decision was made and went into effect, including the history of past expenditures and revenues at the Grand Island Bridges and their approaches; it is the complainants' position that the present toll rates at the Grand Island Bridges are reasonable, just and proper based also upon the testimony and evidence at the hearing regarding projected expenditures and revenues at the Grand Island Bridges and their approaches in the 1980's, including the testimony and exhibits relating to forecasted heavy maintenance expenditures at the Grand Island Bridges and their approaches in 1983–1985. However, all the participants agree that sufficient testimony and evidence has been adduced at the hearing to make it unnecessary to now resolve the definition of "approaches" or to continue with this proceeding in any other respect. (Attached to this Stipulation are copies of the following correspondence setting forth the respective positions of the complainants and the Thruway Authority relating to forecasted heavy maintenance work and expenditures: letter from Sharon Anscombe Osgood to Rafael Pastor, dated November 26, 1982; letter from Rafael Pastor to Sharon Anscombe Osgood, dated December 7, 1982; letter from Carol A. Siwek to Rafael Pastor, dated January 27, 1983; and letter from Rafael Pastor to Carol A. Siwek, dated February 2, 1983.)

6. The Thruway Authority's General Counsel shall make a formal report to its Board at the Board's next meeting (presently scheduled for February 28, 1983) regarding this proceeding and this Stipulation. Said report shall include reference to the entire testimony at the hearing, and the General Counsel shall recommend that this Stipulation be approved by the Thruway Authority Board. In the event that the Board approves this Stipulation, this Stipulation and its provisions shall have full force and effect, subject to the provisions of paragraph 7 hereof; in the event that the Board does not approve this Stipulation, this stipulation and its provisions shall become null and void. The undersigned attorney for the Thruway Authority shall promptly and in writing notify the other undersigned attorneys and the Honorable Jerome C. Ditore of whether the Board has or has not approved this Stipulation.

7. In the event that this Stipulation is approved by the Thruway Authority Board, it shall be submitted for written approval at the bottom hereof by the Honorable Jerome C. Ditore, Administrative Law Judge.

8. In the event that this Stipulation is approved by the Thruway Authority Board and is thereupon approved in writing by the Honorable Jerome C. Ditore, the complaints herein shall be dismissed and this proceeding shall be discontinued, both with prejudice.

9. In the event this Stipulation is not approved by the Thruway Authority Board, or in the event that this Stipulation is so approved but is then not approved in writing by the Honorable Jerome C. Ditore, the hearing in this proceeding shall be resumed on a date to be determined by the Honorable Jerome C. Ditore.

10. Neither the signing or approval of this Stipulation on behalf of or by the Thruway Authority nor any of the provisions of this Stipulation constitutes, and may not be construed to constitute, the Thruway Authority's consent to, recognition of, or waiver of its right to continue to contest, the jurisdiction of the Highway Administration in this proceeding or in any other proceeding the subject matter of which is the toll rates at the Grand Island Bridges.

11. Neither the signing or approval of this Stipulation on behalf of or by the Thruway Authority nor any of the provisions of this Stipulation constitutes, and may not be construed to constitute, the Thruway Authority's consent to, recognition of, or waiver of its rights to continue to contest, the applicability of the toll regulation standards and provisions in 33 U.S.C. 494, 47 Stat. 1562 13(c) and 33 U.S.C. 529 in this proceeding or in any other proceeding the subject matter of which is the toll rates at the Grand Island Bridges.

12. The provisions of paragraphs 10 and 11 hereof are without prejudice to the assertion by the Highway Administration and the aforenamed complainants in this proceeding and without prejudice to their right to assert in any subsequent proceeding that, with respect to the toll rates at the Grand Island Bridges, the Thruway Authority is subject to the jurisdiction of the Highway Administration and said toll rates are subject to the toll regulation standards and provisions in the aforementioned statutes.

13. Any complaints which may have been filed with the Highway Administration with respect to the present toll rates at the Grand Island Bridges by persons other than the complainants named herein are deemed abandoned and are dismissed with prejudice.

14. This Stipulation in its entirety, after it is fully executed and approved at the bottom hereof and after it becomes effective, shall constitute the recommended decision and order of the Administrative Law Judge which is prescribed by 49 CFR 310.12. As such, it shall, pursuant to 49 CFR 310.13, become subject to the approval of the Administrator of the Highway Administration. The undersigned attorneys and the participants on whose behalf this Stipulation is signed shall not in any manner or in any respect attempt or seek to impede or object to the approval of this Stipulation by the Administrator. The Administrative Law Judge and/or the undersigned attorney for the Highway Administration may independently and affirmatively recommend that the Administrator approve this Stipulation in its entirety.

15. This Stipulation constitutes the sole and entire agreement, between and among those on whose behalf it is executed, in relation to this proceeding and in relation to the Grand Island Bridges and their approaches.

Dated: February 22, 1983.

Hawkins, Delafield & Wood.

Rafael Pastor, Esq.,

Attorneys for the New York State Thruway Authority, 67 Wall Street, New York, New York 10005, (212) 820–9300.

Federal Highway Administration (acting as Public Counsel).

Kathleen S. Markman, Esq.,

Office of Chief Counsel, Federal Highway Administration, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426–0346.

Sharon Anscombe Osgood, Esq.

Sharon Anscombe Osgood,

Attorney for Complainants, Daniel A. Baney, Nancy Killian Baney, Martin T. Prast and Joyce Schlifke, 1430 Colvin Avenue, Kenmore, New York 14223, (716) 875–7640.

Complainant:

Carol A. Siwek,

598 Hertel Avenue, Buffalo, New York 14207, (716) 876–1040.

Approved:

Hon. Jerome C. Ditore,

Administrative Law Judge, 1515 Broadway—Room 3800, New York, New York 10036, (212) 94–3455.

[FR Doc. 83-22736 Filed 8-17-83; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Kenosha, Walworth Counties, Wisconsin

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway improvement project in Kenosha and eastern Walworth Counties, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Mr. Paul H. Tufts, Staff Specialist for Environment, Federal Highway Administration, 4502 Vernon Boulevard, P.O. Box 5428, Madison, Wisconsin 53705; Telephone (608) 264–5956.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the

Wisconsin Department of Transportation, is currently preparing an Environmental Impact Statement for transportation improvements to State Trunk Highway (STH) 50 in Kenosha and eastern Walworth Counties, Wisconsin. The STH 50 corridor located five miles north of the Illinois-Wisconsin state line, extends approximately 23 miles from USH 12 to the west to Interstate 94 to the east. The corridor traverses primarily agricultural land interspersed with wetlands, small inland lakes and isolated woodlots. Existing STH 50 is a two-land highway passing through the rural communities of Paddock Lake, New Munster, and Slades Corners; crossing the Fox and Des Plaines rivers and several of their tributaries.

Planning and engineering studies are underway to develop transportation improvement alternatives. The EIS will assess the need, location and environmental issues of alternatives including: (1) A controlled accesss four-lane facility; (2) an alternative alignment along County Truck Highway (CTH) K, one mile north parallel to STH 50 at the east end of the corridor; (3) bypass options at two rural communities; and (4) a no-build alternative.

The section of STH 50 under study has one of the highest accident rates in the State, due to its limited vehicular capacity and numerous hills and curves. For many years, there has been interest in improving safety and relieving congestion in this transportation corridor.

Coordination activities have begun and will continue with the U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, Wisconsin Department of Natural Resources, Wisconsin State Historical Society, Wisconsin Department of Agriculture, Trade and Consumer Protection, and other agencies that are identified as having an interest in or jurisdiction by law regarding the proposed action. In addition, coordination will continue with local units of government, private interest groups, regional and local planning commissions, and private citizens. No formal scoping meeting is planned.

Issued on: August 4, 1983.

Paul H. Tufts,

Staff Specialist for Environment, Madison, Wisconsin.

[FR Doc. 83-22298 Filed 8-17-83; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. IP 83-13; Notice 1]

Firestone Tire & Rubber Co.; Receipt of Petition for Determination of Inconsequential Noncompliance

The Firestone Tire & Rubber Co. of Akron, Ohio has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq*) for a noncompliance with 49 CFR 571.109, Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires-Passenger Cars*. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition for a determination of inconsequentiality is published in accordance with section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

The noncompliance exists on the black or inboard side of an estimated 2,994 white sidewall P195/75R14 WR 12 white sidewall tires. Paragraph S4.3(a) requires that the tire size designation be permanently molded into both sidewalls. The rim diameter designation in the size stamping indicates 15 instead of 14. The size designation is correct on the white sidewall, the side that is normally mounted outboard. Further, petitioner's efforts to mount the tire on a 15 inch rim were unsuccessful, "even when using a motordriven Coates 3040 tire mounter." Finally, any attempt to retread the tire in a P195/75R15 matrix would result in a scrap tire, "thereby eliminating any concern in this area." These are the petitioner's arguments supporting its contention that the noncompliance is inconsequential as it relates to motor vehicle safety.

Interested persons are invited to submit written data, views and arguments on the petition of Firestone Tire & Rubber Co. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

The engineer and attorney primarily responsible for this notice are P.L. Moore and Taylor Vinson, respectively.

Comment closing date: September 19, 1983.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on August 11, 1983.

Kennerly H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-22524 Filed 8-17-83; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP 83-14; Notice 1]

Ford Motor Company; Receipt of Petition for Determination of Inconsequential Noncompliance

Ford Motor Company of Dearborn, Michigan, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicles Safety Act (15 U.S.C. 1381 *et seq.*) for a noncompliance with 49 CFR 571.125 Motor Vehicle Safety Standard No. 125 *Warning Devices*, on the ground that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition for a determination of inconsequentiality is published in accordance with section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Standard No. 125 applies to devices, without self-contained energy sources, intended to be carried in motor vehicles and used to warn approaching traffic of the presence of a stopped vehicle. Ford Motor Company has provided approximately 1,400 warning triangles in optional Traveler's Assistance Kits that do not comply with the standard. The device is not marked with any of the information required by section 5.1.4. (name of manufacturer, month and year of manufacture, DOT certification symbol). Its configuration does not meet the requirements of section 5.2. It is not intended to be erected on level ground but to be hung from the vehicle. Its dimensions are less than the minimum specified by the standard; two legs of 9½ inches connect with a base 8¾ inches rather than the 17 to 22 inches for each side that the standard requires. Ford does not possess information relating to color specifications.

reflectivity, luminance, or durability of the device.

Ford argues that the noncompliance is inconsequential as it relates to motor vehicle safety because the device may be hung from the vehicle without the necessity of an occupant having to get out in the path of oncoming traffic. Its ease of carrying and erection increases the likelihood that it will be available and used when needed. While it may not provide as much advance warning as a complying device, "it is unquestionable that suspension of this device from the side window of a passenger car conveys greater warning to on-coming drivers than if the device were not present." Nevertheless, Ford has now discontinued providing the triangles, which were sold only between February and April 1983.

Interested persons are invited to submit written data, views and arguments on the petition of Ford Motor Company described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

The engineer and attorney primarily responsible for this notice are Kevin Cavey and Taylor Vinson, respectively. Comment closing date September 19, 1983.

[Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority as 49 CFR 1.50 and 49 CFR 501.8]

Issued on: August 11, 1983.

Kennerly H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-22523 Filed 8-16-83; 8:45 am]

BILLING CODE 4910-59-M

National Highway Safety Advisory Committee; Public Meeting

Pursuant to Section 10(a)2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., App. I), notice is hereby given of meetings of the National Highway Safety Advisory Committee to be held September 21-23, 1983 in Washington, D.C. at the DOT Headquarters Building. The subcommittees will be meeting to discuss progress reports and draft positions for consideration by the full Committee.

On September 21 the Safety Belt Subcommittee will be meeting to receive a briefing on NHTSA's safety belt program; discuss the safety belt usage ad campaign; discuss members involvement in getting PSA's on the air; and to set priorities for task groups (Media, Public/Private Partnership, Technical and Legal Initiatives). This subcommittee will be meeting in room 6200 from 9:00-3:30 p.m.

On September 22, the Alcohol Subcommittee will be meeting in room 6200 from 8:30-12 Noon. This subcommittee will hear a report from Henry Hudson on his briefing before the National District Attorney's Association; discuss the response from NHTSA on their request for information on studies of the effect of early versus late closing of bars; and hear an update on NHTSA's judicial training effort. Also on September 22 the 402/Government-Public-Private Relationship Subcommittee will be meeting in room 4234 from 1:00-4:00 p.m. to discuss and identify issues for the joint DOT-NHSAC Highway Safety Issues Symposium and to identify participants to be invited to the symposium.

On September 23, the Highway Environment/55 MPH Subcommittee will be meeting in room 6200 from 8:30-3:30 p.m. This subcommittee will receive a briefing on the Connecticut bridge collapse; hear a report from Russ Brown and Stan Preebe on the Conference sponsored by the American Society of Civil Engineers on highway safety issues; and discuss the position of the safety training task force.

All meetings are open to the interested public, but may be limited in attendance to the space available. Members of the public may present a written statement to the Committee at any time.

This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretariat, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202-426-2870.

Issued in Washington, D.C., on August 12, 1983.

Robert E. Doherty,

Executive Secretary.

[FR Doc. 83-22491 Filed 8-17-83; 8:45 am]

BILLING CODE 4910-58-M

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements: Submittals to OMB June 30—August 2, 1983

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, during the period June 30—Aug. 2, 1983, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426-1887 or Gary Waxman or Wayne Leiss, Office of Management and Budget, New Executive Office Building, Room 3001, Washington, D.C. 20503, (202) 395-7313.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

On Mondays and Thursdays, as needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB:

(1) A DOT control number.
(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.
(3) The name of the DOT Operating Administration or Secretarial Office involved.
(4) The title of the information collection request.
(5) The form numbers used, if any.
(6) The frequency of required responses.
(7) The persons required to respond.
(8) A brief statement of the need for, and uses to be made of, the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB from June 30 to August 2, 1983:

DOT No: 2045
OMB No: None (new)
By: Maritime Administration
Title: Inventory of American Intermodal Equipment
Forms: None
Frequency: Annually
Respondents: U.S. steamship and intermodal leasing companies.
Need/Use: Information on intermodal equipment is needed for the transportation and defense planning of the U.S. Government.

DOT No.: 2183
OMB No.: None
By: National Highway Traffic Safety Administration
Title: Alcohol Knowledge Survey
Forms: One
Frequency: One-time survey
Respondents: Individuals
Need/Use: In order to develop countermeasures, the factors affecting detection and apprehension of drinking drivers will be identified. Results will be disseminated to State and local agencies in order to maximize the effectiveness of State programs in combatting drunk driving.

DOT No.: 2184
OMB No.: 2127–0052
By: National Highway Traffic Safety Administration
Title: Brake Hose Manufacturing Identification Standard Number 106
Forms: None
Frequency: On occasion
Respondents: Businesses
Need/Use: The purpose of this requirement is to ensure the traceability of the source of brake parts where a safety related defect is discovered in any brake hose made by a specific manufacturer.

DOT No.: 2185
OMB No.: 2120–0103
By: Federal Aviation Administration
Title: Application for Vehicle Parking Permits at Washington National and Dulles International Airports.
Forms: MA–1780–1 and MA–4665–1
Frequency: On occasion
Respondents: Airport Employees
Need/Use: The data requested by FAR 159.23 is required to determine applicant's eligibility for an airport parking permit, to maintain a record of persons authorized to park on the airport, and to determine the need for airport employee parking spaces.

DOT No.: 2187
OMB No.: New
By: Federal Aviation Administration
Title: Automated Weather Observing System (AWOS) Demonstration and Test
Forms: Questionaire (10 questions)
Frequency: Voluntary when the AWOS System is used for flight planning.
Respondents: Any aircraft pilot who uses the AWOS System
Need/Use: The AWOS Program Manager needs to determine that the AWOS system is ready for permanent implementation. Accordingly, information is necessary as to the acceptability of the system to pilots and if the system supports safe and efficient airspace operations.

DOT No.: 2188
OMB No.: None
By: United States Coast Guard
Title: Appeal Process for Requirements under Ports and Waterways Safety; Control of Vessel Operations and Cargo Transfers.
Forms: None
Frequency: On occasion
Respondents: Businesses
Need/Use: The appeal process allows any person adversely affected by a safety zone or other order or direction issued by, or on behalf of, a Captain of the Port, to appeal to the Coast Guard for relief from the requirements.

DOT No.: 2189
OMB No.: 2133–0027
By: Maritime Administration
Title: Application for Capital Construction Fund and Exhibits
Forms: None
Frequency: Application—on occasion; Reports—semiannually
Respondents: Shipowners/Operators
Need/Use: The information collected is necessary to determine a citizens' eligibility for benefits under the Capital Construction Fund program and to determine their level of compliance once they have entered into an Agreement.

DOT No.: 2190
OMB No.: 2115–0061
By: United States Coast Guard
Title: Forecastel Card
Forms: CG–704
Frequency: On occasion
Respondents: Companies which own and operate U.S. Merchant Vessels
Need/Use: This requirement is part of the USCG commercial vessel program. It is needed so each U.S merchant seaman employed aboard ship under contract will have access to a copy of the agreement under which they are currently bound. This record is required by law to be posted aboard ship at all times the ship is underway.

DOT No.: 2191
OMB No.: 2115–0053
By: United States Coast Guard
Title: Request for Designation & Exemption of Oceanographic Vessels
Forms: None
Frequency: On occasion
Respondents: Oceanographic vessel operators.
Need/Use: This information is needed to designate oceanographic research vessels. The Coast Guard uses the information to determine if certain oceanographic vessels should be exempted from specific regulatory requirements.

DOT No.: 2192
OMB No.: 2120–0005
By: Federal Aviation Administration
Title: General Operating and Flight Rules
Forms: None
Frequency: On occasion
Respondents: Airmen, state and local governments, businesses
Need/Use: FAA uses information collected to determine airmen compliance with the provisions of FAR–91.

DOT No.: 2193
OMB No.: Combines 2125–0064, 0065, 0067, 0070, and 0073
By: Federal Highway Administration
Title: Driver Qualification File
Forms: None

Frequency: Other: While employed or every 3 years
Respondents: Motor carriers operating in interstate or foreign commerce
Need/Use: To meet FHWA requirements that motor carriers maintain a driver qualification file, to assure that each driver is qualified and continues to be qualified at all times while driving a commercial vehicle in interstate or foreign commerce.

DOT No.: 2194
OMB No.: 2133–0018
By: Maritime Administration
Title: Amendments to ship financing obligation guarantees
Forms: MA–163
Frequency: On occasion
Respondents: Shipowners
Need/Use: To reduce procedural time for processing application/advances under Title XI of the Merchant Marine Act, 1936, as amended.

DOT No.: 2195
OMB No.: 2105–0018
By: Office of the Secretary, Policy and International Affairs
Title: Application for Transportation, Utility Systems, and Facilities on Federal lands.
Forms: Form 299
Frequency: On occasion
Respondents: State and local governments, private businesses and individuals who require access to Federal lands.
Need/Use: This form is the means for collecting information on which to base a decision to grant use of Federal lands for purposes requested. The Alaska National Interest Lands Conservation Act requires this form to be used in applying for use of Federal lands within conservation units in Alaska.

Issued in Washington, D.C., on August 10, 1983.

Karen S. Lee,

Deputy Assistant Secretary for Administration.

[FR Doc. 83–22492 Filed 8–17–83; 8:45 am]
BILLING CODE 4910–62–M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Material Transportation Bureau, DOT.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in July 1983. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
2605–X	DOT–E 2605	Allied Corp., Petersburg, VA	49 CFR 172.101, 173.315(a)(1)	To authorize shipment of liquefied ethylene in non-DOT specification insulted cargo tanks. (Mode 1.)
3121–X	DOT–E 3121	U.S. Department of Defense, Washington, DC.	49 CFR 173.336(a), 177.841(b)	To authorize use of non-DOT specification cargo tanks, for transportation of a certain Class A poisonous liquid. (Mode 1.)
3121–P	DOT–E 3121	Rockwell International Corp., Canoga Park, CA.	49 CFR 173.336(a), 177.841(b)	To become a party to Exemption 3121. (Mode 1.)
3600–X	DOT–E 3600	U.S. Department of Defense, Washington, DC.	49 CFR 172.101, 172.300, 173.87	To authorize shipment of Lance rocket engines in specific configurations which contain Class B and Class C explosives. (Modes 1, 2.)
3606–P	DOT–E 3606	Valcor Engineering Corp., Springfield, NJ	49 CFR 173.304, 175.3	To become a party to Exemption 3606. (Modes 1, 2, 3, 4.)
4719–X	DOT–E 4719	Allied Corp., Morristown, NJ	49 CFR 173.314(c), 173.315(a)(1)	To authorize shipment of certain compressed gases not listed in 49 CFR 173.314 and 173.315, in DOT Specification MC–330 and MC–331 cargo tanks or 105A300W, 112A340W, 114A340, 106A500, I06A500X and 110A500W tank car tanks. (Modes 1, 2.)
4719–X	DOT–E 4719	Dow Chemical Co., Freeport, TX	49 CFR 173.314(c), 173.315(a)(1)	To authorize shipment of certain compressed gases not listed in 49 CFR 173.314 and 173.315, in DOT Specification MC–330 and MC–331 cargo tanks or 105A300W, 112A340W, 114A340W, 106A500, 106A500X and 110A500W tank car tanks. (Modes 1, 2.)
5022–P	DOT–E 5022	Aerojet Tactical Systems Co., Sacramento, CA.	49 CFR 174.101(L), 174.104(d), 174.112(a), 174.86, 177.834(L)(1).	To become a party to Exemption 5022. (Modes 1, 2.)
5062–X	DOT–E 5062	Dow Chemical Co. Plaquemine, LA	49 CFR 172.101, 173.315(a)	To authorize transport of liquefied hydrogen chloride in DOT Specification MC–330 or MC–331 cargo tanks. (Mode 1.)
5206–X	DOT–E 5206	Monsanto, Co., St. Louis, MO	49 CFR 173.114a	To authorize privately operated bulk hopper-type units, for transportation of blasting agents. (Mode 1.)
5600–X	DOT–E 5600	Ozark-Mahoning Co., Tulsa, OK	49 CFR 175.3, part 173	To authorize transport of flammable or nonflammable compressed gases, flammable or corrosive liquids presently authorized to be shipped in a DOT Specification 3A cylinder, to be shipped in a non-DOT specification cylinder made to DOT–3A specification with certain exceptions. (Modes 1, 2, 4.)
5600–X	DOT–E 5600	Amoco Oil Co., Whiting, IN	49 CFR 175.3, Part 173	To authorize transport of flammable or nonflammable compressed gases, flammable or corrosive liquids presently authorized to be shipped in a DOT Specification 3A cylinder, to be shipped in a non-DOT specification cylinder made to DOT–3A specification with certain exceptions. (Modes 1, 2, 4.)
5662–X	DOT–E 5662	Great Lakes Chemical Corp., El Dorado, AR.	49 CFR 173.353(a), 173.353a	To authorize use of a DOT Specification 51 portable tank, for shipment of class B poisonous liquids. (Modes 1, 2, 3.)
5876–X	DOT–E 5876	FMC Corp., Philadelphia, PA	49 CFR 173.365, 178.241, Part 107, Appendix B.	To authorize transport of a Class B poison in DOT Specification 44D multiwall paper bags or non-DOT specification pinch bottom, heat-sealed multiwall bags. (Modes 1, 2, 3.)
5951–P	DOT–E 5951	Moreland-McKesson Chemical, Spartanburg, SC.	49 CFR 173.314(c)	To become a party to Exemption 5951. (Modes 1, 2.)
6228–X	DOT–E 6228	Airco Welding Products, Murray Hill, NJ	49 CFR 173.301(d)(4)	To authorize use of DOT Specification 8 or DOT Specification 8AL cylinders which are manifolded, for shipment of a flammable compressed gas. (Mode 1.)
6232–X	DOT–E 6232	McDonnell Douglas Corp., St. Louis, MO	49 CFR 172.101, 173.102, 173.108, 173.176, 173.87, 175.3.	To authorize shipment of nonflammable and flammable gases, and flammable solid in the same outside packages. (Modes 1, 3, 4.)
6232–X	DOT–E 6232	U.S. Department of Defense, Washington, DC.	49 CFR 172.101, 173.102, 173.108, 173.176, 173.87, 175.3.	To authorize shipment of nonflammable and flammable gases, and flammable solid in the same outside packages. (Modes 1, 3, 4.)
6477–X	DOT–E 6477	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.66(c)	To authorize transport of blasting caps, in non-DOT specification containers. (Modes 1, 2.)
6563–P	DOT–E 6563	Bemco Inc., Port Lambton, Canada	49 CFR 173.302(a)(1), 175.3	To become a part to Exemption 6563. (Modes 1, 2, 3, 4, 5.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6602-P	DOT-E 6602	Ethyl Corp., Baton Rouge, LA	49 CFR 173.245(a), 173.314(c), 173.315(a)(1).	To become a party to Exemption 6602. (Modes 1, 2.)
6658-X	DOT-E 6658	U.S. Department of Defense, Washington, DC.	49 CFR 173.65	To authorize use of a non-DOT specification open-head steel drum, for transportation of a certain Class A explosive. (Mode 1.)
6658-X	DOT-E 6658	U.S. Department of Energy, Washington, DC.	49 CFR 173.65	To authorize use of a non-DOT specification open-head steel drum, for transportation of a certain Class A explosive. (Mode 1.)
6712-X	DOT-E 6712	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.34(e)(15)(i)	To authorize shipment of certain flammable and nonflammable gases in DOT Specification 3A or 3AA cylinders or ICC-3, 3A or 3AA cylinders. (Modes 1, 2, 3, 4, 5.)
6798-X	DOT-E 6798	Allied Corp., Morristown, NJ	49 CFR 173.164(a)	To authorize a non-DOT specification portable tank comparable to Specification 56 except for having a toggle type closure. (Mode 1.)
6798-P	DOT-E 6798	M&T Chemicals Inc., Baltimore, MD	49 CFR 173.164(a)	To become a party to Exemption 6798. (Mode 1.)
6926-P	DOT-E 6926	Union Carbide, Agricultural Products Co., Danbury, CT.	49 CFR 173.365(a)(6), 178.238-3	To become a party to Exemption 6926. (Modes 1, 2, 3.)
7076-P	DOT-E 7076	Brooks Scientific, Inc., Cleveland, OH	49 CFR 173.286(b)	To become a party to Exemption 7076. (Modes 1, 2, 3.)
7192-X	DOT-E 7192	Air Products & Chemicals, Inc., Allentown, PA.	49 CFR 173.315(a), 173.316(a)	To authorize use of non-DOT specification cargo tanks, for shipment of a flammable gas. (Mode 1.)
7235-X	DOT-E 7235	Luxfer U.S.A., Ltd., Riverside, CA	49 CFR 173.302(a)(1), 173.304(a), 173.304(d), 175.3.	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic hoop wrapped cylinders, for transportation of certain nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
7269-X	DOT-E 7269	U.S. Department of Energy, Washington, DC.	49 CFR 173.65(a)	To authorize use of sift-proof paper or plastic bags overpacked in DOT Specification 21C fiber drums for transportation of certain Class A explosives. (Mode 1.)
7277-X	DOT-E 7277	Structural Composites Industries, Inc., Pomona, CA.	49 CFR 173.302(a)(1), 173.304(a), 173.304(d), 175.3.	To authorize an additional aluminum alloy as a material of construction for cylinders containing various flammable and nonflammable gases. (Modes 1, 2, 3, 4, 5.)
7440-X	DOT-E 7440	Roux Laboratories, Inc., Jacksonville, FL	49 CFR / 173.1200(a)(8)(ii)(A), 173.1200(a)(8)(ii)(E), 173.306(a)(3)(i), 173.306(a)(3)(v).	To authorize transportation of a nonflammable gas, in non-DOT specification one-piece, impact-extruded, cylindrical, aluminum container. (Modes 1, 2, 3.)
7603-X	DOT-E 7603	Air Products & Chemicals, Inc., Allentown, PA.	49 CFR 172.101, 173.315, 176.76(b)	To authorize use of non-DOT specification vacuum insulated cargo tanks, for shipment of certain nonflammable gases. (Mode 3.)
7685-X	DOT-E 7685	Aerojet Strategic Propulsion Co., Sacramento, CA.	49 CFR 173.65(b)	To authorize use of DOT Specification 21C fiber drum with two 4 mil inner polyethylene film bags, for transportation of certain Class C explosives. (Mode 1.)
7716-X	DOT-E 7716	Kinepak, Inc., Lewisville, TX	49 CFR 173.153(b)(1)	To authorize transport of ammonium nitrate in inside polyethylene bottles or foil pouches, each containing less than 3 pounds or less, overpacked in DOT Specification 12H-65 fiberboard boxes with a plastic liner bag containing not more than 36 pounds net weight. (Modes 1, 2.)
7886-X	DOT-E 7886	W.M. Barr and Co., Inc., Memphis, TN	49 CFR 173.245, 178.210	To authorize shipment of a corrosive liquid, in non-DOT specification metal can/fiberboard box packaging. (Modes 1, 3.)
7890-P	DOT-E 7890	Union Carbide Agricultural Products Co., Danbury, CT.	49 CFR 172.101, 173.119(m)	To become a party to Exemption 7890. (Modes 1, 2, 3.)
7909-P	DOT-E 7909	EMCO, Inc., Little Rock, AR	49 CFR 172.203, 172.400, 172.402(a)(2), 172.402(a)(3), 172.504(a), 173.345(a), 173.359(c), 173.364(a), 173.370(b), 173.370(d), 173.377(f), 175.3, 175.33.	To become a party to Exemption 7909. (Modes 1, 2, 4.)
7943-X	DOT-E 7943	Hasa Chemicals, Inc., Saugus, CA	49 CFR 173.263(a)(15), 173.272(c), 173.272(i)(12), 173.277(a)(1).	To authorize shipment of corrosive liquids in fiberboard boxes complying with DOT Specification 12B except for handholes in top flaps. (Mode 1.)
7943-X	DOT-E 7943	All Pure Chemical Co., Tracy, CA	49 CFR 173.263(a)(15), 173.272(c), 173.272(i)(12), 173.277(a)(1).	To authorize shipment of corrosive liquids in fiberboard boxes complying with DOT Specification 12B except for handholes in top flaps. (Mode 1.)
7943-X	DOT-E 7943	Alstar Co., Saugus, CA	49 CFR 173.263(a)(15), 173.272(c), 173.272(i)(12), 173.277(a)(1).	To authorize shipment of corrosive liquids in fiberboard boxes complying with DOT Specification 12B except for handholes in top flaps. (Mode 1.)
7954-X	DOT-E 7954	Air Products & Chemicals, Inc., Allentown, PA.	49 CFR 172.504, 172.504, 173.301(d)(2)	To authorize DOT Specification 3AAX2400 cylinders as an additional cylinder for shipment of a fluorine-nitrogen gas mixture. (Mode 1.)
8084-P	DOT-E 8084	E. I. du Pont de Nemours & Co., Wilmington, DE.	49 CFR 173.65(a)(5)	To become a party to Exemption 8084. (Modes 1, 2, 3.)
8099-P	DOT-E 8099	Union Carbide Corp., Danbury, CT	49 CFR 173.365(a)(15)	To become a party to Exemption 8099. (Modes 1, 2, 3.)
8123-X	DOT-E 8123	Texas Instruments, Inc., Dallas, TX	49 CFR 173.119(a)(7), 173.119(b)(4), 173.125(a)(1), 173.245(a)(12), 173.263(a)(15), 173.264(a)(4), 173.266(c)(8), 173.272, 173.299(a)(1), 173.299(b), 178.210-10.	To authorize the shipment of various hazardous materials in a non-DOT specification plastic overpack containing multiple DOT-2E polyethylene bottles, of one-gallon capacity, or prescribed metal cans. (Mode 1.)
8129-X	DOT-E 8129	Environmental Transfer Corp., Flanders, NJ.	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To authorize shipment of certain waste hazardous materials packed in bottles surrounded by absorbent material overpacked in DOT Specification 37A, 17H, or 6J drums. (Mode 1)
8129-X	DOT-E 8129	Advanced Environmental Technology Corp., Flanders, NJ.	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To authorize shipment of certain waste hazardous materials packed in bottles surrounded by absorbent material overpacked in DOT Specification 37A, 17H, or 6J drums. (Mode 1)
8129-X	DOT-E 8129	Rollins Environmental Servcies (DE), Inc., Wilmington, DE.	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To authorize shipment of certain waste hazardous materials packed in bottles surrounded by absorbent material overpacked in DOT Specification 37A, 17H, or 6J drums. (Mode 1)
8129-P	DOT-E 8129	Containerized Chemical Disposal, Inc., Monrovia, CA.	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	PPG Industries, Inc., Pittsburgh, PA	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	Lab Waste Services, Chicago, IL	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	McDonnell Douglas Corp., St. Louis, MO	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-X	DOT-E 8129	Emergency Technical Services Corp., Flanders, NJ.	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To authorize shipment of certain waste hazardous materials packed in bottles surrounded by absorbent material overpacked in DOT Specification 37A, 17H, or 6J drums. (Mode 1.)
8129-P	DOT-E 8129	Bunker Ramo Electronic Systems, Westlake Village, CA.	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8129-X	DOT-E 8129	U.S. Pollution Control, Inc., Oklahoma City, OK.	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To authorize shipment of certain waste hazardous materials packed in bottles surrounded by absorbent material overpacked in DOT Specification 37A, 17H, or 6J drums. (Mode 1.)
8129-P	DOT-E 8129	Varian, Palto Alto, CA	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	Solvent Service, Inc., San Jose, CA	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	Disposal Control Service, Upland, CA	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8161-X	DOT-E 8161	Labelmaster, Chicago, IL	49 CFR 173, Subparts F, 175.3, 178.150	To authorize use of expanded polystyrene cases complying with DOT Specification 33A, except case has six compartments instead of four, for shipment of certain corrosive liquids. (Modes 1, 2, 3, 4.)
8194-X	DOT-E 8194	Pennwalt Corp., Buffalo, NY	49 CFR 177.119(m)(6), 173.221(a)(3), 178.205, 178.210-10.	To authorize use of a fiberboard box complying with DOT Specification 12B (except for closure method and its one-piece, die-cut design), for shipment of liquid organic peroxides. (Modes 1, 2.)
8206-X	DOT-E 8206	Jet Propulsion Laboratory, Pasedena, CA	49 CFR 173.145, 173.276, 173.336	To authorize shipment of liquid propellant samples, frozen, in non-DOT specification plywood boxes. (Mode 1.)
8215-X	DOT-E 8215	Olin Corp., East Alton, IL	49 CFR 177.101, 173.107, 173.60, 173.74, 173.78, 173.93.	To authorize the shipment of certain identified Classes A, B, and C explosives in non-DOT specification containers. (Mode 1.)
8249-X	DOT-E 8249	LPS Industries Inc., formerly Lawrence Packaging, Newark, NJ.	49 CFR 172.400, 172.402(a)(2), 172.402(a)(3), 172.504(a), 1773.126, 173.138, 173.237, 173.246, 13.25(a), 175.3.	To authorize transport of packages bearing the Dangerous when Wet label, in motor vehicles which are not placarded Flammable Solid W. (Modes 1, 2, 4.)
8288-X	DOT-E 8288	Alaska Explosives Ltd., Anchorage, AK	49 CFR 176.115(a)(2)	To authorize M/V Island Trader as an additional carrier under the terms of the exemption. (Mode 3.)
8308-X	DOT-E 8308	Associated Couriers, Inc., Maryland Heights, MO.	49 CFR 177.842(a), 177.842(b)	To authorize carriage of non-fissile radioactive materials packages via motor vehicles when their combined transport index exceeds 50 and/or the separation distance criteria can not be met. (Mode 1.)
8308-X	DOT-E 8308	New England Nuclear Corp., Boston, MA	49 CFR 177.842(a), 177.842(b)	To authorize carriage of non-fissile radioactive materials packages via motor vehicles when their combined transport index exceeds 50 and/or the separation distance criteria can not be met. (Mode 1.)
8308-X	DOT-E 8308	MHC Messengers, Inc., Avenel, NJ	49 CFR 177.842(a) 177.842(b)	To authorize carriage of non-fissile radioactive materials packages via motor vehicles when their combined transport index exceeds 50 and/or the separation distance criteria can not be met. (Mode 1.)
8308-X	DOT-E 8308	Sky Cab, Inc., East Brunswick, NJ	49 CFR 177.842(a), 177.842(b)	To authorize carriage of non-fissile radioactive materials packages via motor vehicles when their combined transport index exceeds 50 and/or the separation distance criteria can not be met. (Mode 1.)
8308-X	DOT-E 8308	Medical Emergency Transportation Corp., Califon, NJ.	49 CFR 177.842(a), 177.842(b)	To authorize carriage of non-fissile radioactive materials packages via motor vehicles when their combined transport index exceeds 50 and/or the separation distance criteria can not be met. (Mode 1.)
8308-X	DOT-E 8308	U.S. Priority Transport Crop. Huntington, NJ.	49 CFR 177.842(a), 177.842(b)	To authorize carriage of non-fissile radioactive materials packages via motor vehicles when their combined transport index exceeds 50 and/or the separation distance criteria can not be met. (Mode 1.)
8445-X	DOT-E 8445	Emergency Technical Services Corp. Flanders, NJ.	49 CFR Part 173, Subpart D, E, F, & H	To authorize shipment of various hazardous substances and wastes packed in inside plastic, glass, earthenware or metal containers, overpacked in a DOT Specification removable head steel, fiber or polyethylene drum, only for the purposes of disposal, repackaging or reprocessing. (Mode 1.)
8445-X	DOT-E 8445	Environmental Transfer Corp., Flanders, NJ.	49 CFR Part 173, Subpart D, E, F & H	To authorize shipment of various hazardous substances and wastes packed in inside plastic, glass, earthenware or metal containers, overpacked in a DOT Specification removable head steel, fiber or polyethylene drum, only for the purposes of disposal, repackaging or reprocessing. (Mode 1.)
8445-P	DOT-E 8445	McDonnell Douglas Corp., St. Louis, MO	49 CFR Part 173, Subpart D, E, F & H	To become a party to Exemption 8445. (Mode 1.)
8445-X	DOT-E 8445	Advanced Environmental Technology Corp., Flanders, NJ.	49 CFR Part 173, Subpart D, E, F & H	To authorize shipment of various hazardous substances and wastes packed inside plastic, glass, earthenware or metal containers, overpacked in a DOT Specification removable head steel, fiber or polyethylene drum, only for the purposes of disposal, repackaging or reprocessing. (Mode 1.)
8511-X	DOT-E 8511	Oxychem Co., New York, NY	49 CFR 173.266(f)	To authorize transport of hydrogen peroxide, in DOT Specification MC-312 cargo tanks and 103 CW of 111A60W7 tank cars. (Modes 1, 2.)
8511-X	DOT-E 8511	FMC Corp., Philadelphia, PA	49 CFR 173.266(f)	To authorize transport of hydrogen peroxide, in DOT Specification MC-312 cargo tanks and 103CW or 111A60W7 tank cars. (Modes 1, 2.)
8547-X	DOT-E 8547	Natico, Inc., Chicago, IL	49 CFR 178.116, Part 173 Subpart D, Subpart E, Subpart F, Subpart H.	To authorize manufacture, marking and sale of a non-DOT specification 55 gallon steel tight head drum incorporating a molded polyethylene top head, in lieu of a steel top head, for shipment of certain corrosive liquids. (Mode 2.)
8554-P	DOT-E 8554	Minnesota Explosives Co., Biwabik, MN	49 CFR 173.114a, 173.93	To become a party to Exemption 8554. (Mode 1.)
8554-P	DOT-E 8554	Buckley Powder Co., Denver, CO	49 CFR 173.114a, 173.93	To become a party to Exemption 8554. (Mode 1.)
8554-P	DOT-E 8554	St. Lawrence Explosives Corp., Adams Center, NY.	49 CFR 173.114a, 173.93	To become a party to Exemption 8554. (Mode 1.)
8583-X	DOT-E 8583	Process Engineering, Incorp., Plaistow, NH.	49 CFR 172.101, 173.315(a)DTo authorize manufacture, marking and sale of non-DOT specification insulated cargo tanks, for shipment of certain flammable gases. (Mode 1.).	
8585-P	DOT-E 8585	Thermodynamics Corp., Broken Arrow, OK	49 CFR 173.247 173.266, 178.19, Part 173 Subpart D, Subpart F, H.	To become a party to Exemption 8585. (Mode 1, 2, 3.)
8621-X	DOT-E 8621	Sealand Terminal Corp., Gulfport, MS	49 CFR 176.415(c)(2)	To authorize loading or unloading of ammonium nitrate mixtures containing more than 60 percent ammonium nitrate with no organic coating at a non-isolated facility. (Mode 3.)
8645-X	DOT-E 8645	Austin Powder Co. Cleveland, OH	49 CFR 173.154(a)(18)	To authorize bulk shipment of a thickened solution of an oxidizing material, commercially designated as "HEF", in DOT Specification MC-307 or MC-311 insulated cargo tanks at ambient temperature. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8665-X	DOT-E 8665	Bethlehem Steel Corp., Bethlehem, PA	49 CFR 173.245(a), 173.248, 173.263, 178.343-5.	To authorize use of rubber lined DOT Specification MC-312 cargo tanks with modified bottom outlets, for shipment of certain corrosive waste liquids. (Mode 1.)
8691-X	DOT-E 8691	Aluminum Co., of America, Pittsburgh, PA	49 CFR 173.333	To authorize transport of containers containing aluminum choiride contaminated with phosgene, overpacked in a DOT specification fiberboard box, or in 55 gallon drums, or metal portable tanks. (Modes 1, 2, 3.)
8692-X	DOT-E 8692	Mitsubishi International Corp., New York, NY.	49 CFR 173.154	To authorize an additional bag having a capacity of approximately 600 pounds. (Modes 1, 2, 3.)
8708-P	DOT-E 8708	Trical, Inc., Morgan Hill, CA	49 CFR 173.357(b)(2)	To become a party to Exemption 8708. (Modes 1, 3.)
8710-X	DOT-E 8710	Noury Chemical Corp., Burt, NY	49 CFR 173.119, 173.221	To authorize transport of solutions of an organic peroxide, in cargo tanks complying with DOT Specification MC-307 and MC-312. (Mode 1.)
8806-X	DOT-E 8806	Natico, Inc., Chicago, IL	49 CFR 178.134	To authorize water as an additional mode of transportation. (Modes 1, 2, 3.)
8837-X	DOT-E 8837	Fabricated Metals, Inc., San Leandro, CA	49 CFR 173.245(a)(38), 173.256(b)(1), 173.263(a)(8), 173.277(c).	To authorize an additional corrosive material. (Modes 1, 2, 3.)
8842-X	DOT-E 8842	HTL Industries, Inc., Duarte, CA	49 CFR 173.302(a), 175.3, 178.44	To change the wall stress at the minimum specified test pressure from 50,000 psi to 80,000 psi. (Modes 1, 2, 4, 5.)
8977-P	DOT-E 8977	Eurotainer, S.A., Paris, France	49 CFR 173.315, 178.245	To become a party to Exemption 8977. (Modes 1, 2, 3.)
9023-P	DOT-E 9023	Eurotainer S.A.R.L., Paris, France	49 CFR 173.315, 178.245	To become a party to Exemption 9023. (Modes 1, 2, 3.)
9023-P	DOT-E 9023	Societe Auxiliari de Transports et d'Industries, Paris, France.	49 CFR 173.315, 178.245	To become a party to Exemption 9023. (Modes 1, 2, 3.)
9034-X	DOT-E 9034	Airco Industrial Gases, Riverton, NJ	49 CFR 173.302, 173.304, 173.328, 173.334, 175.3.	To authorize water as an additional mode of transportation. (Modes 1, 2, 3, 4, 5.)
9052-X	DOT-E 9052	Chemical Handling Equipment Co., Inc., Detroit, MI.	49 CFR 173.119, 173.125, 178.19, 178.253, Part 173, Subpart F.	To authorize manufacture, marking and sale of non-DOT specification rotationaly molded, cross-linked polyethylene portable tanks, for shipment of corrosive and flammable liquids or an oxidizer. (Modes 1, 2.)
9052-P	DOT-E 9052	Clawson Tank Co., Clarkson, MI	49 CFR 173.119, 173.125, 178.19, 178.253, Part 173, Subpart F.	To become a party to Exemption 9052. (Modes 1, 2.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8822-N	DOT-E 9097	Certified Tank Manufacturing, Inc., Wilmington, CA.	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize manufacture, marking and sale of non-DOT specification portable tanks, for transportation of liquid and semi-solid waste material. (Mode 1.)
8971-N	DOT-E 8971	NL McCullough/NL Industries, Inc., Houston, TX.	49 CFR 172.101, column (4), 173.246, 175.3.	To authorize use of non-DOT specification steel cylinders of equal or greater integrity than those currently authorized, for transportation of a liquid oxidizer. (Modes 1, 2, 3, 4.)
8976-N	DOT-E 8976	Diamond Shamrock, Irving, TX	49 CFR 173.204,(a)(3) 173.28(m)	To authorize a one time reuse of DOT Specification 17H steel dums, having a liner of polyethylene film and which deviate from retest requirements, for shipment of sodium hyerdrosulfite. (Modes 1, 2, 3.)
8977-N	DOT-E 8977	Bignier, Schmid-Laurent, Inc., S.A., Ivry-sur-Seine, France.	49 CFR 173.315, 178.245	To authorize use of a non-DOT specification IMO-Type 5 portable tank, for transportation of liquefied compressed gases. (Modes 1, 2, 3.)
8986-N	DOT-E 8986	Cook Slurry Co., Salt Lake City, UT	49 CFR 173.114a(b)(3)	To authorize transport of slurry blasting agent in non-DOT specification stainless steel cargo tanks. (Mode 1.)
8992-N	DOT-E 8992	General Dynamics Pomona, CA	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize transport of certain explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
9001-N	DOT-E 9001	Chesterfield Cylinder Co., Inc., Enid, OK	49 CFR 173.301, 173.302, 173.304, 178.45.	To authorize manufacture, marking and sale of non-DOT specification steel cylinders complying in part with DOT Specification 3T cylinders, for transportation of certain nonflammable and flammable gases. (Modes 1, 2, 3, 4.)
9011-N	DOT-E 9011	Inland Steel Container, Chicago, IL	49 CFR 175.3, 178.100, 178.115, 178.116, 178.117, 178.118, 178.80, 178.81, 178.82, 178.98, 178.99.	To authorize certain DOT Specification 5, 6 and 17 series drums constructed of stainless steel, nickel or monel to be exempt from certain steel drum test requirements, for shipment of those commodities presently authorized for each drum. (Modes 1, 2, 3, 4.)
9014-N	DOT-E 9014	Hunter Drums Ltd, Burlington, Ont., Canada.	49 CFR 178.19, Part 173 Subpart D, Subpart F.	To authorize manufacture, marking and sale of non-DOT specification reusable, high density, blowmolded, poloyethylene containers, for transportation of certain corrosive liquids and oxidizers. (Modes 1, 2, 3.)
9023-N	DOT-E 9023	ANF—Industrie Paris, France	49 CFR 173.315, 178.245	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of liquefied compressed gases. (Modes 1, 2, 3.)
9036-N	DOT-E 9036	The Marison Co., South Elgin, IL	49 CFR 178.37-4(a), Part 173, Subparts G & H.	To authorize manufacture, marking and sale of billet pierced DOT Specification 3AA cylinders, for transportation of compressed and poisonous gases. (Modes 1, 2, 3, 4, 5.)
9042-N	DOT-E 9042	Noury Chemical Corp., Burt, NY	49 CFR 173.221	To authorize shipment of a liquid organic peroxide, in a DOT Specification 57 metal portable tank. (Mode 1.)
9049-N	DOT-E 9049	U.S. Steel Supply Container, Chicago, IL	49 CFR 178.134-4(a)(1)	To authorize manufacture, marking and sale of steel drums complying with DOT Specification 37M, for transportation of certain hazardous materials. (Modes 1, 2.)
9052-N	DOT-E 9052	Chemical Handling Equipment Co., Inc., Detroit, MI.	49 CFR 173.119, 173.125, 178.19, 178.253, Part 173, Subpart F.	To authorize manufacture, marking and sale of non-DOT specification rotationally molded, cross-linked polyethylene portable tanks, for shipment of corrosive and flammable liquids or an oxidizer. (Modes 1, 2.)
9053-N	DOT-E 9053	Delaware Valley Industrial Gases, Inc., Waterford Works, NJ.	49 CFR 173.34	To authorize repairing, rebuilding, retesting, marking and selling of any low pressure steel cylinders. (Modes 1, 2, 3, 4, 5.)
9055-N	DOT-E 9055	Welcham, Inc., Houston, TX	49 CFR 173.119, 173.245, 178.253	To authorize use of six non-DOT specification portable tanks manifolded togsther with a frame and securely mounted on a truck chassis, for transportation of flammable liquids and corrosive liquids. (Mode 1.)

NEW EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9059–N	DOT–E 9059	Air Products & Chemicals, Inc., Allentown, PA.	49 CFR 172.101, 172.202, 172.302, 173.34(d)(4).	To authorize use of cylinders currently used for transportation of fluorine, for shipment of a fluorine-helium mixture. (Modes 1, 2.)
9068–N	DOT–E 9068	Global International Airways, Kansas City, MO.	49 CFR 172.101 column 6(b), 175.30	To authorize transport of various military ammunition which are not permitted for shipment by air. (Mode 4.)
9070–N	DOT–E 9070	Warner Bros, Inc., Sunderland, MA	49 CFR 173.119	To authorize use of non-DOT specification steel portable tanks, for transportation of a flammable liquid. (Mode 1.)
9072–N	DOT–E 9072	Thiokol Corp., Brigham City, UT	49 CFR 173.92	To authorize shipment of rocket motors, class B explosive in specially designed outside containers. (Mode 1.)
9075–N	DOT–E 9075	Trans-Air-Link Corp., Miami, FL	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of certain explosives not permitted for air shipment or in quantities greater than those prescribed for shipment by air. (Mode 4.)
9078–N	DOT–E 9078	Monsanto Co., St. Louis, MO	49 CFR 173.245	To authorize use of DOT Specification 57 stainless steel portable tanks, for transportation of a waste formic acid/phenol mixture. (Mode 1.)
9079–N	DOT–E 9079	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.315	To authorize use of carbon steel DOT Specification 51 portable tanks, for transportation of a liquefied compressed gas. (Modes 1, 3.)
9080–N	DOT–E 9080	henderson's Welding Mfg. Corp., Seminole, TX.	49 CFR 173.119,. 173.245, 178.253	To authorize manufacture, marking and sale on four non-DOT specification portable tanks manifolded together with a frame and securely mounted on a truck chassis, for transportation of flammable liquids and corrosive liquids. (Mode 1.)
9091–N	DOT–E 9091	Allied Fibers & Plastic Co. Petersburg, VA	49 CFR 173.31(c)	To authorize a one-time shipment of cumene hydroperoxide in a DOT Specification 103A–W tank car overdue for retest. (Mode 2.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 9096–N	DOT–E9096	Fire Art Corp., Clearfield, PA	49 CFR Parts 171–178	To authorize a one-time shipment of fireworks (tentative Class B explosives) in freight containers. (Modes 1, 2.)
EE 9098–N	DOT–E9098	Vitale Fireworks Manufacturing Co., Inc., New Castle, PA.	49 CFR 173.51(b), 173.86, Parts 171–178	To authorize a one-time shipment of fireworks (tentative Class B explosives) in non-DOT freight containers. (Mode 1.)
EE 9099–N	DOT–E9099	Zambelli International Fireworks Co., New Castle, PA.	49 CFR 173.51(b), 173.86, Part 171–178	To authorize a one-time shipment of fireworks (tentative Class B explosives) in non-DOT specification freight containers. (Mode 1.)
EE 9104–N	DOT–E9104	Chemical Waste Management, Oakbrook, IL.	49 CFR 172.203(c), (k), Part 173 Subpart D, Subparts E, F, H.	To authorize one-time movements of non-DOT specification packages to disposal facilities, and exception to listing hazardous substances constituents or poisonous materials constituents on shipping papers. (Mode 1.)
EE 9113–N	DOT–E9113	International Air Associates, Inc., Miami, FL.	49 CFR 172.101, 175/320(A)	To authorize transport of Class A explosives loaded on the same aircraft with Class C explosives. (Mode 4.)

Denials

8989–P Request by The Ensign-Bickford Company, Simsbury, CT to authorize shipment of an initiating explosive (pentaerythrite tetranitrate) Class A explosive, in fiberboard boxes wet with not less than 25 percent by weight of water with boxes marked "P.E.T.N." denied July 1, 1983.

Issued in Washington, D.C., on August 8, 1983.

Joseph T. Horning,

Chief, Exemptions and Approvals Division, Office of Hazardous Materials Regulation.

[FR Doc. 83–22384 Filed 8–17–83; 8:45 am]

BILLING CODE 4910–60–M

[Docket Nos. IRA–20 through IRA–27 and IRA–30]

Nuclear Assurance Corporation; Application for Inconsistency Ruling; Nuclear Transportation Requirements in Michigan, New York and Vermont; Correction

In FR Doc. 83–21202 beginning on page 35550 in the issue of Thursday, August 4, 1983, make the following corrections:

1. On page 35550, middle column, the caption *Docket Nos. IRA–20 through IRA–30* should have read *Docket Nos. IRA–20 through IRA–27 and IRA–30.*

2. On page 35551, first column, fourth paragraph, first sentence, "regulation" should have read "regulations"; and "49 U.S.C. 107.201–107.225" should have read "49 CFR 107.201–107.225".

3. Same column, last paragraph, first line, "the extend" should have read "the extent".

4. On page 35552, third column, sixth paragraph, third line, "of the destination" should have read "if the destination".

5. On page 35553, first column, sixth full paragraph, the caption "IV. Transporter notification of Changes" should have read "VI. Transporter notification of Changes."

6. Same page, middle column, fourth paragraph, fifth line, "and consultation" should have read "after consultation".

7. Same paragraph, eighth line, "statues" should have read "statutes."

Joseph T. Horning,

Acting Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 83–22383 Filed 8–17–83; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Issuance by Government of Japan of Certificates Verifying Non-Cuban Origin of Nickel-Bearing Materials Manufactured by the Shunan Works of Nisshin Steel Corporation

Certificates of origin are now available for importation into the United

States from Japan of nickel-bearing materials produced by the Shunan Works of Nisshin Steel Corporation, Japan. These certificates are issued pursuant to an arrangement between the Government of Japan and the Government of the United States. The certificates, which are issued by the Japanese Ministry of International Trade and Industry, attest that the materials with respect to which they are issued do not contain nickel of Cuban origin. Each certificate will bear the following statement in the body of the document:

"The Ministry of International Trade and Industry (MITI) hereby certifies that the nickel-bearing products described herein do not contain nickel of Cuban origin and that this certificate has been issued in accordance with procedures administered by MITI to which prior consent was given by the Government of the United States on June 29, 1983."

Each certificate shall bear as a footnote the statement: "Issued in connection with the United States Cuban Assets Control Regulations."

Nickel-bearing materials produced by the Shunan Works of the Nisshin Steel Corporation may be imported under the general license in § 515.536(c) of the Cuban Assets Control Regulations (31 CFR Part 515) in accordance with the provisions of that section and of § 515.808 of the Regulations. United States Customs entry will be permitted with respect to such merchandise if either of the following certificates issued by MITI is presented to the U.S. Customs authorities at the point of entry: (1) A certificate of origin as described above; or (2) an interim certificate of origin covering products shipped from Japan on or after July 20, 1983, but before August 19, 1983, provided that shipments covered by such interim certificates are presented to U.S. Customs no later than October 17, 1983.

Dated: August 15, 1983.

Marilyn L. Muench,

Acting Director, Office of Foreign Assets Control.

Approved:

Robert E. Powis,

Acting Assistant Secretary (Enforcement and Operations).

[FR Doc. 83-22969 Filed 8-15-83; 3:42 pm]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

On August 15, 1983 the Department of the Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: N/A
Form Number: None
Type of Review: New
Title: Vita Interest Card
OMB Number: N/A
Form Number: 5617
Type of Review: New
Title: Understanding Taxes, Teacher Evaluation
OMB Reviewer: Norman Frumkin, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: August 15, 1983.

Rita A. DeNagy,

Departmental Reports, Management Office.

[FR Doc. 83-22935 Filed 8-17-83; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

On August 12, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545-0285
Form Number: 64 C, 64 SC, 64 SC/SP
Type of Review: Extension
Title: Penalties and Interest Explained
OMB Number: 1545-0074
Form Number: 1040 and related schedules
Type of Review: Revision
Title: U.S. Individual Income Tax Return
OMB Number: New
Form Number: None
Type of Review: Existing Regulation
Title: Certification Energy Item for Manufacturer
OMB Reviewer: Norman Frumkin, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Dated: August 12, 1983.

Rita A. DeNagy,

Departmental Reports, Management Office.

[FR Doc. 83-22964 Filed 8-17-83; 8:45 am]

BILLING CODE 4810-25-M

Office of the Secretary

Advisory Committee on the International Monetary System; Meeting

Notice is hereby given that the Advisory Committee on the International Monetary System will meet at the Treasury Department on September 20, 1983.

The meeting is called in order to obtain the opinions of the participants in the Advisory Committee regarding international monetary questions to be discussed at the annual meeting of the Board of Governors of the International Monetary Fund on September 27-30 and the related meeting of the interim Committee of the Board of Governors on September 25.

A determination as required by Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) has been made that this meeting is for the purpose of considering matters falling within the exemption to public disclosure set forth in 5 U.S.C. 552b(c)(1) and that the public interest requires such meetings to be closed to public participation. The matters to be discussed concern the foreign relations of the United States, some of which are the subject of negotiations with other governments. Public disclosure of the matters discussed could be expected to cause identifiable harm to the national security of the United States.

Any comment or inquiry with respect to this notice can be addressed to Ralph V. Korp, Director, Office of International Monetary Affairs, U.S. Department of the Treasury, Washington, D.C. 20220, (202) 566-5365.

The Advisory Committee on the International Monetary System

Determination Under Pub. L. 92-463

Pursuant to the authority placed in Heads of Departments by Section 10(d) of Pub. L. 92-463 entitled "Federal

Advisory Committee Act" and the authority vested in me by Treasury Department Order 101-5 dated January 7, 1981, I hereby determine that the meeting of the Advisory Committee on the International Monetary System to be held in September 1983 in Washington, D.C., with officials of the Treasury Department, is concerned with matters falling within the exemptions to public disclosure listed in subsection (c) of 552b of Title 5 of the United States Code, and that the public interest requires that such meetings be closed to public participation.

My reasons for this determination are as follows: Meetings of the Interim Committee of the International Monetary Fund (IMF), and the IMF Board of Governors, are scheduled for the period September 25–30, 1983. The Secretary of the Treasury has primary responsibility for implementing U.S. policy with respect to the International Monetary Fund. It would be helpful and prudent for the Secretary to obtain the opinion and advice of leading members of the United States international financial community, the academic community, and representatives of important sectors of the economy, concerning the formulation of the United States views and positions regarding issues that may arise at the upcoming IMF meetings.

The forthcoming international monetary discussions directly concern the foreign relations and foreign economic activities of the United States, bearing upon important aspects of the relationship between the economies of the U.S. and other countries and the international financial system. The discussions cover subjects under discussion and negotiation with other governments, in particular, current international monetary developments, including international debt problems; exchange market developments; the role of the International Monetary Fund in promoting balance of payments adjustment; and the liquidity position of the IMF.

The advice to be rendered by the Advisory Committee relating to U.S. views and positions to be taken in these discussions, if it became public prematurely, could adversely affect the course of these discussions and negotiations, and consequently important economic interests of the United States. Thus, public disclosure of the matters discussed could be expected to cause identifiable harm to the foreign policy and national security of the United States.

Therefore, the meeting of the Advisory Committee on the International Monetary System will concern matters which, pursuant to Executive Order 12356 (effective August 1, 1982), fall within the area of exemption covered by Section 552b(c)(1) of Title 5 of the United States Code.

The Director, Office of International Monetary Affairs, is responsible for maintaining records of the meeting of the Committee and for providing the annual report setting forth a summary of the Committee's activities and such other matters as may be informative to the public consistent with the provisions of 5 U.S.C. 552.

Dated: August 12, 1983.

Beryl W. Sprinkel,

Under Secretary for Monetary Affairs.

[FR Doc. 83-22687 Filed 8-17-83; 8:45 am]

BILLING CODE 4810-25-M

UNITED STATES INFORMATION AGENCY

Book and Library Advisory Committee; Meeting

The Book and Library Advisory Committee meeting, scheduled for Tuesday, September 13, 1983 will be held in the new headquarters of the United States Information Agency, Room 325, 400 C Street, SW., Washingon, D.C. 20547 from 11:00 a.m. to 12:00 noon.

Agenda topics will include, library enhancement proposals, report on donated book program, report on International Book Exhibits and Fairs.

Dated: August 15, 1983.

Charles Canestro,

Management Analyst, Management Plans and Analysis Staff.

[FR Doc. 83-22660 Filed 8-17-83; 8:45 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Advisory Committee on Women Veterans; Meeting

The Veterans Administration gives notice under Public Law 92-463 that a meeting of the Advisory Committee on Women Veterans will be held in the Administrator's Conference Room at the Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC on September 14 through 16, 1983. The purpose of the Advisory Committee on Women Veterans is to advise the Administrator regarding the needs of women veterans with respect to health care, rehabilitation, compensation, outreach and other programs administered by the Veterans Administration; and the activities of the Veterans Administration designed to meet such needs. The Committee will make recommendations to the Administrator regarding such activities.

The sessions will convene at 9 a.m. all three days. These sessions will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Mrs. Barbara Brandau, Program Assistant, Office of the Administrator, Veterans Administration Central Office (phone 202/389-5518) prior to September 12, 1983.

Dated: August 8, 1983.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-22662 Filed 8-17-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 161
Thursday, August 18, 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).

Contents

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, August 15, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda of consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of The Savings Bank, Circleville, Ohio, for consent to purchase the assets of and assume the liability to pay deposits made in The Ashville Bank, Ashville, Ohio, and to establish the sole office of The Ashville Bank as a branch of The Savings Bank.

Recommendation regarding the Corporation's assistance agreement involving an insured bank pursuant to section 13(c) of the Federal Deposit Insurance Act.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: August 15, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1182-83 Filed 8-16-83; 11:40 am]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, August 15, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,429-L (Amended), Franklin National Bank, New York, New York

The Board further determined, by the same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Peoples National Bank, Honolulu, Hawaii, a proposed national bank, for consent to purchase the assets of and assume the liability to pay deposits made in Peoples Savings and Loan Association, Honolulu, Hawaii, a non-FDIC insured institution, and to establish the sole branch office of Peoples Savings and Loan Association as a branch of Peoples National Bank.

Application of Pilot Grove Savings Bank, Pilot Grove, Iowa, for consent to purchase the assets of and assume the liability to pay deposits made in Citizens State Bank, Donnellson, Iowa, and to establish the sole office of Citizens State Bank as a branch of Pilot Grove Savings Bank.

Recommendations regarding the Corporation's assistance agreement involving an insured bank pursuant to section 13 of the Federal Deposit Insurance Act.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: August 15, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1183-83 Filed 8-16-83; 11:40 am]

BILLING CODE 6714-01-M

3

FEDERAL ELECTION COMMISSION

Federal Register No. 1156

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, August 18, 1983 at 10:00 A.M.

CHANGES IN MEETING: Pursuant to 11 CFR 3.5 of the FEC Sunshine Act Regulations, the following changes are made with respect to the meeting of Thursday, August 18, 1983:

(1) The meeting shall start at *9:00 a.m.*

(2) The following matter has been deleted from the agenda: Microfilm Developing and Duplicating.

* * * * *

DATE AND TIME: Tuesday, August 23, 1983 at 10:00 A.M.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance, Litigation, Audits, Personnel.

* * * * *

DATE AND TIME: Tuesday, August 23, 1983 following the closed meeting.

PLACE: 1325 K Street, NW., Washington, D.C. (Fifth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates future meeting
Correction and approval of minutes
Eligibility report for candidates to receive Presidential primary matching funds
Examination of NCCO: Anderson for President
National taxpayers legal fund petition for rulemaking

FY 1985 budget
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION:
Mr. Fred Eiland, Information Officer, Telephone: 202–523–4065.

Marjorie W. Emmons,
Secretary of the Commission.

[S–1184–83 Filed 8–16–83; 1:54 pm]
BILLING CODE 6715–01–M

4

NATIONAL COUNCIL ON THE HANDICAPPED

TIME AND DATE:

9:00–5:30 Monday, August 29, 1983
9:00–5:30 Tuesday, August 30, 1983
9:00–12:00 Wednesday, August 31, 1983

PLACE: Capitol Holiday Inn, 550 C Street, S.W., Washington, D.C. 20024.

STATUS: Open Meeting.

MATTERS TO BE CONSIDERED:

General Business Meeting
Committee Meetings
Consumer Group Reports
Surgeon General's Initiative/Disability Prevention
Development of an Evaluation Procedure
NIHR Long Range Plan
Planning of the next NCH Annual Report

PLEASE NOTE: Any person requiring an interpreter or other special services, please contact NCH staff immediately!

Delay in confirmation of meeting place prohibited the publication of this announcement at an earlier date.

CONTACT FOR MORE INFORMATION: Dr. Harvey C. Hirschi, Executive Director, National Council on the Handicapped; Phone: 245–3498.

[S–1188–83 Filed 8–16–83; 4:24 pm]
BILLING CODE 4000–01–M

5

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–83–20]

TIME AND DATE: 10 a.m., Thursday, August 25, 1983.

PLACE: NTSB Board Room, 8th Floor, 800 Independence Ave. SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Briefing* by Chessie System Railroads on its new substance abuse program.
2. *Briefing* by Switlik Parachute Company on airplane passenger lifevest design.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, (202) 382–6525.

August 16, 1983.

[S–1185–83 Filed 8–16–83; 2:02 pm]
BILLING CODE 4910–58–M

federal register

Thursday
August 18, 1983

Part II

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Bulk Gasoline Terminals

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-224-6]

Standards of Performance for New Stationary Sources; Bulk Gasoline Terminals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Standards of performance for bulk gasoline terminals were proposed in the **Federal Register** on December 17, 1980 (45 FR 83126). This action promulgates standards of performance for bulk gasoline terminals. These standards implement Section 111 of the Clear Air Act and are based on the Administrator's determination that petroleum transportation and marketing cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The intended effect of these standards is to require all new, modified, and reconstructed facilities at bulk gasoline terminals to control emissions to the level achievable through use of the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

EFFECTIVE DATE: August 18, 1983.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this new source performance standard is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under Section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES:

Background Information Document. The background information document (BID, Volume II) for the promulgated standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Bulk Gasoline Terminals—Background Information for Promulgated Standard," EPA-450/3-80-038b. BID, Volume II, contains (1) a summary of all the public comments made on the proposed standards and the Administrator's response to the comments, (2) a summary of the changes made to the standards since proposal, and (3) the final environmental impact statement which summarizes the impacts of the standards.

Docket. Docket No. A-79-52, containing information considered by EPA in developing the promulgated standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For information concerning the background information supporting the promulgated standards contact Mr. James F. Durham, Chemicals, and Petroleum Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5671. For futher information concerning the promulgated standards contact Mr. Gilbert H. Wood, Standards Development Branch, Emissions Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Telephone number (919) 541-5578.

SUPPLEMENTARY INFORMATION:

Summary of Promulgated Standards

Standards of performance for new sources established under Section 111 of the Clean Air Act reflect:

> * * * application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated [Section 111(a)(1)].

For convenience, this will be referred to as "best demonstrated technology" or "BDT."

The promulgated standards of performance limit volatile organic compound (VOC) emissions from each affected facility on which construction, modification, or reconstruction commenced after December 17, 1980 (after August 18, 1983, for reconstructions necessitated by State or local regulations). The affected facility is the total of all the loading racks at a bulk gasoline terminal which deliver either gasoline into any delivery tank truck or some other liquid product into trucks which have loaded gasoline on the immediately previous load.

The promulgated standards require the installation of vapor collection equipment at the terminal to collect total organic compounds vapors displaced from gasoline tank trucks during product loading. The standards limit emissions from the collection system to 35 milligrams of total organic compounds per liter of gasoline loaded, unless the facility has an existing vapor processing system (construction or refurbishment commenced before December 17, 1980). In this latter case, the standards limit emissions from the vapor collection system to 80 mg/liter.

The Agency has concluded that it is quite costly in light of the resulting emission reduction for an owner whose existing facility becomes subject to NSPS (e.g., through modification or reconstruction) to meet 35 mg/liter when the facility already has a system capable of meeting 80 mg/liter.

To control tank truck leakage emissions during loading, the promulgated standards require that loadings be made only into gasoline tank trucks tested for vapor tightness. The terminal owner or operator is required to obtain the identification number and test documentation for each gasoline tank truck loading at the facility. In accordance with Section 111(h)(3) of the Clean Air Act, the Administrator may approve alternative procedures that assure that loading will be limited to vapor-tight trucks.

These standards are based on the use of carbon adsorption and thermal oxidation type vapor processors for the 35 mg/liter limit, which represent the best demonstrated technology. Test data show the ability of these systems of continuous emission reduction to achieve the 35 mg/liter emission limit of the standards of performance. Although only some of the refrigeration systems tested met 35 mg/liter (all the systems tested were designed to meet the State implementation plan (SIP) limit of 80 mg/liter), test data and engineering calculations also support the ability of refrigeration systems to achieve the 35 mg/liter emission limit of the standards. In addition, the major manufacturer has stated that all currently manufactured refrigeration systems can be specified to operate at 35 mg/liter. In selecting these standards, the Agency considered costs, nonair quality health and environmental impacts, and energy requirements.

The proposed section on continuous monitoring of operations, § 60.504, has been reserved pending development of monitor performance specifications. Monthly system leak inspections are required under § 60.502(j), but submission of leak inspection records is not required in the final regulation. However, under § 60.505(c), these records are required to be kept at the

terminal for at least 2 years. The requirement for quarterly reports of excess emissions under § 60.7(c) of the General Provisions is deleted under § 60.505(e).

Summary of Major Changes Since Proposal

Several changes of varying importance have been made to the standards since proposal. Most of the changes were made in response to comments, but some of them were made for the sake of clarity or consistency. One of the most significant of the changes dealt with proposed § 60.502(d), which required loadings of gasoline tank trucks to be restricted to vapor-tight tanks only, as evidenced by an annual vapor tightness test. Most of the comments on this requirement concerned the terminal operator's apparent liability for the condition of tank trucks owned by other parties. Several commenters felt that terminals would have to provide extra personnel at the loading racks to enforce this restriction. Section 60.502(d) [now § 60.502(e)] was expanded to delineate clearly the terminal owner or operator's responsibilities and to clarify that on-the-spot monitoring of product loadings would not be necessary. A terminal operator need only compare a tank identification number against the file of vapor tightness documentation within 2 weeks after a loading of that tank took place. If a terminal owner or operator checked his files and found that a nonvapor-tight truck was loaded without vapor tightness documentation, he would then be required to take steps assuring that no further loading into that tank truck took place until the proper vapor tightness documentation was received by the terminal. Thus, the final standard clarifies that a terminal owner or operator can comply with this part of the standard by cross-checking files and does not have to monitor loadings.

One paragraph about facilities with existing vapor processing equipment was added to § 60.502. The Agency has concluded that it is quite costly in light of the resulting emission reduction for an owner whose existing facility becomes subject to NSPS (e.g., through modification or reconstruction) to meet 35 mg/liter when the facility already has a system capable of meeting 80 mg/liter, but not 35 mg/liter. For this reason, EPA has added § 60.502(c), which permits affected facilities with such vapor control equipment to meet 80 mg/liter if construction or substantial rebuilding (i.e., "refurbishment") of that equipment commenced before the proposal date, December 17, 1980. This is based on the Administrator's judgment that BDT for these facilities is no further control, while BDT for facilities with vapor processing systems on which construction or refurbishment commenced after proposal is the replacement or add-on of technology that would enable the facility to achieve 35 mg/liter.

Several commenters objected to the requirement for excess emissions reports and to using an average monitored value as the basis for an excess emissions determination. Section 60.504, Monitoring of Operations, has been reserved pending the development and promulgation of performance specifications for continuous monitoring devices. Therefore, specific comments concerning the proposed continuous monitoring requirements cannot be addressed at this time. The Agency is currently investigating several types of simple, low-cost monitors for various types of vapor processors. After specifications have been selected, they will be proposed in a separate action in the **Federal Register** for public comment.

A new § 60.500(c) has been added to change the applicability date from the date of proposal to the date of promulgation for existing facilities commencing component replacement prior to the promulgation date for the purpose of complying with State or local regulations. Such facilities are not subject to the standards by means of the reconstruction provisions. New § 60.506 was added in response to commenters' concerns about the burden of accumulating records of component replacements at an existing source over the lifetime of the source for the purpose of determining reconstruction. Section 60.506(b) limits the time period for determination of reconstruction to 2 years and § 60.506(a) excludes frequently replaced components for consideration in applying the reconstruction provisions to bulk gasoline terminals.

In response to industry comments, a size cutoff by gasoline throughput was added to the definition of "bulk gasoline terminal" (only facilities handling more than 76,700 liters, or 20,000 gallons, per day are covered), to clarify that bulk plants served by ship or barge are not covered by these standards. Also, the word "wholesale" has been removed because the throughput cutoff should exclude retail outlets (service stations) from possible applicability.

The terminology used in the emission limits in the standard has changed since proposal. The emission limits are now expressed in terms of total organic compounds rather than VOC (VOC is the proportion of the organic compounds that is regarded as photochemically reactive). This change does not change the effect on stringency of the standard, but it does make the standard better reflect the intent behind the standard and the data base and test procedures used in establishing the standard.

The standard is intended to reduce emissions of VOC through the application of best demonstrated technology (BDT) (considering costs and other impacts), and the emission limits in the standard are designed to reflect the performance of BDT. The best demonstrated technologies applicable to bulk terminals do not selectively control VOC, but rather they control all organic compounds. Furthermore, the emission limits in the standard are based on test data and test procedures that measure total organic compounds, and the test methods used to determine compliance with the standard measure total organic compounds. Therefore, to reflect accurately the performance of the technologies selected as BDT and to be consistent with the data base and test methods upon which the emission limits are based, the emission limits in the proposed standard should have been expressed in terms of total organic compounds. To reflect the applicable technology and test methods, the emission limits in the promulgated standard are expressed in those terms. EPA is relying on control of total organic compounds as the best demonstrated surrogate for controlling volatile organic compounds, which react to form ozone in the atmosphere.

However, the test procedures in the proposed standard gave the owner or operator the option to subtract methane and ethane in determining compliance with the standard. Because the test procedures were proposed in this way and because the relative quantity of these compounds is expected to be small, the promulgated standard retains this option in the test procedures. The owner or operator may invoke this option only by using a method approved by the Administrator.

Summary of Environmental, Energy, Economic Impacts

The promulgated standards will reduce projected 1986 VOC emissions from affected bulk terminals from about 8,300 megagrams per year (Mg/yr) to about 2,600 Mg/yr, or 68 percent.

The promulgated standards are based on the use of carbon adsorption (CA) and thermal oxidation (TO) type vapor processors for the 35 mg/liter emission limit. TO systems emit a small quantity of carbon monoxide (CO) and oxides of nitrogen (NO_x), but since few oxidation

systems are expected to be installed, total emissions of CO and NO_x will be negligible.

Neither of these control systems uses water as a direct control medium, and so the water pollution impact will be minimal. Refrigeration (REF) systems, which may also be used to meet the standards, discharge a small amount of water which condenses in the system due to the humidity of the air. Organics are separated from the condensed water in an oil-water separator on the refrigeration unit. The excess water is subsequently handled by the bulk terminal's existing drainage system.

There will be no solid effluent from any of the control systems. CA systems may produce a small quantity of solid waste if the activated carbon must be replaced due to a loss in working capacity of the carbon beds. The worst-case nationwide waste production is estimated at about 50,000 kilograms (kg) per year, which represents a small solid waste impact.

All of the vapor processors considered in setting the standards consume electricity in the course of their operation, to power fans, dampers, pumps, compressors, valves, timers, and other miscellaneous components. However, all of the processors, except the thermal oxidizer, recover energy in the form of liquid gasoline. Therefore, while the power costs to operate control equipment to comply with the promulgated standards average about 25 percent higher than the power costs to comply with a typical SIP at a 950,000 liter per day terminal, the extra product recovery realized under these standards means that this terminal will experience a net energy savings which is equivalent to about 15,000 liters of gasoline per year greater than the SIP. The total net energy recovery experienced by the bulk terminal industry in the fifth year of the standards will be about 7.0 million liters of gasoline equivalent.

Compliance with these standards will result in net annualized costs in the bulk gasoline terminal industry of about $1.6 million by 1986. Cumulative capital costs of complying with the promulgated standards will amount to about $10.8 million by 1986. Net annualized and cumulative capital costs to the for-hire tank truck industry will total about $0.9 million and $1.4 million, respectively, by the fifth year of the standards. The total annualized cost for this standard would then be $2.5 million. This annualized cost, coupled with the estimated emmission reduction of 5,700 Mg/yr, results in a cost per unit emission reduction of $440/Mg. The percent increase in the price of gasoline necessary to offset costs of compliance with the promulgated standards will range from zero for certain larger terminals up to about 0.48 percent for the smallest terminals. The overall impact on national gasoline prices will be negligible. The environmental, energy, and economic impacts are discussed in greater detail in the BID, Volume II. Also discussed are all of the commenters' suggested changes in the impact calculations and the rationale for making some of these changes and not others.

The nationwide impact numbers presented here include a composite of impacts for new, modified, and reconstructed facilities in locations where States require the level of control recommended in the control techniques guideline document (CTG) and in locations where States have no control requirements. If an average size bulk terminal (950,000 liters/day gasoline throughput) subject to the standards due to modification or reconstruction were located in an area with State requirements equivalent to the level recommended by the CTG and the terminal had an existing vapor processing system which met these State requirements, no additional controls would be required. For the same size new terminal, the incremental annualized cost for a terminal using CA or TO would be negligible because the same basis control device could be used to meet either set of requirements. If a new, modified, or reconstructed terminal of the same size were located in an area with no State requirements, the uncontrolled emissions would be reduced by about 160 Mg/yr at an annualized cost of about $38,000, which is less than $240/Mg of VOC reduced.

Public Participation

Prior to proposal of the standards, interested parties were advised by public notice in the **Federal Register** (45 FR 30686, May 9, 1980), of a meeting of the National Air Pollution Control Techniques Advisory Committee (NAPCTAC) to discuss the bulk gasoline terminal standards recommended for proposal. This meeting was held on June 5, 1980. The meeting was open to the public and each attendee was given an opportunity to comment on the recommended standards. The standards were proposed and published in the **Federal Register** on December 17, 1980, (45 FR 83126). The preamble to the proposed standards discussed the availability of the background information document, "Bulk Gasoline Terminals—Background Information for Proposed Standards," EPA–450/3–80–038a (BID, Volume I), which described in detail the regulatory alternatives considered and the impacts of those alternatives. Public comments were solicited at the time of proposal and, when requested, copies of the BID, Volume I, were distributed to interested parties. To provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed standards, a public hearing was held in two sessions, on January 21 and 28, 1981, at Research Triangle Park, North Carolina. The hearings were open to the public and each attendee was given an opportunity to comment on the proposed standards. The public comment period was from December 17, 1980, to March 20, 1981.

Forty-two comment letters were received and six interested parties testified at the public hearings concerning issues relative to the proposed standards of performance for bulk gasoline terminals. The comments have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made in the proposed standards.

Major Comments on the Proposed Standards

Comments on the proposed standards were received from bulk gasoline terminal owners and operators, Federal agencies, State and local air pollution control agencies, trade associations, and air pollution control equipment suppliers. A detailed discussion of these comments and Agency responses can be found in the background information document for the promulgated standards (BID, Volume II), which is referred to in the ADDRESSES section of this preamble. The summary of comments and responses in the BID, Volume II, serves as the basis for the revisions which have been made to the standards between proposal and promulgation. The major comments and responses are summarized in this preamble.

Need for Standard

Several commenters recommended that the proposed standards be canceled and that no additional regulation be adopted. Instead, the State implementation plans (SIP's) should be relied upon to control VOC emissions from bulk gasoline terminals. One reason given was that gasoline demand is projected to stabilize or decline in the future, so that emissions from new, modified, or reconstructed sources should not present any increasing environmental hazard.

Other commenters felt that the additional emission reduction achieved under Alternative IV (35 mg/liter from processor plus vapor-tight tank trucks)

as opposed to Alternative II (80 mg/liter from processor plus vapor-tight tank trucks) would be insignificant. The commenters stated that the control limit of 80 mg/liter required by many SIP's has already reduced VOC emissions by 90 percent; the proposed 35 mg/liter limit would reduce nationwide bulk terminal VOC emissions by the fifth year by only an extremely small percentage. Due to these small reductions, these commenters felt that standards had been proposed simply because they are "technically feasible." Thus, the commenters felt EPA had not demonstrated, as required by Section 111, that new terminals will present a significant air pollution problem.

The Agency proposed these standards of performance under the authority of Section 111 of the Clean Air Act (42 U.S.C. 7411) as amended. Section 111(b)(1) requires the Administrator to establish standards of performance for categories of new, modified, or reconstructed stationary sources which in the Administrator's judgment cause or contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare.

The Ageney's listing of Petroleum Transportation and Marketing 23rd on the Priority List, as required under Section 111(f) (40 CFR 60.16, 44 FR 49222, August 21, 1979), reflects the Administrator's determination that this source category contributes significantly to air pollution. Before arriving at this decision, the Administrator considered the projected rate of growth in the number of facilities in this industry, the emission rates at uncontrolled facilities, and the emissions allowed under typical SIP's. EPA used the emissions forecasts in the BID, Volume I, and cited by the commenters, in analyzing these factors, and the Administrator has found no reason to alter the conclusions based on that analysis.

It is important to note that VOC is emitted by a wide variety of source categories. The emissions contribution from many categories with VOC emissions that appear small in comparison with the total VOC emitted by all source categories is nonetheless significant to ozone formation. This is because failure to control these sources to the level achievable by the best demonstrated technology would serve to undermine the Congressionally mandated effort to prevent further deterioration of air quality caused by additional ozone formation. Emission reductions from this source category also appear small because the projected number of affected facilities is only a small percentage (less than 5 percent) of the total number of terminals nationwide.

The Agency accounted for the projected demand for gasoline in the coming years in estimating the emission reduction achievable through the NSPS. Despite a leveling off or reduction in gasoline demand, there will still be a significant number of affected terminals which will result in significant emissions reduction under these standards. Although the small number of new terminals (five in the next 5 years) reflects this leveling off in product demand, the current industry trend is toward the consolidation of existing terminals rather than the construction of new terminals. As a result, estimates indicate that there will be as many as 50 modified or reconstructed terminals in the next 5 years.

Regulatory alternatives, reflecting different levels of control technology, were evaluated for these 55 affected facilities, and it was determined that the control technology was available, at a reasonable cost, to control emissions from new, modified, and reconstructed terminals. Relying only on the SIP's for this category would mean that many sources, in areas not requiring controls under SIP's will remain uncontrolled. It appeared reasonable, therefore, to require additional controls, for the affected facilities in both controlled and uncontrolled areas, that were technologically demonstrated to be both readily achievable and economically reasonable.

Standards of performance have other benefits in addition to achieving reductions in emissions beyond those required by a typical SIP. They establish a degree of national uniformity, which precludes situations in which some States may attract new industries as a result of having relaxed air pollution standards relative to other States. Further, standards of performance provide documentation which reduces uncertainty in case-by-case determinations of best available control technology (BACT) for facilities located in attainment areas, and lowest achievable emission rates (LAER) for facilities located in nonattainment areas. This documentation includes identification and comprehensive analysis of alternative emission control technologies, development of associated costs, an evaluation and verification of applicable emission test methods, and identification of specific emission limits achievable with alternate technologies. The costs are utilized in an economic analysis that determines the affordability of controls in an unbiased study of the economic impact of controls on an industry.

The rulemaking process that implements a performance standard assures adequate technical review and promotes participation of representatives of the industry being considered for regulation, representatives from government, and the public affected by that industry's emissions. The resultant regulation represents a balance in which government resources are applied in a well publicized national forum to reach a decision on a pollution emission level that allows for a dynamic economy and a healthful environment.

The promulgated standards reflect application of the best demonstrated technology for new, modified, and reconstructed sources in the bulk terminal subcategory. While technical feasibility is a fundamental criterion for standard-seting, EPA considered additional factors, including cost, energy requirements, and other impacts, before arriving at the final standard. Based upon these factors, the Agency selected at proposal a control alternative which reflects Alternative IV. As explained in the preamble section on "Modification and Reconstruction," the Agency has revised the standard in response to these and other comments; the standards are now based upon a combination of Alternatives II and IV.

Several commenters were concerned that a number of their smaller loading facilities, typically considered as bulk plants, would be included under the definition of a terminal for purposes of this standard. These commenters felt a throughput cutoff should be added to the definition of a terminal.

To clarify the intended applicability of the NSPS, a definition of bulk terminal dependent upon a throughput cutoff has been included in § 60.501. The purpose of this definition is to exclude the smaller bulk plant. With this intention, a bulk terminal has been defined to have a gasoline throughput greater than 75,700 liters per day. The gasoline throughput shall be the maximum calculated design throughput as may be limited by compliance with an enforceable condition under Federal, State, or local law. Reference to an enforceable condition allows a source to limit its maximum design throughput by limiting its hours of operation, or by controlling any other operating parameter. The only requirements are that this limitation be a part of an enforceable document and that the source maintain compliance with it. This document could be issued by any government entity as long as it was

discoverable by both EPA and any citizen as contemplated in Section 304 of the Clean Air Act. By obtaining such documentation, which would reflect a source's maximum expected actual throughput, ambiguities as to how one would determine throughput are eliminated. For example, a bulk plant which receives gasoline by barge, with a statement (documented in an enforceable permit) that they will not exceed a throughput of 15,140 liters/day (4,000 gal/day), would not be misconstrued as a bulk terminal.

Modification and Reconstruction

Several commenters were concerned that conversions being made to terminals to satisfy SIP control requirements, such as top-to-bottom loading conversions and installation of vapor control equipment, could subject these terminals to the more stringent requirements of these standards through the reconstruction provisions of 40 CFR 60.15. Also, the economic impact would be significant for these terminals since they have already made commitments toward complying with SIP limitations. It was suggested by some of the commenters that these conversions should be exempted from the reconstruction provisions (40 CFR 60.15).

The section entitled "Impacts of Regulatory Alternatives" in the preamble to the proposed standards discussed the environmental, costs, and economic impacts on bulk terminal facilities complying with the requirements of those standards. Included in the discussion were impacts on new, modified, and reconstructed facilities. The impacts estimated for the standards did not include any reconstructions resulting from application of State or local air pollution requirements. However, as several commenters pointed out, a large number of terminal facilities that the Agency did not project as affected could indeed become subject to the standards in the process of complying with such requirements. Thus, the preamble discussion suggested that existing facilities commencing component replacement in response to State or local requirements would not be subject to 40 CFR 60.15.

The Agency believes that this suggestion introduced some doubt as to the otherwise straightforward application of the reconstruction provisions to existing facilities undergoing such changes. Consequently, owners and operators making plans to install control systems at these facilities may have been misled to believe that stricter NSPS requirements might not apply, and may therefore not have considered the stricter NSPS requirements when designing their systems.

For this reason, the Administrator has determined that any facility that has commenced substantial component replacement in response to State or local emission standards after the applicability date (the proposal date—December 17, 1980) but prior to the date of promulgation will not be subject to these NSPS requirements by operation of the reconstruction provisions of 40 CFR 60.15. Under § 60.500(c), any component replacement program commenced (as defined in Section 60.2) before today's date, and determined by the Administrator to be necessitated by State or local bulk terminal regulations, will not subject a bulk terminal facility to the NSPS by means of the reconstruction provisions.

It should be noted, however, that 40 CFR 60.15 applies by straightforward application to any existing facility undergoing component replacement. Neither the language nor the purposes of that provision and the definition of "new source" in Section 111 supports exemptions based on the owner's intent in performing construction on the facility.

Because this preamble corrects the misimpression that Section 60.15 does not apply to facilities undergoing SIP component replacement, the Agency is applying that provision to SIP component replacement programs commenced *after* today's date. Of course, owners or operators performing reconstruction for other purposes, or modifications or new construction for *any* purpose, are still governed by the applicability date of December 17, 1980, contained in § 60.500(b).

Commenters also felt that EPA had greatly underestimated the number of existing terminals which would be affected by the modification and reconstruction provisions. At least 30 SIP's will contain bulk terminal vapor recovery requirements, and it was believed that conversion work performed at affected facilities would subject those facilities to the provisions of these standards.

Since most State of local regulation-related construction programs at bulk terminals will have commenced by the promulgation date, the change in the applicability date, in effect, excludes these terminals from the standards. Therefore, EPA's estimate at the time of proposal of 55 new, modified, or reconstructed terminals in 5 years is still considered a reasonable projection. The estimate of 5 new facilities and 50 modified or reconstructed facilities was based primarily on information obtained from oil companies through responses to Section 114 letter requests. Telephone conversations with several control agencies, oil companies, and terminal construction engineering firms provided supplementary information.

Many of the commenters stated that the interpretation of "reconstruction" is an unwarranted extension of EPA's past procedure in defining this provision and an illegal extension of EPA's authority under Section 111. They felt that the reconstruction provisions were meant to be applied to each capital construction project as it occurs, and not applied on a cumulative basis over an unlimited time period. The commenters felt that under the present interpretation of reconstruction every existing loading rack, including those in attainment areas, would, through ordinary maintenance and replacement of components, become a new source long before the end of its useful life. They concluded that the use of cumulative costs would be a tremendous administrative burden on the industry and EPA.

The Agency promulgated the reconstruction provisions to ensure that essentially new facilities due to reconstruction would be subject to "new source" performance standards. The reconstruction provisions were promulgated in 1975 (40 FR 5846), and EPA has applied these provisions consistently since that time. Further, the Agency's authority to subject reconstructed sources to new source standards of performance has not been questioned in any court decision.

If one considers the 50 percent cost factor which triggers reconstruction strictly on a project-by-project basis, a wide variety of interpretations can arise as to what a "project" entails. For example, a terminal with three top loading racks may convert one rack to bottom loading, and then 6 months later convert a second loading rack to bottom loading. If the two conversions were interpreted as separate projects, neither one would likely exceed the 50 percent replacement cost to trigger reconstruction. If, however, it was the terminal owner's original intent to convert both loading racks, the two conversions would be interpreted as one project and would probably constitute a reconstruction. In many cases, it would not be possible to determine the original intent of the terminal owner or operator. In order to reduce the number of subjective determinations concerning intent in these cases, the reconstruction provisions will be applied on a basis which considers the expenditures made

toward a facility over a fixed time period.

To eliminate the ambiguity in the current wording of § 60.15 and further the intent underlying Section 111 (as described above), the Agency is clarifying the meaning of "proposed" component replacements in § 60.15. Specifically, the Agency is interpreting "proposed" replacement components under § 60.15 to include components which are replaced pursuant to all continuous programs of component replacement which commence (but are not necessarily completed) within the period of time determined by the Agency to be appropriate for the individual NSP involved. The Agency is selecting a 2-year period as the appropriate period for purposes of the bulk gasoline terminal NSPS (§ 60.506(b)). Thus, the Agency will count toward the 50 percent reconstruction threshold the "fixed capital cost" of all depreciable components (except those described below) replaced pursuant to all continuous programs of reconstruction which commence within any 2-year period following proposal of these standards. In the administrator's judgment, the 2-year period provides a reasonable, objective method of determining whether an owner of bulk gasoline terminal facilities is actually "proposing" extensive component replacement, within the Agency's original intent in promulgating § 60.15.

The administrative effort to keep the required records should not be a burden on the industry. The recordkeeping required under this interpretation of reconstruction is the same as the recordkeeping that would be required under a strictly project-by-project interpretation. In either case, the dollar amount of the component replacements taking place at the facility must be determined and recorded. Section 6.15 defines the "fixed capital cost" of replacement components as the capital needed to provide all the "depreciable" components. By excluding nondepreciable components from consideration in calculating component replacement costs, this definition excludes many components that are replaced frequently to keep the plant in proper working order. There may, however, be some depreciable components that are replaced frequently for similar purposes. In the Agency's judgment, maintaining records of the repair or replacement of these items may constitute an unnecessary burden. Moreover, the Agency does not consider the replacement of these items an element of the turnover in the life of the facility concerning Congress when it enacted Section 111. Therefore, in accordance with 40 CFR 60.15(g), these standards (§ 60.506) will exempt certain frequently replace components, whether depreciable or nondepreciable, from consideration in applying the reconstruction provisions to bulk gasoline terminal facilities. The costs of these components will not be considered in calculating either the "fixed capital cost of the new components" or the "fixed capital costs that would be required to construct a comparable entirely new facility" under § 60.15. In the Agency's judgment, these items are pump seals, loading arm gaskets and swivels, coupler gaskets, overfill sensors, vapor hoses, and grounding cables.

One commenter felt that if the proposed standards further limited allowable total organic compounds emissions from 80 mg/liter to 35 mg/liter of gasoline loaded, then over half of his terminals would experience "immediate operational constraints," since they are equipped with vapor processing units of the compression-refrigeration-absorption (CRA) or lean oil absorption (LOA) type, which EPA data indicate cannot meet the proposed 35 mg/liter limit.

The existing facilities described by the commenter would not be subject to the standards unless modification or reconstruction were commenced after the proposal date of December 17, 1980. For those facilities with existing vapor processing systems which become affected facilities under modification or reconstruction, the Administrator concluded that it was not reasonable for the owner or operator to replace or perform costly upgrading on existing vapor processing systems, in order to achieve the small incremental emission reduction which reflects the change from 80 mg/liter to 35 mg/liter. As an example, emissions from a 950,000 liter/day terminal would decrease about 15 Mg/year in the change from 80 to 35 mg/liter, at a net annualized cost of about $50,000 for replacement or add-on controls. In the Administrator's judgment, however, it is unreasonably costly to require such a facility to install the add-on technology that will achieve 35 mg/liter *only* if the facility began constructing or substantially rebuilding (i.e., "refurbishing") the control system before receiving notice December 17, 1980, that BDT for those facilities, were they later to come under NSPS, would likely be equipment capable of meeting 35 mg/liter.

By contrast, EPA considers it reasonable to apply the 35 mg/liter limit to a facility whose owner commenced construction or refurbishment of a control system not capable of meeting 35 mg/liter despite having received this notice. It is reasonable to expect such an owner to avoid the high cost of going from 80 mg/liter to 35 mg/liter simply by constructing or refurbishing the facility's control system with technology that would meet EPA's proposed 35 mg/liter limit and make later retrofit unnecessary. This is reasonable to require even of facilities with existing control systems constructed or refurbished after December 17, 1980, for the purpose of meeting an 80 mg/liter State limit.

For these reasons, EPA has added § 60.502(c), which permits affected facilities with such vapor control equipment to meet 80 mg/liter if construction or substantial rebuilding (i.e., "refurbishment") of that equipment commenced before the proposal date, December 17, 1980. This is based on the Administrator's judgment that BDT for these facilities is no further control, while BDT for facilities with vapor processing systems on which construction or refurbishment commenced after proposal is the technology that would enable the facility to achieve 35 mg/liter.

Definitions for "existing vapor processing system" and "refurbishment" were added to the regulation to indicate that if in any 2-year period following the date the facility becomes an affected facility the fixed capital cost of improvements or changes to an existing vapor processing system exceeds 50 percent of the cost of a comparable entirely new vapor processing system, the altered vapor processing system must then meet the 35 mg/liter limit. Consequently, refurbishment applies only to those systems which become extensively rebuilt over this period.

Several commenters felt that the interpretation of "modification" is overly broad because it may include altered facilities from which the overall emissions have not increased. A clarification was sought so that replacement of needed components that improve loading efficiencies would not be considered modifications unless they resulted in an increase in the average daily emissions. For example, the replacement of worn-out pumps with new higher capacity pumps would allow faster loading, increasing emissions on a kg/hour basis during peak loading periods, but not on a mg/liter basis, which is the measurement of the standard. In fact, the number of tank trucks loaded during a day would not

necessarily increase due to a faster loading rate.

Section 60.14(e)(2) was purposely included in the General Provisions to exclude from consideration under the modification provisions increases in emissions due to relatively small changes. If a change increases production capacity and yet does not result in a "capital expenditure" as defined in the definitions in the General Provisions, the change would not be considered a modification.

Economic Impact

Some of the commenters stated that many of the costs of compliance to industry presented in BID, Volume I, were seriously underestimated. Two reasons provided were that control systems necessary to achieve the proposed standard of performance would cost more than systems capable of meeting only the less stringent SIP emission limit, and the actual number for affected facilities would be greater than the estimate due to conversions resulting from SIP requirements.

Many control systems being installed under SIP programs are capable of controlling emissions below 35 mg/liter, the limit of the promulgated standards of performance. Test data show that, in their normal operating mode, carbon adsorption (CA) and thermal oxidation (TO) units can consistently operate well below the 35 mg/liter limit. Therefore, for CA and TO units there are no additional costs involved in meeting 35 mg/liter versus the units currently being installed to meet 80 mg/liter.

Test results on current refrigeration (REF) units show that only some of these units meet the 35 mg/liter limit. However, these systems were installed to comply with a limit at or near the 80 mg/liter limit contained in most SIP's. The major manufacturer of these systems has indicated that adjustments to operating parameters can be made which will increase the control efficiency of individual systems (docket item IV–E–32). Such adjustments would be likely to increase electrical costs. Cost increases of up to 50 percent were reported by the manufacturer (docket item IV–F–3). The assumption that costs would not increase in the case of CA and TO units in order to meet 35 mg/liter is still considered valid. However, since data show that state-of-the-art REF technology can meet the standard, at somewhat increased capital and operating cost levels from the average current system, and since a large segment of industry is presently using this form of control (approximately 25 percent of existing units are refrigeration units), the potential cost impact to industry, if current use patterns are maintained, was examined.

As discussed under the preamble section "Modification and Reconstruction," the vast majority of conversions necessary to comply with State or local regulations will have commenced before the revised applicability date, and, therefore, not be regulated under these standards. Only those few State or local regulation-related conversions which commence after the promulgation date will be affected. Thus, the estimate of 55 facilities affected in 5 years is still believed to represent a reasonable approximation, based on Section 114 letter responses from industry. The updated industry costs were used to recalculate the nationwide cost impact, with the costs of purchasing and operating continuous monitors added to these estimates. By 1986, the terminal and independent tank truck industries will spend about $12.2 million in capital investment, and the net annualized cost in the fifth year will be $2.5 million. The capital and annualized cost estimates have decreased since the original evaluation mainly because of re-analysis of loading rack top-to-bottom loading conversion costs and changes in the requirements for existing vapor processing systems. In the previous analysis, presented in the BID, Volume I, the costs for the top-to-bottom loading conversions were attributed to the standards for all affected top loading terminals in the nationwide cost determination. However, in the revised evaluation, the cost of top-to-bottom loading conversions (not as a result of vapor control requirements) which would trigger reconstruction were not included in the costs to comply with the promulgated standards. These costs would be incurred by the terminal owner regardless of the standards since the conversions were performed voluntarily.

One commenter felt that even the small cost per gallon of product necessary to comply with the standards would discourage an owner or operator from investing in conversion work which might make a terminal subject to the standards, and that this could make terminal closures more prevalent. In response to this and similar comments, the economic analysis which supported the proposal was reviewed and many cost estimates were updated. The results of both the original and revised economic analyses showed that for the two smallest model plants the standards could, in the worst case, have a significant negative impact on profitability in the unlikely absence of complete control cost pass-through.

In the original analysis on existing facilities both the 380,000 liter/day and 950,000 liter/day model plants (model plants 1 and 2) would encounter returns-on-investment (ROI's) of less than 11 percent, taken to be the minimum acceptable level. The revised analysis indicates that only a 380,000 liter/day top-loaded facility (projected to be only 2 or 3 affected facilities per year) would experience a significant decrease in profitability, with a post-control ROI range of 7.7 to 8.0 percent. A 950,000 liter/day terminal would still maintain a marginal profitability level with a post-control ROI range of 10.6 to 11.0 percent. However, the preceding impacts are worst-case scenarios and very unlikely to occur. Since the price increase necessary to offset the control costs is less than 0.5 percent, the most likely scenario will involve an impact with most of the control costs passed through and very little cost absorption. Under this scenario no existing terminals are expected to close. Industry profiles do forecast a trend away from new small bulk terminals to larger terminals; however, this is a result of previous technological advances and economies of scale and is not a result expected to be accelerated by the implementation of these standards.

Some commenters questioned the BID, Volume I, cost estimates associated with purchasing, installing, operating, and maintaining vapor control systems. In particular, most CA system costs and some REF system costs were pointed out as being underestimated.

Most carbon adsorption units are currently being produced by two manufacturers. The purchase costs used in the original cost analysis were received from one major manufacturer at the time the analysis was performed. After proposal, estimated costs were updated through contacts with both manufacturers. The average cost of installing a vapor processor was estimated as 85 percent of the initial purchase price of the unit, based on 14 actual installations. Values used to compute the average installation cost ranged from 37 to 147 percent. Since no trend in this percentage as a function of purchase cost or unit type was noted, a single value representing the average was selected. Consequently, some unit installation costs will be higher and some lower than those presented in the analysis. Installation costs submitted by one commenter averaged about 115 percent of the purchase price of the processor, which is consistent with the range of values considered in deriving EPA's 85 percent figure. Another commenter submitted data showing that

the typical installation cost for a REF unit at his terminals was $90,000, or 55 percent of the $165,000 purchase price. Again, this percentage falls within the range of values considered previously by the Agency.

Operating costs for all control technologies considered in developing the standards were calculated using electrical consumption data supplied by the system manufacturers. The REF unit purchase cost and electrical consumption figures used to develop impacts of the proposed standards applied to systems used to achieve the SIP limit of 80 mg/liter. The data have subsequently been reassessed using more current costs. The manufacturer of essentially all of the current REF units was contacted to obtain present purchase and operating figures which would be reflected for a system to meet the emission limit of 35 mg/liter. Unit models were selected for application to the four model plants, based on the parameter suggested by the manufacturer, peak hourly product loading. Models were selected with considerable excess capacity, so that cost estimates would be conservative. The power costs for current CA systems were calculated in the same way as those for REF systems, using updated manufacturers' information. The limited available field data on the operating costs of installed units generally correlate well with the calculated figures.

Emission Control Technology

Several commenters remarked that the technology to achieve the 35 mg/liter emission limit has not been demonstrated, because only a few short-term tests have been performed. These commenters stressed the necessity for data on continuous performance, and on the ability of the considered systems to achieve the emission limit over the long term.

Since the beginning of the standards development, the Agency has sought the most recent results of tests performed by oil companies and State agencies, in order to collect the best possible data base. Since all of the tested systems were installed in response to SIP limitations at or near the 80 mg/liter limit, oil company and system manufacturer technical representatives were consulted to determine the assumed design conditions for the installed systems and the collection potential of the various control technologies. Emission test results on several CA units tested between 1979 and 1981, representing over 30 days of testing, were received after proposal from four State agencies and one control system manufacturer. Outlet total organic compounds mass emissions measured in these tests ranged from 0.34 to 17.9 mg/liter, with 28 of the daily test values below 10 mg/liter. Three REF units owned by a single oil company in two States were tested in 1980 and 1981. Daily average emissions in these tests were 21.9, 22.6, and 41.8 mg/liter. These results support the observation that current REF units perform at various levels with respect to the 35 mg/liter limit. Since total organic compounds mass emissions are related to the condenser temperature maintained in these units, setting the thermostatic controls at different levels can produce a range of emission levels from the same control equipment. The current generation of REF units can be adjusted to maintain the low temperatures (approximately −84°C, or −120°F] required to achieve 35 mg/liter consistently. Recent tests of TO systems verify the ability of oxidation units to limit emissions to levels considerably below 35 mg/liter.

Even though the tests did not follow EPA procedures exactly, the recent test data collected since proposal of these standards demonstrate the ability of the best systems to achieve the required level of 35 mg/liter. The continuing ability of these systems to achieve this limit depends on their proper operation and maintenance. The costs of operating and maintaining CA, TO, and REF type vapor processors were considered in assessing the economic impact of the promulgated standards. As discussed earlier, the 80 mg/liter limit applied to facilities with existing vapor processors should be able to be met by any of the control equipment which was installed under SIP requirements.

Some commenters stated that it had not been shown by EPA that the proposed standards would be achievable under all the variable operating conditions that may exist throughout the industry. However, these commenters did not identify any specific variable operating conditions which they felt may affect emission levels, nor was any technical information included with the comments. The typical performance test on bulk terminal control systems does not monitor operating conditions and their possible effect on emissions, because generally all that is required in this test procedure is the measurement of outlet mass emissions over several hours. However, data were collected during the EPA-sponsored test program and variables (gasoline composition, vapor concentration, and peak loading levels) have been identified as having a possible effect on the mass emission level or control efficiency of the control technologies considered capable of achieving the limit of the standard.

Gasolines with different Reid vapor pressures (RVP) are marketed in different seasons of the year, in order to maintain approximately constant actual vapor pressure as the mean ambient temperature changes. Under winter conditions, therefore, mass emissions may be higher for some systems because of increased light ends in the inlet vapors. If CA and REF units are sized with sufficient collection area to meet the emission limit in winter, emissions in summer will then be well below the limit. TO systems are often designed to handle saturated streams stored in vapor holders, and should not be affected by the variable RVP. Tests of CA to TO units considered by the Agency show that the emission limit was achieved at various times of the year and, therefore, under various gasoline compositions.

Both CA and TO systems have been tested under a range of inlet VOC concentrations returned from tank trucks, and the test results indicate the ability of these technologies to achieve the limit of the standards under high inlet concentrations. Also, theoretical estimations and analyses for CA and REF systems have indicated that these systems will collect efficiently, and exhibit outlet emissions below 35 mg/liter, throughout the range of concentrations which will be experienced at new bulk terminals (docket items IV-A-2, IV-D-36, IV-D-38). Efficiencies, in fact, are likely to increase with increasing inlet concentration. TO systems are easily designed to handle saturated inlet streams.

Most control systems are designed for peak loading hours at a terminal, rather than daily throughput, because of the fluctuation in loading activity throughout the day. Thus, a properly sized unit that can handle peak periods should have improved performance during the remainder of the day.

It was concluded that the operational variables at a terminal are merely design variables which affect the selection and sizing of the vapor processor. No variables have been identified which would prevent these standards from being met on a consistent basis.

Several commenters felt that the proposed emission limit of 35 mg/liter for new vapor processors is too stringent for the current generation of vapor processors in use at bulk terminals. Some of the commenters stated that

certain types of processors would be unable to achieve this limit, whole others felt that the limit was unnecessarily stringent for any of the existing technologies. Alternate limits of 55 mg/liter and 80 mg/liter were suggested.

Standards of performance, in the form of numercial emission limits, are intended to reflect the degree of emission limitation achievable through application of the best adequately demonstated technological system of continuous emission reduction, taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impacts, and energy requirements. Carbon adsorption vapor processors manufactured by both of the major suppliers have demonstrated the capability to achieve emission levels below 35 mg/liter on a regular basis. Also, thermal oxidation units have shown the capability to achieve 35 mg/liter, although some TO systems may require a vapor holder to achieve this limit reliably. Compression-oxidation hybrid systems have been found to achieve the same high control efficiences as the straight TO systems. In addition, test data, computer modeling, and the manufacturer's claims suggest the REF systems can be designed and operated to meet 35 mg/liter.

Based on a number of emission tests, EPA has identified carbon adsorption and thermal oxidation as the best demonstrated technologies (BDT) for controlling vapors from gasoline loading racks. Section 111 requires EPA to set numerical emission limits achievable through application of BDT (considering the statutory factors), even if by doing so the Agency precludes the use of less effective systems. Owners are nonetheless free to use any technology that will achieve the limit.

Some commenters referred to carbon bed temperature excursions at several CA unit installations during the summer of 1980. Due to the resulting extended shutdowns, one commenter felt that doubt had been cast on the ability of currently designed systems to maintain high efficiency consistently. Contacts were made by EPA with system manufacturers and oil industry representatives, to determine the apparent reasons for the six reported occurrences of carbon bed overheating. Discussions indicated that the overheating incidents were primarily the result of improper flow distribution and improper startup procedures resulting in the insufficient preloading of the virgin carbon in some new, larger units. Precautionary measures to prevent overheating including: (1) Complete conditioning of the virgin carbon to ensure that an adequate heel has been placed on the carbon to minimize subsequent high adsorption heat releases, and (2) sizing the unit to maintain proper vapor velocity and flow distribution through the carbon beds. According to the system manufacturers, overheating should not occur if these precautionary measures are employed (docket item IV–D–36).

Industry representatives have addressed the carbon bed overheating issue by incorporating emergency shutdown measures and bed cooling devices on newer systems. Two additional oil industry representatives indicated that, on any new carbon system ordered (and possibly retrofitted to existing systems), they will specify cooling provisions and additional temperature sensors. Since only 6 temperature excursion occurrences have been identified in the approximately 200 operating carbon systems, the overheating problem does not appear to be widespread. EPA agrees with the manufacturers and with industry representatives that an effort should be made to follow carefully the recommended startup and operational procedures to minimize the conditions which may tend to promote temperature excursions. The added costs of emergency shutdown and bed cooling provisions on the newest CA units have been incorporated in the revised cost analysis in estimating the control cost of the standards to the bulk terminal industry.

Two commenters felt that CA systems have several general operational problems and that this technology is still in the developmental stages. The first carbon adsorption system for bulk terminal vapor recovery was installed in November of 1976, and today the market is shared by two manufacturers with approximately 200 units in operation. Most types of vapor processors can be considered to be under development in the sense that continual design improvements are being made. Some problems with vacuum valve actuators and vacuum pump seals have occurred, as well as problems related to extremely cold weather operation. Many of these problems have been solved (docket item IV–E–53), and EPA has not been made aware of any remaining operational problems which would affect the ability of CA systems to comply with the promulgated standards.

Comments on refrigeration units concerned the ability of this technology to achieve the proposed standard of performance. Some commenters agreed that REF units could be designed and operated to achieve 35 mg/liter consistently, but felt that the added costs over current units would not be economically practical. The promulgated emission limit of 35 mg/liter was selected to reflect the performance of the best control systems, which test data showed to be the CA and TO technologies. The most current refrigeration systems have generally been installed to meet the 80 mg/liter limit and have achieved 35 mg/liter in only some instances, with emissions from most units slightly above the 35 mg/liter limit. Indications are that these units can be specified and operated to meet 35 mg/liter, at increased capital and operating costs over most current units. The capital costs for most sizes of REF units fall between the costs for TO and CA type units. Electrical costs for REF units are comparable to those for TO and CA units, except for the smaller bulk terminal sizes, where they are slightly higher. Detailed costs are presented in Appendix B of BID, Volume II.

Tank Truck Issues

Several commenters questioned EPA's legal authority to impose restrictions, i.e., retrofitting and vapor tightness testing, on gasoline tank trucks. They felt that trucks do not fall within the category of a stationary source and, therefore, cannot be regulated under Section 111. The commenters further stated that EPA could not regulate a mobile source directly or indirectly under Section 111. One commenter characterized the regulation of tank truck emissions as constituting "the taking of private property without cause, compensation, or due process."

For purposes of this NSPS, the stationary source, or affected facility, is the total of all bulk terminal loading racks loading liquid product into gasoline tank trucks. Those loading racks are essential to carrying out the activity known as product loading. While product loading involves both the affected facility and mobile equipment, including the tank truck, it is clearly a stationary activity, since it requires no movement from the affected facility site. Among the pollutants created by product loading are vapors forced from the tank truck as a direct result of the pumping of liquid product into the tank truck. Since escape of these vapors is caused by stationary activities at a stationary facility, they are "stationary source" emissions subject to regulation under Section 111—even though the tank trucks from which they escape during

that activity have the capability to move.

As indicated above, the tank truck is not included in the designation of the "affected facility" under these standards. The standards place responsibility on the terminal owner only, requiring the owner to restrict loadings to vapor-tight tank trucks equipped with compatible vapor recovery equipment. The regulation would not directly require either new or old tank trucks to be vapor-tight or equipped with certain types of hardware.

Section 111(a)(2) defines "stationary source" as any "building, structure, facility, or installation which emits or may emit any air pollutant." EPA identifies the "stationary source" as certain specified stationary equipment (termed the "affected facility") that "emits" a pollutant. In the Administrator's view, stationary equipment "emits" a pollutant if it causes that pollutant to enter the atmosphere.[1]

In the Administrator's view, affected facility emissions subject to regulation under Section 111 include *all* pollutants that enter the atmosphere as a result of the stationary industrial activities at the affected facility, even those that enter the atmosphere after contacting equipment with mobility. Stated differently, the test for whether emissions are "stationary source" emissions subject to regulation under Section 111 is whether the emissions are caused by a stationary facility during activities that require no movement from the facility, not whether the emissions escape to the atmosphere without touching equipment having the capability to move.

Interpreting "stationary source" emissions to include emissions resulting from stationary activities in which both the affected facility and some mobile equipment take part serves the intent of the statute. Congress enacted Section 111 for the "overriding purpose" of "prevent[ing] new pollution problems." S. Rep. No. 91–1196, 1970 *Leg. Hist.* at 416. The Senate Report states that Section 111 seeks to attain this goal by requiring control of new commercial and industrial establishments "to the maximum practicable degree regardless of their * * * industrial operations." *Id.* Similarly, the Report states that "maximum use of available means of preventing and controlling air pollution is essential" to the attainment of the goals of Section 111. *Id.* The legislative history thus indicates that Congress intend Section 111 to address emissions from all stationary operations at industrial establishments when the Agency can identify the maximum practicable degree of control for these emissions. To interpret Section 111(a)(2) so that emissions resulting from certain stationary activities involving the stationary source would not constitute "stationary source" emissions simply because those emissions pass through some equipment with the capability to move would be incompatible with that intent.

The Agency recognizes that promulgation of standards regulating loading racks as "stationary sources" may significantly affect tank truck owners and other segments of the petroleum marketing and transportation industry. The fact that standards within an agency's statutory authority indirectly affect nonregulated entities, however, does not in and of itself diminish the authority to set the standards. Nothing in the statute or its history indicates that, in the case at hand, the indirect impact that regulation of emissions from loading racks will have on certain tank truck owners deprives the Agency of its clear authority to set new source performance standards for this source category.

In fact, it is likely that most new source standards affect to some degree industries other than that to which the standards directly apply. The standards for electric utility steam generators, for instance (40 CFR 60.40a–49a, Subpart Da), significantly affect the coal mining and railroad industries. The impact on tank trucks of a requirement that certain bulk terminals load only into vapor-tight trucks equipped with compatible equipment does not differ in kind from the indirect impacts resulting from Subpart Da and other new source performance standards. Bulk terminals deal extensively with delivery vehicles. As a result, it is to be expected that regulation of bulk terminals would affect delivery vehicles in some manner.

The potential effect of the standards on tank truck owners does not amount to a denial of due process or an unconstitutional taking of property. Because the commenter did not elaborate on the specific bases for these claims of unconstitutionality, the Agency can respond only generally. The Clean Air Act reflects a congressional determination that air pollution has a substantial effect on interstate commerce and therefore may be regulated by Congress (and, through proper delegation, EPA) under the commerce clause. *District of Columbia v. Train*, 521 F.2d 971, 988 (D.C. Cir. 1975). It is unreasonable to suggest that regulation of emissions forced from the tank truck during loading bears no rational relationship to protection of public health and welfare, and thus violates the due process clause of the Fifth Amendment. There is a rational relationship between escape of these vapors and the public health and welfare, because these emissions contribute to ozone formation. *Sierra Club v. EPA*, 540 F.2d 1114, 1139 (D.C. Cir. 1976). There is also a proper legislative purpose underlying the requirements aimed at controlling these emissions. Moreover, the means the Agency has chosen, as discussed above, are reasonable and appropriate. *Id.*, at 1139 n.80 [citing *Heart of Atlanta Motel, Inc. v. United States*, 379 U.S. 241, 258–59 (1964)].

Nor do these standards transgress the takings prohibition in the Constitution. Given the substantial public interest in preserving clean air, tight restrictions may constitutionally be imposed on private property. *South Terminal Corp. v. EPA*, 504 F.2d 646, 678–80 (1st Cir. 1974). While this NSPS indirectly limits the uses of tank trucks, the limitation is not so extreme as to constitute an appropriation of the vehicles. *Sierra Club v. EPA, supra*, at 1140. This regulation affects only one of the tank truck uses available to the truck owner—loading at affected facilities. The right to use nonvapor-tight tank trucks at other facilities is neither extinguished nor transferred to someone else.

Several commenters felt that the terminal owner or operator should not have any responsibility for the vapor-tight status of for-hire tank trucks. The commenters felt that the terminal operator should not be required to police the testing and use of tank trucks which are owned by others.

Fugitive, or leakage, VOC emissions from tank trucks which occur during loading can be a significant emission source. Test data indicate that, on the average, a nonvapor-tight tank could lose 30 percent of the potential vapor transferred through leaks in dome covers and pressure-vacuum vents. The data further show that, by requiring the tanks which handle gasoline to pass an annual vapor tightness test, the average vapor loss due to leakage during the year between tests can be reduced to 10 percent of the potential vapors transferred. Fugitive VOC losses from tank trucks not only increase the

[1] EPA's authority to define the term "emits" in this way derives from Section 301 of the Act, as interpreted in the cases (see, e.g., *Alabama Power v. Costle*, 636 F.2d 323 (D.C. Cir. 1979)). In accordance with this provision, the Agency is interpreting the term "emits" broadly, to serve the broad purposes of Section 111 (described in the text below).

pollution problem but decrease the amount of product that can be reclaimed in vapor recovery equipment. The terminal owner or operator could lose as much as $2 in recovered product per loading into nonvapor-tight trucks. For a small 380,000 liter/day (100,000 gallon/day) terminal this could represent a daily loss of over $25. For a large 3,800,000 liter/day (1,000,000 gallon/day) terminal the losses could be over $250/day. Bulk terminal industry representatives agree that the vapor tightness requirement for tank trucks is a necessary provision of the regulation (docket items IV–E–19, IV–F–3).

The objections from the bulk terminal industry arise regarding the responsibility for assuring loadings are into vapor-tight tanks. The industry feels the responsibility should be on the tank truck operator, who in fact may be the terminal operator or oil company, or an independent who operates for-hire tank trucks. However, in order for the responsibility under new source standards to be on an independent tank truck operator, the tank truck would have to be part of the affected facility. The feasibility of including the tank truck as part of the affected facility was reviewed in the preamble to the proposed standards. It was determined that the best approach to controlling fugitive tank truck leakage was to make the standards applicable only to bulk terminals, with a requirement that affected terminals load only into truck-mounted tanks that have passed a vapor tightness test. Because tank trucks load primarily with equipment owned by the terminal owner, and on the property of the terminal owner, EPA believes it is reasonable to presume, for the purpose of this regulation, that these owners can exercise sufficient control over the source to justify making them responsible for the emissions therefrom.

EPA did not intend for terminal personnel to man the racks 24 hours per day, or actually observe the loading of every tank truck to verify that each truck had passed an annual vapor tightness test. EPA felt that requiring documentation on file that gasoline tank trucks operating out of the terminal had passed a vapor tightness test would provide a sufficient means of promoting loadings into vapor-tight tanks. Industry opposition is centered around the liability on the terminal owner for tank trucks he does not own. At unmanned, automated terminals, the terminal operator is usually not present and cannot determine which trucks are loading. The Agency realizes these limitations but believes that the vapor tightness requirement is necessary in order for these standards to be effective.

Changes to the vapor tightness requirement have been incorporated into the promulgated regulation to clarify that the standards do not require the terminal operator to monitor each tank truck loading. A requirement to log the tank identification number of all gasoline tank trucks loading at affected facilities has been incorporated into the final regulation. Since the quantity of product which passes through the terminal and its corresponding worth is very large, there is already considerable paperwork involved in tracking the products in and out of the terminal. The truck identification information could be recorded by the truck driver as part of the normal paperwork which already accompanies each loading. If the tank identification number is logged each time the tank is loaded, the owner can periodically cross-check the tank indentification number with the vapor tightness documentation on file at the terminal. This cross-checking is required within 2 weeks of the loading. If the terminal discovers that an unauthorized tank truck has received gasoline, the terminal operator notifies the tank owner, and takes steps to assure that the nonvapor-tight truck does not reload at the terminal until proper vapor tightness documentation is obtained. This notification must be documented and kept on file at the terminal. Methods of achieving this are available to the terminal owner or operator and could include revocation of loading privileges or contractural agreements between the terminal owner or operator and the truck owner or operator. However, EPA has not specified any particular method, to allow the terminal owner or operator the flexibility to meet the requirements, with minimum disruption to terminal operations. Section 111(h)(3) of the Clean Air Act provides that if the terminal owner, after notice and opportunity for public hearing, "establishes to the satisfaction of the Administrator that an alternative means of emission limitation will achieve a reduction in emission * * * at least equivalent to the reduction in emissions of such air pollutant" achieved under the tank truck vapor tightness requirement, the Administrator "shall permit the use of such alternatives * * *" Thus, the terminal owner is free, with EPA approval under Section 111(h)(3), to develop a different strategy for controlling fugitive emissions from tank trucks.

One commenter felt that an administrative burden would be created by a requirement to keep vapor tightness documentation for as many as 400 to 500 transport trucks using a given terminal. Several other commenters generally argued that the tank truck controls would represent an administrative burden, as well as being costly and inequitable.

The testing and maintenance of tank trucks for vapor tightness has been shown to have a significant effect in reducing total emissions during loading. Thus, this procedure has a very important function in bulk terminal VOC emissions limitation. The administrative burden of keeping the documentation on file would be minimal since the information would in most cases be supplied by the owner of for-hire tank trucks and the terminal would simply file the data. Cross-checking these files with tank identification numbers logged during loading should be a simple process and would not be an excessive burden. Furthermore, this filing and cross-checking would represent much less of a burden then the in-person monitoring by terminal personnel of each loading as it occurred.

Docket

The docket is an organized and complete file of information submitted, or otherwise considered, in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify and locate documents readily so that they can effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated standards and EPA responses to significant comments, the contents of the docket, except for certain interagency review materials, will serve as the record in case of judicial review [Section 307(d)(7)(A)].

Miscellaneous

The effective date of this regulation is August 18, 1983. Section 111 of the Clean Air Act provides that standards of performance or revisions thereof become effective upon promulgation and apply to affected facilities, construction or modification of which was commenced after the date of proposal (December 17, 1980).

As prescribed by Section 111, the promulgation of these standards was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that these sources contribute significantly to air pollution which may reasonably be

anticipated to endanger public health or welfare. In accordance with Section 117 of the Act, publication of these promulgated standards was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies.

This regulation will be reviewed within 4 years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, emission control technology, and reporting requirements.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance under Section 111(b) of the Act. An economic impact assessment was prepared for this regulation and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the standards to ensure that cost was carefully considered in determining BDT. The economic impact assessment is included in the background information documents for the proposed and promulgated standards (BID, Volumes I and II).

The Paperwork Reduction Act (PRA) of 1980 (Pub. L. 96–511) requires clearance from the Office of Mangement and Budget (OMB) of reporting and recordkeeping requirements that qualify as an "information collection request" under the PRA. For the purposes of OMB's review, and analysis of the burden associated with the reporting and recordkeeping requirements of this regulation has been made. During the first 2 years of this regulation, the average annual burden of the reporting and recordkeeping requirements would be 4.8 person-years, based on an average of 11 respondents per year. Information collection requirements contained in this regulation (§§ 60.502, 60.503, 60.505) have been approved by the 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 2060–0006.

The Regulatory Flexibility Act of 1980 (RFA) requires that differential impacts on small businesses resulting from all Federal regulations be identified and analyzed. The RFA does not by its terms apply to regulations proposed prior to January 1, 1981. Consequently the RFA does not impose any requirements in the Agency's development of the bulk gasoline terminal NSPS (proposed December 17, 1980). However, the Agency has considered the economic impact of the standards on relatively small terminals and tank truck firms, and the economic analysis has since been reviewed in reference to the RFA. The definition of a small business in the bulk terminal industry (SIC 5171), according to the criterion to qualify for SBA loans, is a firm with less than $22 million in annual receipts. Approximately 50 to 60 percent of the bulk terminal industry can be considered as small businesses according to this criterion. In the for-hire tank truck industry (SICs 4212, 4213, and 4214), a small business is defined as a firm with less than $6.5 to $7 million in annual receipts. Approximately 60 percent of the for-hire tank truck industry can be considered as small businesses according to this criterion. The RFA further stipulates that the analysis must be prepared if 20 percent of the small businesses are significantly affected.

Five new terminals are expected to be constructed in the first five years, and approximately 50 facilities will become affected through modification or reconstruction. Of the 55 affected facilities, 15 terminals, a 27 percent share, can be considered small business entities (assuming Model Plant 1 approximates a small business), and so the 20 percent criterion is exceeded. The analysis concluded that significant impact for small business entities would occur only under the worst-case assumption of complete cost absorption. Under a more likely scenario, further analysis revealed no significant impact. Since the impact on small bulk terminal businesses is not expected to be significant, no Regulatory Flexibility Analysis is required for this industry sector.

Thirty-four model firms in the for-hire tank truck industry are expected to be affected by 1985. Twenty-three affected firms are expected to be small business entities, representing a 68 percent share, which exceeds the 20 percent criterion. The potential exists for a significant impact to occur in worst-case scenario if control costs are completely absorbed. The results from the return-on-transportation investment analysis not only suggested as significant worst-case impact, but that the impacts are more severe for the largest model trucking firms. A more likely scenario was analyzed and no significant economic impact was found. This scenario was based on the realistic assumption that most of the control costs will be passed through with very little cost absorption affecting the ROTI. Even under complete cost pass-through the price of gasoline increases at most by 0.03 percent. Since the impact on small independent tank truck firms is not expected to be significant, no Regulatory Flexibility Analysis is required for this industry sector.

Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and therefore subject to certain requirements of the Order. The Agency has determined this regulation will result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be a "major rule." The net annualized costs through the first 5 years of implementation, including depreciation and interest, are projected to be considerably below the threshold cost for defining a "major rule." Only negligible increases in the price of gasoline attributable to implementation of these standards are expected. The Agency has therefore concluded that this regulation is not a "major rule" under Executive Order 12291. In addition to the economic analysis, the Agency carefully examined the cost of various technical alternatives in terms of the emission reductions achieved. This was done for the range of configurations and facility sizes which are anticipated to be affected by the standard and, as described under the preamble section "Modification and Reconstruction," led to relaxation of the proposed standard for sources with SIP level controls in-place. The incremental cost of the final standard in terms of the incremental emission reduction achieved would range from a savings at certain medium to large size plants to a cost of approximately $1,100/Mg for a typical small facility. The total cost per unit of VOC emission reduction associated with this regulation is $440/Mg. This cost is consistent with that of other new source performance standards some of which cost $1,000/Mg to $2,000/Mg of VOC emission reduction, or higher.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires.

Dated: August 4, 1983.

William D. Ruckelshaus,

Administrator.

PART 60—[AMENDED]

40 CFR Part 60 is amended as follows:

1. By adding a new subpart as follows:

Subpart XX—Standards of Performance for Bluk Gasoline Terminals

Sec.

Authority: Sections 111 and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7411, 7601(a)], and additional authority as noted below.

Subpart XX—Standards of Performance for Bulk Gasoline Terminals

§ 60.500 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is the total of all the loading racks at a bulk gasoline terminal which deliver liquid product into gasoline tank trucks.

(b) Each facility under paragraph (a) of this section, the construction or modification of which is commenced after December 17, 1980, is subject to the provisions of this subpart.

(c) For purposes of this subpart, any replacement of components of an existing facility, described in paragraph § 60.500(a), commenced before August 18, 1983 in order to comply with any emission standard adopted by a State or political subdivision thereof will not be considered a reconstruction under the provisions of 40 CFR 60.15.

[Note: The intent of these standards is to minimize the emissions of VOC through the application of best demonstrated technologies (BDT). The numerical emission limits in this standard are expressed in terms of total organic compounds. This emission limit reflects the performance of BDT.]

§ 60.501 Definitions.

The terms used in this subpart are defined in the Clean Air Act, in § 60.2 of this part, or in this section as follows:

"Bulk gasoline terminal" means any gasoline facility which receives gasoline by pipeline, ship or barge, and has a gasoline throughput greater than 75,700 liters per day. Gasoline throughput shall be the maximum calculated design throughput as may be limited by compliance with an enforceable condition under Federal, State or local law and discoverable by the Administrator and any other person.

"Continuous vapor processing system" means a vapor processing system that treats total organic compounds vapors collected from gasoline tank trucks on a demand basis without intermediate accumulation in a vapor holder.

"Existing vapor processing system" means a vapor processing system [capable of achieving emissions to the atmosphere no greater than 80 milligrams of total organic compounds per liter of gasoline loaded], the construction or refurbishment of which was commenced before December 17, 1980, and which was not constructed or refurbished after that date.

"Gasoline" means any petroleum distillate or petroleum distillate/alcohol blend having a Reid vapor pressure of 27.6 kilopascals or greater which is used as a fuel for internal combustion engines.

"Gasoline tank truck" means a delivery tank truck used at bulk gasoline terminals which is loading gasoline or which has loaded gasoline on the immediately previous load.

"Intermittent vapor processing system" means a vapor processing system that employs an intermediate vapor holder to accumulate total organic compounds vapors collected from gasoline tank trucks, and treats the accumulated vapors only during automatically controlled cycles.

"Loading rack" means the loading arms, pumps, meters, shutoff valves, relief valves, and other piping and valves necessary to fill delivery tank trucks.

"Refurbishment" means, with reference to a vapor processing system, replacement of components of, or addition of components to, the system within any 2-year period such that the fixed capital cost of the new components required for such component replacement or addition exceeds 50 percent of the cost of a comparable entirely new system.

"Total organic compounds" means those compounds measured according to the procedures in § 60.503.

"Vapor collection system" means any equipment used for containing total organic compounds vapors displaced during the loading of gasoline tank trucks.

"Vapor processing system" means all equipment used for recovering or oxidizing total organic compounds vapors displaced from the affected facility.

"Vapor-tight gasoline tank truck" means a gasoline tank truck which has demonstrated within the 12 preceding months that its product delivery tank will sustain a pressure change of not more than 750 pascals (75 mm of water) within 5 minutes after it is pressurized to 4,500 pascals (450 mm of water). This capability is to be demonstrated using the pressure test procedure specified in Reference Method 27.

§ 60.502 Standard for Volatile Organic Compound (VOC) emissions from bulk gasoline terminals.

On and after the date on which § 60.8(b) requires a performance test to be completed, the owner or operator of each bulk gasoline terminal containing an affected facility shall comply with the requirements of this section.

(a) Each affected facility shall be equipped with a vapor collection system designed to collect the total organic compounds vapors displaced from tank trucks during product loading.

(b) The emissions to the atmosphere from the vapor collection system due to the loading of liquid product into gasoline tank trucks are not to exceed 35 milligrams of total organic compounds per liter of gasoline loaded, except as noted in paragraph (c) of this section.

(c) For each affected facility equipped with an existing vapor processing system, the emissions to the atmosphere from the vapor collection system due to the loading of liquid product into gasoline tank trucks are not to exceed 80 milligrams of total organic compounds per liter of gasoline loaded.

(d) Each vapor collection system shall be designed to prevent any total organic compounds vapors collected at one loading rack from passing to another loading rack.

(e) Loadings of liquid product into gasoline tank trucks shall be limited to vapor-tight gasoline tank trucks using the following procedures:

(1) The owner or operator shall obtain the vapor tightness documentation described in § 60.505(b) for each gasoline tank truck which is to be loaded at the affected facility.

(2) The owner or operator shall require the tank identification number to be recorded as each gasoline tank truck is loaded at the affected facility.

(3) The owner or operator shall cross-check each tank identification number obtained in (e)(2) of this section with the file of tank vapor tightness documentation within 2 weeks after the corresponding tank is loaded.

(4) The terminal owner or operator shall notify the owner or operator of each nonvapor-tight gasoline tank truck loaded at the affected facility within 3 weeks after the loading has occurred.

(5) The terminal owner or operator shall take steps assuring that the nonvapor-tight gasoline tank truck will not be reloaded at the affected facility until vapor tightness documentation for that tank is obtained.

(6) Alternate procedures to those described in (e)(1) through (5) of this section for limiting gasoline tank truck loadings may be used upon application to, and approval by, the Administrator.

(f) The owner or operator shall act to assure that loadings of gasoline tank trucks at the affected facility are made only into tanks equipped with vapor collection equipment that is compatible with the terminal's vapor collection system.

(g) The owner or operator shall act to assure that the terminal's and the tank truck's vapor collection systems are connected during each loading of a gasoline tank truck at the affected facility. Examples of actions to accomplish this include training drivers in the hookup procedures and posting visible reminder signs at the affected loading racks.

(h) The vapor collection and liquid loading equipment shall be designed and operated to prevent gauge pressure in the delivery tank from exceeding 4,500 pascals (450 mm of water) during product loading. This level is not to be exceeded when measured by the procedures specified in § 60.503(b).

(i) No pressure-vacuum vent in the bulk gasoline terminal's vapor collection system shall begin to open at a system pressure less than 4,500 pascals (450 mm of water).

(j) Each calendar month, the vapor collection system, the vapor processing system, and each loading rack handling gasoline shall be inspected during the loading of gasoline tank trucks for total organic compounds liquid or vapor leaks. For purposes of this paragraph, detection methods incorporating sight, sound, or smell are acceptable. Each detection of a leak shall be recorded and the source of the leak repaired within 15 calendar days after it is detected.

(Approved by the Office of Management and Budget under control number 2060-0006)

§ 60.503 Test methods and procedures.

(a) Section 60.8(f) does not apply to the performance test procedures required by this subpart.

(b) For the purpose of determining compliance with § 60.502(h), the following procedures shall be used:

(1) Calibrate and install a pressure measurement device (liquid manometer, magnehelic gauge, or equivalent instrument), capable of measuring up to 500 mm of water gauge pressure with ±2.5 mm of water precision.

(2) Connect the pressure measurement device to a pressure tap in the terminal's vapor collection system, located as close as possible to the connection with the gasoline tank truck.

(3) During the performance test, record the pressure every 5 minutes while a gasoline tank truck is being loaded, and record the highest instantaneous pressure that occurs during each loading. Every loading position must be tested at least once during the

(c) For the purpose of determining compliance with the mass emission limitations of § 60.502(b) and (c), the following reference methods shall be used:

(1) For the determination of volume at the exhaust vent:

(i) Method 2B for combustion vapor processing systems.

(ii) Method 2A for all other vapor processing systems.

(2) For the determination of total organic compounds concentration at the exhaust vent, Method 25A or 25B. The calibration gas shall be either propane or butane.

(d) Immediately prior to a performance test required for determination of compliance with § 60.502(b), (c), and (h), all potential sources of vapor leakage in the terminal's vapor collection system equipment shall be monitored for leaks using Method 21. The monitoring shall be conducted only while a gasoline tank truck is being loaded. A reading of 10,000 ppmv or greater as methane shall be considered a leak. All leaks shall be repaired prior to conducting the performance test.

(e) The test procedure for determining compliance with § 60.502(b) and (c) is as follows:

(1) All testing equipment shall be prepared and installed as specified in the appropriate test methods.

(2) The time period for a performance test shall be not less than 6 hours, during which at least 300,000 liters of gasoline are loaded. If the throughput criterion is not met during the initial 6 hours, the test may be either continued until the throughput criterion is met, or resumed the next day with another complete 6 hours of testing. As much as possible, testing should be conducted during the 6-hour period in which the highest throughput normally occurs.

(3) For intermittent vapor processing systems:

(i) The vapor holder level shall be recorded at the start of the performance test. The end of the performance test shall coincide with a time when the vapor holder is at its original level.

(ii) At least two startups and shutdowns of the vapor processor shall occur during the performance test. If this does not occur under automatically controlled operation, the system shall be manually controlled.

(4) The volume of gasoline dispensed during the performance test period at all loading racks whose vapor emissions are controlled by the processing system being tested shall be determined. This volume may be determined from terminal records or from gasoline dispensing meters at each loading rack.

(5) An emission testing interval shall consist of each 5-minute period during the performance test. For each interval:

(i) The reading from each measurement instrument shall be recorded, and

(ii) The volume exhausted and the average total organic compounds concentration in the exhaust vent shall be determined, as specified in the appropriate test method. The average total organic compounds concentration shall correspond to the volume measurement by taking into account the sampling system response time.

(6) The mass emitted during each testing interval shall be calculated as follows:

$$M_{ei} = 10^{-6} K V_{es} C_e$$

where:

M_{ei} = mass of total organic compounds emitted during testing interval i, mg.

V_{es} = volume of air-vapor mixture exhausted, m^3, at standard conditions.

C_e = total organic compounds concentration (as measured) at the exhaust vent, ppmv.

K = density of calibration gas, mg/m^3, at standard conditions $= 1.83 \times 10^6$, for propane $= 2.41 \times 10^6$ for butane.

s = standard conditions, 20°C and 760 mm Hg.

(7) The total organic compounds mass emissions shall be calculated as follows:

$$E = \frac{\sum_{i}^{n} M_{ei}}{L}$$

where:

E = mass of total organic compounds emitted per volume of gasoline loaded, mg/liter.

M_{ei} = mass of total organic compounds emitted during testing interval i, mg.

L = total volume of gasoline loaded, liters.

n = number of testing intervals.

(f) The owner or operator may adjust the emission results to exclude the methane and ethane content in the exhaust vent by any method approved by the Administrator.

[Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414)]

(Approved by the Office of Management and Budget under control number 2060-0006.)

§ 60.504 [Reserved].

§ 60.505 Reporting and recordkeeping.

(a) The tank truck vapor tightness documentation required under 160.502(e)(1) shall be kept on file at the terminal in a permanent form available for inspection.

(b) The documentation file for each gasoline tank truck shall be updated at least once per year to reflect current test results as determined by Method 27. This documentation shall include, as a minimum, the following information:

(1) Test Title: Gasoline Delivery Tank Pressure Test—EPA Reference Method 27.

(2) Tank Owner and Address.

(3) Tank Identification Number.

(4) Testing Location.

(5) Date of Test.

(6) Tester Name and Signature.

(7) Witnessing Inspector, if any: Name, Signature, and Affiliation.

(8) Test Results: Actual Pressure Change in 5 minutes, mm of water (average for 2 runs).

(c) A record of each monthly leak inspection required under § 60.502(j) shall be kept on file at the terminal for at least 2 years. Inspection records shall include, as a minimum, the following information:

(1) Date of Inspection.

(2) Findings (may indicate no leaks discovered; or location, nature, and severity of each leak).

(3) Leak determination method.

(4) Corrective Action (date each leak repaired; reasons for any repair interval in excess of 15 days).

(5) Inspector Name and Signature.

(d) The terminal owner or operator shall keep documentation of all notifications required under § 60.502(e)(4) on file at the terminal for at least 2 years.

(e) [Reserved].

(f) The owner or operator of an affected facility shall keep records of all replacements or additions of components performed on an existing vapor processing system for at least 3 years.

[Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414)]

(Approved by the Office of Management and Budget under control number 2060-0006.)

§ 60.506 Reconstruction.

For purposes of this subpart:

(a) The cost of the following frequently replaced components of the affected facility shall not be considered in calculating either the "fixed capital cost of the new components" or the "fixed capital costs that would be required to construct a comparable entirely new facility" under § 60.15: pump seals, loading arm gaskets and swivels, coupler gaskets, overfill sensor couplers and cables, flexible vapor hoses, and grounding cables and connectors.

(b) Under § 60.15, the "fixed capital cost of the new components" includes the fixed capital cost of all depreciable components [except components specified in § 60.506(a)] which are or will be replaced pursuant to all continuous programs of component replacement which are commenced within any 2-year period following December 17, 1980. For purposes of this paragraph, "commenced" means that an owner or operator has undertaken a continuous program of component replacement or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of component replacement.

[Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414)]

2. By adding five new Reference Methods (Method 2A, Method 2B, Method 25A, Method 25B, and Method 27) to Appendix A as follows:

Appendix A—Reference Methods

* * * * *

Method 2A. Direct Measurement of Gas Volume Through Pipes and Small Ducts

1. *Applicability and Principle.*

1.1 Applicability. This method applies to the measurement of gas flow rates in pipes and small ducts, either in-line or at exhaust positions, within the temperature range of 0 to 50°C.

1.2 Principle. A gas volume meter is used to measure gas volume directly. Temperature and pressure measurements are made to correct the volume to standard conditions.

2. *Apparatus.*

Specifications for the apparatus are given below. Any other apparatus that has been demonstrated (subject to approval of the Administrator) to be capable of meeting the specifications will be considered acceptable.

2.1 Gas Volume Meter. A positive displacement meter, turbine meter, or other direct volume measuring device capable of measuring volume to within 2 percent. The meter shall be equipped with a temperature gauge (± percent of the minimum absolute temperature) and a pressure gauge (±2.5 mm Hg). The manufacturer's recommended capacity of the meter shall be sufficient for the expected maximum and minimum flow rates at the sampling conditions. Temperature, pressure, corrosive characteristics, and pipe size are factors necessary to consider in choosing a suitable gas meter.

2.2 Barometer. A mercury, aneroid, or other barometer capable of measuring atmospheric pressure to within 2.5 mm Hg. In many cases, the barometric reading may be obtained from a nearby national weather service station, in which case the station value (which is the absolute barometric pressure) shall be requested, and an adjustment for elevation differences between the weather station and the sampling point shall be applied at a rate of minus 2.5 mm Hg per 30-meter elevation increase, or vice-versa for elevation decrease.

2.3 Stopwatch. Capable of measurement to within 1 second.

3. *Procedure.*

3.1 Installation. As there are numerous types of pipes and small ducts that may be subject to volume measurement, it would be difficult to describe all possible installation schemes. In general, flange fittings should be used for all connections wherever possible. Gaskets or other seal materials should be used to assure leak-tight connections. The volume meter should be located so as to avoid severe vibrations and other factors that may affect the meter calibration.

3.2 Leak Test. A volume meter installed at a location under positive pressure may be leak-checked at the meter connections by using a liquid leak detector solution containing a surfactant. Apply a small amount of the solution to the connections. If a leak exists, bubbles will form, and the leak must be corrected.

A volume meter installed at a location under negative pressure is very difficult to test for leaks without blocking flow at the inlet of the line and watching for meter movement. If this procedure is not possible, visually check all connections and assure tight seals.

3.3 Volume Measurement.

3.3.1 For sources with continuous, steady emission flow rates, record the initial meter volume reading, meter temperature(s), meter pressure, and start the stopwatch. Throughout the test period, record the meter temperature(s) and pressure so that average values can be determined. At the end of the test, stop the timer and record the elapsed time, the final volume reading, meter temperature(s), and pressure. Record the barometric pressure at the beginning and end of the test run. Record the data on a table similar to Figure 2A-1.

BILLING CODE 6560-50-M

Plant _____

Date _____ Run Number _____

Sample Location _____

Barometric Pressure mm Hg Start _____ Finish _____

Operators _____

Meter Number _____ Meter Calibration Coefficient _____

Last Date Calibrated _____

Time	Volume	Static pressure	Temperature	
Run/clock	Meter reading	mm Hg	°C	°K
Average				

Figure 2A-1. Volume flow rate measurement data.

3.3.2 For sources with noncontinuous, non-steady emission flow rates, use the procedure in 3.3.1 with the addition of the following: Record all the meter parameters and the start and stop times corresponding to each process cyclical or noncontinuous event.

4. *Calibration.*

4.1 Volume Meter. The volume meter is calibrated against a standard reference meter prior to its initial use in the field. The reference meter is a spirometer or liquid displacement meter with a capacity consistent with that of the test meter.

Alternately, a calibrated, standard pitot may be used as the reference meter in conjunction with a wind tunnel assembly. Attach the test meter to the wind tunnel so that the total flow passes through the test meter. For each calibration run, conduct a 4-point traverse along one stack diameter at a position at least eight diameters of straight tunnel downstream and two diameters upstream of any bend, inlet, or air mover. Determine the traverse point locations as specified in Method 1. Calculate the reference volume using the velocity values following the procedure in Method 2, the wind tunnel cross-sectional area, and the run time.

Set up the test meter in a configuration similar to that used in the field installation (i.e., in relation to the flow moving device). Connect the temperature and pressure gauges as they are to be used in the field. Connect the reference meter at the inlet of the flow line, if appropriate for the meter, and begin gas flow through the system to condition the meters. During this conditioning operation, check the system for leaks.

The calibration shall be run over at least three different flow rates. The calibration flow rates shall be about 0.3, 0.6, and 0.9 times the test meter's rated maximum flow rate.

For each calibration run, the data to be collected include: reference meter initial and final volume readings, the test meter initial and final volume reading, meter average temperature and pressure, barometric pressure, and run time. Repeat the runs at each flow rate at least three times.

Calculate the test meter calibration coefficient, Y_m,' for each run as follows:

$$Y_m = \frac{(V_{rf} - V_{ri})\,(t_r + 273)}{(V_{mf} - V_{mi})(t_m + 273)} \quad \frac{P_b}{(P_b + P_g)}$$

Eq. 2A–1

Y_m = Test volume meter calibration coefficient, dimensionless.
V_r = Reference meter volume reading, m^3.
V_m = Test meter volume reading, m^3.
t_r = Reference meter average temperature, °C.
t_m = Test meter average temperature, °C.
P_b = Barometric pressure, mm Hg.
P_g = Test meter average static pressure, mm Hg.
f = Final reading for run.
i = Initial reading for run.

Compare the three Y_m values at each of the flow rates tested and determine the maximum and minimum values. The difference between the maximum and minimum values at each flow rate should be no greater than 0.030. Extra runs may be required to complete this requirement. If this specification cannot be met in six successive runs, the test meter it not suitable for use. In addition, the meter coefficients should be between 0.95 and 1.05. If these specifications are met at all the flow rates, average all the Y_m values from runs meeting the specifications to obtain an average meter calibration coefficient, Y_m.

The procedure above shall be performed at least once for each volume meter. Thereafter, an abbreviated calibration check shall be completed following each field test. The calibration of the volume meter shall be checked by performing three calibration runs at a single, intermediate flow rate (based on the previous field test) with the meter pressure set at the average value encountered in the field test. Calculate the average value of the calibration factor. If the calibration has changed by more than 5 percent, recalibrate the meter over the full range of flow as described above.

Note.—If the volume meter calibration coefficient values obtained before and after a test series differ by more than 5 percent, the test series shall either be voided, or calculations for the test series shall be performed using whichever meter coefficient value (i.e., before or after) gives the greater value of pollutant emission rate.

4.2 Temperature Gauge. After each test series, check the temperature gauge at ambient temperature. Use an American Society for Testing and Materials (ASTM) mercury-in-glass reference thermometer, or equivalent, as a reference. If the gauge being checked agrees within 2 percent (absolute temperature) of the reference, the temperature data collected in the field shall be considered valid. Otherwise, the test data shall be considered invalid or adjustments of the test results shall be made, subject to the approval of the Administrator.

4.3 Barometer. Calibrate the barometer used against a mercury barometer prior to the field test.

5. *Calculations.*

Carry out the calculations, retaining at least one extra decimal figure beyond that of the acquired data. Round off figures after the final calculation.

5.1 Nomenclature

P_b = Barometric pressure, mm Hg.
P_g = Average static pressure in volume meter, mm Hg.
Q_s = Gas flow rate, m^3/min, standard conditions.
T_m = Average absolute meter temperature, °K.
V_m = Meter volume reading, m^3.
Y_m = Average meter calibration coefficient, dimensionless.
f = Final reading for test period.
i = Initial reading for test period.
s = Standard conditions, 20° C and 760 mm Hg.
Θ = Elapsed test period time, min.

5.2 Volume.

$$V_{ms} = 0.3853\, Y_m\, (V_{mf} - V_{mi})\, \frac{(P_b + P_g)}{T_m}$$

Eq. 2A–2

5.3 Gas Flow Rate.

$$Q_s = \frac{V_{ms}}{\Theta}$$

Eq. 2A–3

6. *Bibliography.*

6.1 Rom, Jerome J. Maintenance, Calibration, and Operation of Isokinetic Source Sampling Equipment. U.S. Environmental Protection Agency. Research Triangle Park, N.C. Publication No. APTD-0576. March 1972.

6.2 Wortman, Martin, R. Vollaro, and P.R. Westlin. Dry Gas Volume Meter Calibrations. Source Evaluation Society Newsletter. Vol. 2, No. 2. May 1977.

6.3 Westlin, P.R. and R.T. Shigehara. Procedure for Calibrating and Using Dry Gas Volume Meters as Calibration Standards. Source Evaluation Society Newsletter. Vol. 3, No. 1. February 1978.

Method 2B—Determination of Exhaust Gas Volume Flow Rate From Gasoline Vapor Incinerators

Applicability and Principle

1.1 Applicability. This method applies to the measurement of exhaust volume flow rate from incinerators that process gasoline vapors consisting primarily of alkanes, alkenes, and/or arenes (aromatic hydrocarbons). It is assumed that the amount of auxiliary fuel is negligible.

1.2 Principle. The incinerator exhaust flow rate is determined by carbon balance. Organic carbon concentration and volume flow rate are measured at the incinerator inlet. Organic carbon, carbon dioxide (CO_2), and carbon monoxide (CO) concentrations are measured at the outlet. Then the ratio of total carbon at the incinerator inlet and outlet is multiplied by the inlet volume to determine the exhaust volume and volume flow rate.

2. *Apparatus.*

2.1 Volume Meter. Equipment described in Method 2A.

2.2 Organic Analyzer (2). Equipment described in Method 25A or 25B.

2.3 CO Analyzer. Equipment described in Method 10.

2.4 CO_2 Analyzer. A nondispersive infrared (NDIR) CO_2 analyzer and supporting equipment with comparable specifications as CO analyzer described in Method 10.

3. *Procedure.*

3.1 Inlet Installation. Install a volume meter in the vapor line to incinerator inlet according to the procedure in Method 2A. At the volume meter inlet, install a sample probe as described in Method 25A. Connect to the probe a leak-tight, heated (if necessary to prevent condensation) sample line (Stainless steel or equivalent) and an organic analyzer system as described in Method 25A or 25B.

3.2 Exhaust Installation. Three sample analyzers are required for the incinerator exhaust: CO_2, CO, and organic analyzers. A sample manifold with a single sample probe may be used. Install a sample probe as described Method 25A. Connect a leak-tight heated sample line to the sample probe. Heat the sample line sufficiently to prevent any condensation.

3.3 Recording Requirements. The output of each analyzer must be permanently recorded on an analog strip chart, digital recorder, or other recording device. The chart speed or number of readings per time unit

must be similar for all analyzers so that data can be correlated. The minimum data recording requirement for each analyzer is one measurement value per minute.

3.4 Preparation. Prepare and calibrate all equipment and analyzers according to the procedures in the respective methods. For the CO_2 analyzer, follow the procedures described in Method 10 for CO analysis substituting CO_2 calibration gas where the method calls for CO calibration gas. The span value for the CO_2 analyzer shall be 15 percent by volume. All calibration gases must be introduced at the connection between the probe and the sample line. If a manifold system is used for the exhaust analyzers, all the analyzers and sample pumps must be operating when the calibrations are done. Note: For the purposes of this test, methane should not be used as an organic calibration gas.

3.5 Sampling. At the beginning of the test period, record the initial parameters for the inlet volume meter according to the procedures in Method 2A and mark all of the recorder strip charts to indicate the start of the test. Continue recording inlet organic and exhaust CO_2, CO, and organic concentrations throughout the test. During periods of process interruption and halting of gas flow, stop the timer and mark the recorder strip charts so that data from this interruption are not included in the calculations. At the end of the test period, record the final parameters for the inlet volume meter and mark the end on all of the recorder strip charts.

3.6 Post Test Calibrations. At the conclusion of the sampling period, introduce the calibration gases as specified in the respective reference methods. If an analyzer output does not meet the specifications of the method, invalidate the test data for the period. Alternatively, calculate the volume results using initial calibration data and using final calibration data and report both resulting volumes. Then, for emissions calculations, use the volume measurement resulting in the greatest emission rate or concentration.

4. Calculations.

Carry out the calculations, retaining at least one extra decimal figure beyond that of the acquired data. Round off figures after the final calculation.

4.1 Nomenclature

CO_e = Mean carbon monoxide concentration in system exhaust, ppmv.

CO_{2_e} = Mean carbon dioxide concentration in system exhaust, ppmv.

HC_e = Mean organic concentration in system exhaust as defined by the calibration gas, ppmv.

HC_i = Mean organic concentration in system inlet as defined by the calibration gas, ppmv.

K = Calibration gas factor = 2 for ethane calibration gas.
= 3 for propane calibration gas.
= 4 for butane calibration gas.
= Appropriate response factor for other calibration gas.

V_m = Exhaust gas volume, M^3.

V_s = Inlet gas volume, M^3.

Q_m = Exhaust gas volume flow rate, m^3/min.

Q_s = Inlet gas volume flow rate, m^3/min.

θ = Sample run time, min.

s = Standard Conditions: 20°C, 760 mm Hg.

300 = Estimated concentration of ambient CO_2, ppmv. (CO_2 concentration in the ambient air may be measured during the test period using an NDIR and the mean value substituted into the equation.)

4.2 Concentrations. Determine mean concentration of inlet organics, outlet CO_2, outlet CO, and outlet organics according to the procedures in the respective methods and the analyzers' calibration curves, and for the time intervals specified in the applicable regulations. Concentrations should be determined on a parts per million by volume (ppmv) basis.

4.3 Exhaust Gas Volume. Calculate the exhaust gas volume as follows:

$$V_m = V_s \frac{K(HC_i)}{K(HC_e) + CO_{2_e} - 300}$$

Eq. 2B–1

4.4 Exhaust Gas Volume Flow Rate. Calculate the exhaust gas volume flow rate as follows:

$$Q_m = \frac{V_m}{\theta}$$

Eq. 2B–2

5. Bibliography.

5.1 Measurement of Volatile Organic Compounds. U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711. Publication No. EPA–450/2–78–041, October 1978, p. 55.

* * * * *

Method 25A—Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer

1. Applicability and Principle.

1.1 Applicability. This method applies to the measurement of total gaseous organic concentration of vapors consisting primarily of alkanes, alkenes, and/or arenes (aromatic hydrocarbons). The concentration is expressed in terms of propane (or other appropriate organic calibration gas) or in terms of carbon.

1.2 Principle. A gas sample is extracted from the source through a heated sample line, if necessary, and glass fiber filter to a flame ionization analyzer (FIA). Results are reported as volume concentration equivalents of the calibration gas or as carbon equivalents.

2. Definitions.

2.1 Measurement System. The total equipment required for the determination of the gas concentration. The system consists of the following major subsystems:

2.1.1 Sample Interface. That portion of the system that is used for one or more of the following: sample acquisition, sample transportation, sample conditioning, or protection of the analyzer from the effects of the stack effluent.

2.1.2 Organic Analyzer. That portion of the system that senses organic concentration and generates an output proportional to the gas concentration.

2.2 Span Value. The upper limit of a gas concentration measurement range that is specified for affected source categories in the applicable part of the regulations. The span value is established in the applicable regulation and is usually 1.5 to 2.5 times the applicable emission limit. If no span value is provided, use a span value equivalent to 1.5 to 2.5 times the expected concentration. For convenience, the span value should correspond to 100 percent of the recorder scale.

2.3 Calibration Gas. A known concentration of a gas in an appropriate diluent gas.

2.4 Zero Drift. The difference in the measurement system response to a zero level calibration gas before and after a stated period of operation during which no unscheduled maintenance, repair, or adjustment took place.

2.5 Calibration Drift. The difference in the measurement system response to a mid-level calibration gas before and after a stated period of operation during which no unscheduled maintenance, repair or adjustment took place.

2.6 Response Time. The time interval from a step change in pollutant concentration at the inlet to the emission measurement system to the time at which 95 percent of the corresponding final value is reached as displayed on the recorder.

2.7 Calibration Error. The difference between the gas concentration indicated by the measurement system and the known concentration of the calibration gas.

3. Apparatus.

A schematic of an acceptable measurement system is shown in Figure 25A–1. The essential components of the measurement system are described below:

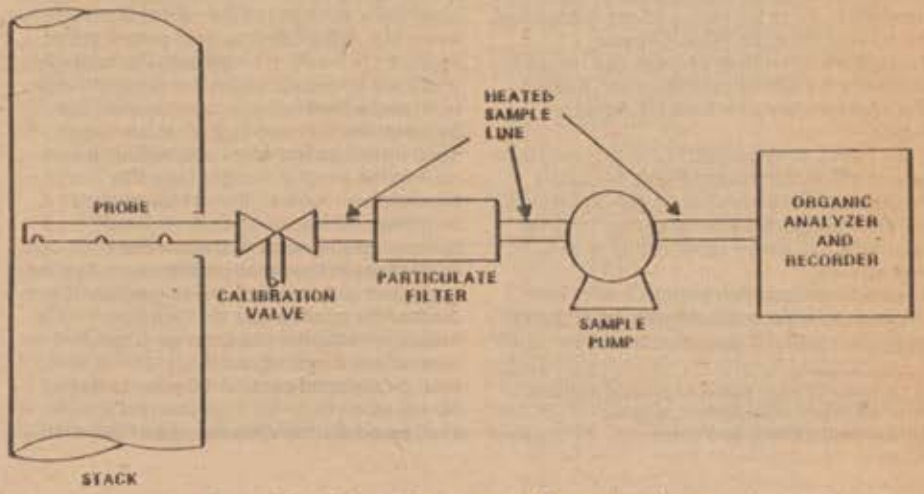

Figure 25A-1. Organic Concentration Measurement System.

3.1 Organic Concentration Analyzer. A flame ionization analyzer (FIA) capable of meeting or exceeding the specifications in this method.

3.2 Sample Probe. Stainless steel, or equivalent, three-hole rake type. Sample holes shall be 4 mm in diameter or smaller and located at 16.7, 50, and 83.3 percent of the equivalent stack diameter. Alternatively, a single opening probe may be used so that a gas sample is collected from the centrally located 10 percent area of the stack cross-section.

3.3 Sample Line. Stainless steel or Teflon* tubing to transport the sample gas to the analyzers. The sample line should be heated, if necessary, to prevent condensation in the line.

3.4 Calibration Valve Assembly. A three-way valve assembly to direct the zero and calibration gases to the analyzers is recommended. Other methods, such as quick-connect lines, to route calibration gas to the analyzers are applicable.

3.5 Particulate Filter. An in-stack or an out-of-stack glass fiber filter is recommended if exhaust gas particulate loading is significant. An out-of-stack filter should be heated to prevent any condensation.

3.6 Recorder. A strip-chart recorder, analog computer, or digital recorder for recording measurement data. The minimum data recording requirement is one measurement value per minute. Note: This method is often applied in highly explosive areas. Caution and care should be exercised in choice of equipment and installation.

4. Calibration and Other Gases.

Gases used for calibrations, fuel, and combustion air (if required) are contained in compressed gas cylinders. Preparation of calibration gases shall be done according to the procedure in Protocol No. 1, listed in Reference 9.2. Additionally, the manufacturer of the cylinder should provide a recommended shelf life for each calibration gas cylinder over which the concentration does not change more than #2 percent from the certified value. For calibration gas values not generally available (i.e., organics between 1 and 10 percent by volume), alternative methods for preparing calibration gas mixtures, such as dilution systems, may be used with prior approval of the Administrator.

Calibration gases usually consist of propane in air or nitrogen and are determined in terms of the span value. Organic compounds other than propane can be used following the above guidelines and making the appropriate corrections for response factor.

4.1 Fuel. A 40 percent H_2/60 percent He or 40 percent H_2/60 percent N_2 gas mixture is recommended to avoid an oxygen synergism effect that reportedly occurs when oxygen concentration varies significantly from a mean value.

4.2 Zero Gas. High purity air with less than 0.1 parts per million by volume (ppmv) of organic material (propane or carbon equivalent) or less than 0.1 percent of the span value, whichever is greater.

4.3 Low-level Calibration Gas. An organic calibration gas with a concentration equivalent to 25 to 35 percent of the applicable span value.

4.4 Mid-level Calibration Gas. An organic calibration gas with a concentration equivalent to 45 to 55 percent of the applicable span value.

4.5 High-level Calibration Gas. An organic calibration gas with a concentration equivalent to 80 to 90 percent of the applicable span value.

5. Measurement System Performance Specifications.

5.1 Zero Drift. Less than ±3 percent of the span value.

5.2 Calibration Drift. Less than ±3 percent of span value.

5.3 Calibration Error. Less than ±5 percent of the calibration gas value.

6. Pretest Preparations.

6.1 Selection of Sampling Site. The location of the sampling site is generally specified by the applicable regulation or purpose of the test; i.e., exhaust stack, inlet line, etc. The sample port shall be located at least 1.5 meters or 2 equivalent diameters (whichever is less) upstream of the gas discharge to the atmosphere.

6.2 Location of Sample Probe. Install the sample probe so that the probe is centrally located in the stack, pipe, or duct and is sealed tightly at the stack port connection.

6.3 Measurement System Preparation. Prior to the emission test, assemble the measurement system following the manufacturer's written instructions in preparing the sample interface and the organic analyzer. Make the system operable.

FIA equipment can be calibrated for almost any range of total organics concentrations. For high concentrations of organics (>1.0 percent by volume as propane) modifications to most commonly available analyzers are necessary. One accepted method of equipment modification is to decrease the size of the sample to the analyzer through the use of a smaller diameter sample capillary. Direct and continuous measurement of organic concentration is a necessary consideration when determining any modification design.

6.4 Calibration Error Test. Immediately prior to the test series, (within 2 hours of the start of the test) introduce zero gas and high-level calibration gas at the calibration valve assembly. Adjust the analyzer output to the appropriate levels, if necessary. Calculate the predicted response for the low-level and mid-level gases based on a linear response line between the zero and high-level responses. Then introduce low-level and mid-level calibration gases successively to the measurement system. Record the analyzer responses for low-level and mid-level calibration gases and determine the differences between the measurement system responses and the predicted responses. These differences must be less than 5 percent of the respective calibration gas value. If not, the measurement system is not acceptable and must be replaced or repaired prior to testing. No adjustments to the measurement system shall be conducted after the calibration and before the drift check (Section 7.3). If adjustments are necessary before the completion of the test series, perform the drift checks prior to the required adjustments and repeat the calibration following the adjustments. If multiple electronic ranges are to be used, each additional range must be checked with a mid-level calibration gas to verify the multiplication factor.

6.5 Response Time Test. Introduce zero gas into the measurement system at the calibration valve assembly. When the system output has stabilized, switch quickly to the high-level calibration gas. Record the time from the concentration change to the measurement system response equivalent to 95 percent of the step change. Repeat the test three times and average the results.

7. Emission Measurement Test

7.1 Organic Measurement. Begin sampling at the start of the test period, recording time and any required process information as appropriate. In particular, note on the recording chart periods of process interruption or cyclic operation.

7.2 Drift Determination. Immediately following the completion of the test period and hourly during the test period, reintroduce the zero and mid-level calibration gases, one at a time, to the measurement system at the calibration valve assembly. (Make no adjustments to the measurement system until after both the zero and calibration drift checks are made.) Record the analyzer response. If the drift values exceed the specified limits, invalidate the test results preceding the check and repeat the test following corrections to the measurement system. Alternatively, recalibrate the test measurement system as in Section 6.4 and report the results using both sets of calibration data (i.e., data determined prior to the test period and data determined following the test period).

8. Organic Concentration Calculations.

Determine the average organic concentration in terms of ppmv as propane or other calibration gas. The average shall be determined by the integration of the output recording over the period specified in the applicable regulation.

If results are required in terms of ppmv as carbon, adjust measured concentrations using Equation 25A–1.

$$C_c = K\,C_{meas}$$

Eq. 25A–1

Where:

C_c = Organic concentration as carbon, ppmv.

C_{meas} = Organic concentration as measured, ppmv.

K = Carbon equivalent correction factor.

K = 2 for ethane.

K = 3 for propane.

K = 4 for butane.

K = Appropriate response factor for other organic calibration gases.

9. Bibliography.

9.1 Measurement of Volatile Organic Compounds—Guideline Series. U.S. Environmental Protection Agency. Research Triangle Park, N.C. Publication No. EPA–450/2–78–041. June 1978. p. 46–54.

9.2 Traceability Protocol for Establishing True Concentrations of Gases Used for

* Mention of trade names or specific products does not constitute endorsement by the Environmental Protection Agency.

Calibration and Audits of Continuous Source Emission Monitors (Protocol No. 1). U.S. Environmental Protection Agency, Environmental Monitoring and Support Laboratory. Research Triangle Park, N.C. June 1978.

9.3 Gasoline Vapor Emission Laboratory Evaluation—Part 2. U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards. Research Triangle Park, N.C. EMB Report No. 75–GAS–6. August 1975.

Method 25B—Determination of Total Gaseous Organic Concentration Using a Nondispersive Infrared Analyzer

1. *Applicability and Principle.*

1.1 Applicability. This method applies to the measurement of total gaseous organic concentration of vapors consisting primarily of alkanes. (Other organic materials may be measured using the general procedure in this method, the appropriate calibration gas, and an analyzer set to the appropriate absorption band.) The concentration is expressed in terms of propane (or other appropriate organic calibration gas) or in terms of carbon.

1.2 Principle. A gas sample is extracted from the source through a heated sample line, if necessary, and glass fiber filter to a nondispersive infrared analyzer (NDIR). Results are reported as volume concentration equivalents of the calibration gas or as carbon equivalents.

2. *Definitions.*

The terms and definitions are the same as for Method 25A.

3. *Apparatus.* The apparatus are the same as for Method 25A with the exception of the following:

3.1 Organic Concentration Analyzer. A nondispersive infrared analyzer designed to measure alkane organics and capable of meeting or exceeding the specifications in this method.

4. *Calibration Gases.*

The calibration gases are the same as are required for Method 25A, Section 4. No fuel gas is required for an NDIR.

5. *Measurement System Performance Specifications.*

5.1 Zero Drift. Less than ±3 percent of the span value.

5.2 Calibration Drift. Less than ±3 percent of the span value.

5.3 *Calibration Error.* Less than ±5 percent of the calibration gas valve.

6. *Pretest Preparations.*

6.1 Selection of Sampling Site. Same as in Method 25A, Section 6.1.

6.2 Location of Sampling Probe. Same as in Method 25A, Section 6.2.

6.3 Measurement System Preparation. Prior to the emission test, assemble the measurement system following the manufacturer's written instructions in preparing the sample interface and the organic analyzer. Make the system operable.

6.4 Calibration Error Test. Same as in Method 25A, Section 6.4.

6.5 Response Time Test Procedure. Same as in Method 25A, Section 6.4.

7. *Emission Measurement Test Procedure.*

Proceed with the emission measurement immediately upon satisfactory completion of the calibration.

7.1 Organic Measurement. Same as in Method 25A, Section 7.1.

7.2 Drift Determination. Same as in Method 25A, Section 7.2.

8. *Organic Concentration Calculations.*

The calculations are the same as in Method 25A, Section 8.

9. *Bibliography.*

The bibliography is the same as in Method 25A, Section 9.

Method 27—Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test

1. *Applicability and Principle.*

1.1 Applicability. This method is applicable for the determination of vapor tightness of a gasoline delivery tank which is equipped with vapor collection equipment.

1.2 Principle. Pressure and vacuum are applied alternately to the compartments of a gasoline delivery tank and the change in pressure or vacuum is recorded after a specified period of time.

2. *Definitions and Nomenclature.*

2.1 Gasoline. Any petroleum distillate or petroleum distillate/alcohol blend having a Reid vapor pressure of 27.6 kilopascals or greater which is used as a fuel for internal combustion engines.

2.2 Delivery tank. Any container, including associated pipes and fittings, that is attached to or forms a part of any truck, trailer, or railcar used for the transport of gasoline.

2.3 Compartment. A liquid-tight division of a delivery tank.

2.4 Delivery tank vapor collection equipment. Any piping, hoses, and devices on the delivery tank used to collect and route gasoline vapors either from the tank to a bulk terminal vapor control system or from a bulk plant or service station into the tank.

2.5 Time period of the pressure or vacuum test (t). The time period of the test, as specified in the appropriate regulation, during which the change in pressure or vacuum is monitored, in minutes.

2.6 Initial pressure (P_i). The pressure applied to the delivery tank at the beginning of the static pressure test, as specified in the appropriate regulation, in mm H_2O.

2.7 Initial vacuum (V_i). The vacuum applied to the delivery tank at the beginning of the static vacuum test, as specified in the appropriate regulation, in mm H_2O.

2.8 Allowable pressure change (Δp). The allowable amount of decrease in pressure during the static pressure test, within the time period t, as specified in the appropriate regulation, in mm H_2O.

2.9 Allowable vacuum change (Δv). The allowable amount of decrease in vacuum during the static vacuum test, within the time period t, as specified in the appropriate regulation, in mm H_2O.

3. *Apparatus.*

3.1 Pressure source. Pump or compressed gas cylinder of air or inert gas sufficient to pressurize the delivery tank to 500 mm H_2O above atmospheric pressure.

3.2 Regulator. Low pressure regulator for controlling pressurization of the delivery tank.

3.3 Vacuum source. Vacuum pump capable of evacuating the delivery tank to 250 mm H_2O below atmospheric pressure.

3.4 Pressure-vacuum supply hose.

3.5 Manometer. Liquid manometer, or equivalent instrument, capable of measuring up to 500 mm H_2O gauge pressure with ±2.5 mm H_2O precision.

3.6 Pressure-vacuum relief valves. The test apparatus shall be equipped with an in-line pressure-vacuum relief valve set to activate at 675 mm H_2O above atmospheric pressure or 250 mm H_2O below atmospheric pressure, with a capacity equal to the pressurizing or evacuating pumps.

3.7 Test cap for vapor recovery hose. This cap shall have a tap for manometer connection and a fitting with shut-off valve for connection to the pressure-vacuum supply hose.

3.8 Caps for liquid delivery hoses.

4. *Pretest Preparations.*

4.1 Summary. Testing problems may occur due to the presence of volatile vapors and/or temperature fluctuations inside the delivery tank. Under these conditions, it is often difficult to obtain a stable initial pressure at the beginning of a test, and erroneous test results may occur. To help prevent this, it is recommended that, prior to testing, volatile vapors be removed from the tank and the temperature inside the tank be allowed to stabilize. Because it is not always possible to attain completely these pretest conditions a provision to ensure reproducible results is included. The difference in results for two consecutive runs must meet the criterion in Sections 5.2.5 and 5.3.5.

4.2 Emptying of tank. The delivery tank shall be emptied of all liquid.

4.3 Purging of vapor. As much as possible, the delivery tank shall be purged of all volatile vapors by any safe, acceptable method. One method is to carry a load of non-volatile liquid fuel, such as diesel or heating oil, immediately prior to the test, thus flushing out all the volatile gasoline vapors. A second method is to remove the volatile vapors by blowing ambient air into each tank compartment for at least 20 minutes. This second method is usually not as effective and often causes stabilization problems, requiring a much longer time for stabilization during the testing.

4.4 Temperature stabilization. As much as possible, the test shall be conducted under isothermal conditions. The temperature of the delivery tank should be allowed to equilibrate in the test environment. During the test, the tank should be protected from extreme environmental and temperature variability, such as direct sunlight.

5. *Test Procedure.*

5.1 Preparations.

5.1.1. Open and close each dome cover.

5.1.2 Connect static electrical ground connections to tank. Attach the liquid delivery and vapor return hoses, remove the liquid delivery elbows, and plug the liquid delivery fittings.

(Note.—The purpose of testing the liquid delivery hoses is to detect tears or holes that would allow liquid leakage during a delivery. Liquid delivery hoses are not considered to be possible sources of vapor leakage, and thus, do not have to be attached for a vapor leakage test. Instead, a liquid delivery hose

could be either visually inspected, or filled with water to detect any liquid leakage.)

5.1.3 Attach the test cap to the end of the vapor recovery hose.

5.1.4 Connect the pressure-vacuum supply hose and the pressure-vacuum relief valve to the shut-off valve. Attach a manometer to the pressure tap.

5.1.5 Connect compartments of the tank internally to each other if possible. If not possible, each compartment must be tested separately, as if it were an individual delivery tank.

5.2 Pressure test.

5.2.1 Connect the pressure source to the pressure-vacuum supply hose.

5.2.2 Open the shut-off valve in the vapor recovery hose cap. Applying air pressure slowly, pressurize the tank to P_i, the initial pressure specified in the regulation.

5.2.3 Close the shut-off valve and allow the pressure in the tank to stabilize, adjusting the pressure if necessary to maintain pressure of P_i. When the pressure stabilizes, record the time and initial pressure.

5.2.4 At the end of t minutes, record the time and final pressure.

5.2.5 Repeat steps 5.2.2 through 5.2.4 until the change in pressure for two consecutive runs agrees within ±12.5 mm H_2O. Calculate the arithmetic average of the two results.

5.2.6 Compare the average measured change in pressure to the allowable pressure change, Δp, as specified in the regulation. If the delivery tank does not satisfy the vapor tightness criterion specified in the regulation, repair the sources of leakage, and repeat the pressure test until the criterion is met.

5.2.7 Disconnect the pressure source from the pressure-vacuum supply hose, and slowly open the shut-off valve to bring the tank to atmospheric pressure.

5.3 Vacuum test.

5.3.1 Connect the vacuum source to the pressure-vacuum supply hose.

5.3.2 Open the shut-off valve in the vapor recovery hose cap. Slowly evacuate the tank to V_i, the initial vacuum specified in the regulation.

5.3.3 Close the shut-off valve and allow the pressure in the tank to stabilize, adjusting the pressure if necessary to maintain a vacuum of V_i. When the pressure stabilizes, record the time and initial vacuum.

5.3.4 At the end of t minutes, record the time and final vacuum.

5.3.5 Repeat steps 5.3.2 through 5.3.4 until the change in vacuum for two consecutive runs agrees within ◇12.5 mm H_2O. Calculate the arithmetic average of the two results.

5.3.6 Compare the average measured change in vacuum to the allowable vacuum change, Δp, as specified in the regulation. If the delivery tank does not satisfy the vapor tightness criterion specified in the regulation, repair the sources of leakage, and repeat the vacuum test until the criterion is met.

5.3.7 Disconnect the vacuum source from the pressure-vacuum supply hose, and slowly open the shut-off valve to bring the tank to atmospheric pressure.

5.4 Post-test clean-up. Disconnect all test equipment and return the delivery tank to its pretest condition.

6. *Alternative Procedures.*

6.1 The pumping of water into the bottom of a delivery tank is an acceptable alternative to the pressure source described above. Likewise, the draining of water out of the bottom of a delivery tank may be substituted for the vacuum source. Note that some of the specific step-by-step procedures in the method must be altered slightly to accommodate these different pressure and vacuum sources.

6.2 Techniques other than specified above may be used for purging and pressurizing a delivery tank, if prior approval is obtained from the Administrator. Such approval will be based upon demonstrated equivalency with the above method.

[FR Doc. 83-22280 Filed 8-17-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 60

[AD-FRL-2241-6a]

Addition of Reference Method 21 to Appendix A

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action establishes a new reference method to be added to Appendix A of 40 CFR Part 60, standards of performance for new stationary sources. Reference Method 21 will be used to determine volatile organic compound (VOC) leaks from process equipment such as valves, flanges and other connections, pump and compressor seals, pressure relief devices, process drains, open-ended valves, pump and compressor seal system degassing vents, accumulator vessel vents, agitator seals, and access door seals. This reference method will be used in several air pollution regulations for the limitation of fugitive VOC emissions which are being developed for proposal and promulgation.

EFFECTIVE DATE: August 18, 1983.

ADDRESSES: *Docket.* A docket, number A-79-32, containing information considered by EPA in development of standards of performance for fugitive emission sources in the synthetic organic chemical manufacturing industry, and which also contains information considered in development of the promulgated reference method, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (A-130), West Tower Lobby, Gallery 1, 401, M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Winton Kelly, Emission Measurement Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5543.

SUPPLEMENTARY INFORMATION:

Summary of the Reference Method

Reference Method 21, "Determination of Volatile Organic Compound Leaks" is used to detect VOC leaks from individual sources of fugitive emissions. This procedure is used to identify and classify leaks only, and is not to be used as a direct measure of mass emission rates from individual sources. A portable instrument is used to measure the local organics concentration at the surface of a potential leak source. If a meter reading equal to or greater than a limit specified in an applicable regulation is obtained, a VOC emission (leak) exists. The procedure can also be used to confirm that "no detectable emissions" are present. If the measured difference between the local ambient concentration and the concentration present at the surface of the potential leak source is less than a concentration specified in an applicable regulation, then there are no detectable emissions.

Background

On January 5, 1981, as an appendix to the proposed standards of performance for fugitive emission sources in the synthetic organic chemical manufacturing industry, EPA proposed Reference Method 21. This method would normally be promulgated with those standards. However, the method is being promulgated earlier because several additional regulations are being developed for promulgation in the near future that specify that Reference Method 21 be used. This early promulgation will ensure that the reference procedure will be promulgated prior to being specified in promulgated standards of performance.

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 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; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprise to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic

impact on a substantial number of small entities.

Public Participation

During the development of the test method, trade and professional associations and individual companies supplied comments on the methods. After proposal on January 5, 1981, comments were received from various sources. A public hearing was held on March 3, 1981, to receive additional formal comments. The formal comment period was extended from April 6, 1981, to July 31, 1981.

Public Comments and Changes Made to the Proposed Reference Method

Numerous comments were received in response to proposal of the standards of performance for fugitive emissions from synthetic organic chemical industry. Most of the comments concerning the test method were specifically related to the selection of the definition of a leak, and not to the procedure alone. These comments have been carefully considered and, where determined to be appropriate, changes have been made in the proposed test method. A detailed discussion of the comments and full responses will be included in Docket No. A-79-32.

The following discussion summarizes the changes made to the reference method based on additional review and in response to public comment.

The promulgated reference method has been reorganized to improve the clarity of the description of the procedures. A "Definitions" section has been added to place all the definitions in one section.

A change in the requirements for instrument performance evaluation was also made to improve the quality control of the procedure. Instead of requiring a calibration precision test consisting of nine repetitions at 6-month intervals, the new requirements specify a test consisting of three repetitions at 3-month intervals. This change will provide a quality control result every quarter and will require less effort.

The definition of "no detectable emissions" has been changed to be consistent with the instrument specification of scale readability. The proposed procedure defined "no detectable emissions" as 2 percent of the leak definition concentration, with a minimum scale readability of 5 percent of the leak definition. The definition of "no detectable emissions" has been changed to correspond to the minimum readability specification and will be specified in applicable regulations.

Several commenters noted that the instruments used during screening studies responded differently for different chemicals. One commenter stated that the actual response factor was poorly related to the theoretical response factor and cited inconsistent responses for nonane and decane, as well as no response for some chemicals, to support his claims. Another commenter suggested that the leak concentration for the standards should vary according to the process unit since a wide variability (0 to 571) in response factors has been determined for the industry. And, another commenter stated that aromatic compounds such as benzene, toluene, and xylene demonstrate a nonlinear response close to 10,000 ppmv. In response to these comments, Reference Method 21 gives specifications for the instrument to be used in monitoring fugitive VOC emission sources. The technique is intended to classify leaks only, not to provide a rigorous analytical concentration or mass emission rate of VOC. A specific statement has been added to Method 21 to clarify the intention to classify leaks only. The variation in response factor due to compound or instrument is not expected to affect significantly the number of leaks determined through screening because screening values are usually much greater than the leak definition for leaks and much less than the leak definition for nonleaks. Two industry commenters concur with EPA in this position. However, to remove some of the wide variability, a definition, specification, and test procedure for response factors have been added to Method 21. This specification will assure that the analyzer used will respond to the compounds to be measured.

Another commenter suggested that the gas specification section be amended to include a turnover of calibration gas standards every 3 months since calibration gases can deteriorate significantly over time. A provision has been added to the promulgated Reference Method 21 to require a shelf-life specification on calibration gases and procedures to follow to ensure that calibration gas concentrations are accurate.

Two comments concerned the instrumentation requirements of Reference Method 21. The commenter stated that only two instruments on the market today could be considered, and neither one would meet the specifications of the reference method entirely: the first instrument fails the calibration accuracy, and the section instrument does not meet the response time requirement. In response, although there are only two instruments which have been used to any great extent, the technical literature and product information suggest that there are others which could be used for detecting leaks. The specifications included in the proposed reference method are achievable based on performance during EPA studies.

One comment letter expressed concern that no provision was made for the use of new instruments or calibration procedures which would provide equivalent or more accurate results. They asked that equivalency provisions be added for test methods and procedures. In response, Reference Method 21 gives specifications for the monitoring instrument that are general enough so as not to preclude new analytical developments. In addition, the General Provisions (40 CFR Part 60, Subpart A) allow for equivalent methods and procedures to be used for performance testing and monitoring when the results of the equivalent method have been demonstrated to be at least as accurate as results obtained by the required methods.

One commenter suggested that use of a windscreen upwind of the component being screened would prevent meteorological effects on the instrument readings. During EPA studies, the selection of a measurement location at the surface of the source was made to minimize meteorological effects. During the data collection efforts, no further provisions were found necessary to obtain repeatable screening values. Therefore, all of the field data were collected without a windscreen. In view of these facts, it seems unnecessary to require that a windscreen be used.

An alternative screening procedure has been added for those sources that can be tested with a soap solution. These sources are restricted to those with non-moving seals, moderate surface temperatures, without large openings to atmosphere, and without evidence of liquid leakage. The soap solution is sprayed on all applicable sources and the potential leak sites are observed to determine if bubbles are formed. If no bubbles are formed, then no detectable emissions or leaks exist. If any bubbles are formed, then the instrument measurement techniques must be used to determine if a leak exists, or if no detectable emissions exist, as applicable.

The alternative soap solution procedure does not apply to pump seals, sources with surface temperatures greater than the boiling point or less than the freezing point of the soap solution, sources such as open-ended lines or valves, pressure relief value

horns, vents with large openings to atmosphere, and any source where liquid leakage is present. The instrument technique in the method must be used for these sources.

The alternative of establishing a soap scoring leak definition equivalent to a concentration-based leak definition is not included in the method and is not recommended for inclusion in an applicable regulation because of the difficulty of calibrating and normalizing a scoring technique based on bubble formation rates. A scoring technique would be based on estimated ranges of volumetric leak rates. These estimates depend on the bubble size and formation rate, which are subjective judgments of an observer. These subjective judgments could only be calibrated or normalized by requiring that the observers correctly identify and score a standard series of test bubbles. It has been reported that trained observers can correctly and repeatably classify ranges of volumetric leak rates. However, because soap scoring requires subjective observations and since an objective concentration measurement procedure is available, a soap scoring equivalent leak definition is not recommended for the applicable regulation. The alternate procedure that has been included will allow more rapid identification of potential leaks for more rigorous instrumental concentration measurement.

Miscellaneous

This final rulemaking is issued under the authority of Sections 111, 114, and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7411, 7414, and 7691(a)].

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires.

Dated: August 4, 1983.

William D. Ruckelshaus,

Administrator.

Appendix A of 40 CFR Part 60 is amended by adding Reference Method 21 as follows:

Appendix A—Reference Methods

* * * * *

Method 21. Determination of Volatile Organic Compounds Leaks

1. Applicability and Principle.

1.1 Applicability. This method applies to the determination of volatile organic compound (VOC) leaks from process equipment. These sources include, but are not limited to, valves, flanges and other connections, pumps and compressors, pressure relief devices, process drains, open-ended valves, pump and compressor seal system degassing vents, accumulator vessel vents, agitator seals, and access door seals.

1.2 Principle. A portable instrument is used to detect VOC leaks from individual sources. The instrument detector type is not specified, but it must meet the specifications and performance criteria contained in Section 3. A leak definition concentration based on a reference compound is specified in each applicable regulation. This procedure is intended to locate and classify leaks only, and is not to be used as a direct measure of mass emission rates from individual sources.

2. Definitions.

2.1 Leak Definition Concentration. The local VOC concentration at the surface of a leak source that indicates that a VOC emission (leak) is present. The leak definition is an instrument meter reading based on a reference compound.

2.2 Reference Compound. The VOC species selected as an instrument calibration basis for specification of the leak definition concentration. (For example: If a leak definition concentration is 10,000 ppmv as methane, then any source emission that results in a local concentration that yields a meter reading of 10,000 on an instrument calibrated with methane would be classified as a leak. In this example, the leak definition is 10,000 ppmv, and the reference compound is methane.)

2.3 Calibration Gas. The VOC compound used to adjust the instrument meter reading to a known value. The calibration gas is usually the reference compound at a concentration approximately equal to the leak definition concentration.

2.4 No Detectable Emission. The local VOC concentration at the surface of a leak source that indicates that a VOC emission (leak) is not present. Since background VOC concentrations may exist, and to account for instrument drift and imperfect reproducibility, a difference between the source surface concentration and the local ambient concentration is determined. A difference based on meter readings of less than a concentration corresponding to the minimum readability specification indicates that a VOC emission (leak) is not present. (For example, if the leak definition in a regulation is 10,000 ppmv, then the allowable increase in surface concentration versus local ambient concentration would be 500 ppmv based on the instrument meter readings.)

2.5 Response Factor. The ratio of the known concentration of a VOC compound to the observed meter reading when measured using an instrument calibrated with the reference compound specified in the application regulation.

2.6 Calibration Precision. The degree of agreement between measurements of the same known value, expressed as the relative percentage of the average difference between the meter readings and the known concentration to the known concentration.

2.7 Response Time. The time interval from a step change in VOC concentration at the input of the sampling system to the time at which 90 percent of the corresponding final value is reached as displayed on the instrument readout meter.

3. Apparatus.

3.1 Monitoring Instrument.

3.1.1 Specifications.

a. The VOC instrument detector shall respond to the compounds being processed. Detector types which may meet this requirement include, but are not limited to, catalytic oxidation, flame ionization, infrared absorption, and photoionization.

b. The instrument shall be capable of measuring the leak definition concentration specified in the regulation.

c. The scale of the instrument meter shall be readable to 5 percent of the specified leak definition concentration.

d. The instrument shall be equipped with a pump so that a continuous sample is provided to the detector. The nominal sample flow rate shall be ⅛ to 3 liters per minute.

e. The instrument shall be intrinsically safe for operation in explosive atmospheres as defined by the applicable U.S.A. standards (e.g., National Electrical Code by the National Fire Prevention Association).

3.1.2 Performance Criteria.

a. The instrument response factors for the individual compounds to be measured must be less than 10.

b. The instrument response time must be equal to or less than 30 seconds. The response time must be determined for the instrument configuration to be used during testing.

c. The calibration precision must be equal to or less than 10 percent of the calibration gas value.

d. The evaluation procedure for each parameter is given in Section 4.4.

3.1.3 Performance Evaluation Requirements.

a. A response factor must be determined for each compound that is to be measured, either by testing or from reference sources. The response factor tests are required before placing the analyzer into service, but do not have to be repeated as subsequent intervals.

b. The calibration precision test must be completed prior to placing the analyzer into service, and at subsequent 3-month intervals or at the next use whichever is later.

c. The response time test is required prior to placing the instrument into service. If a modification to the sample pumping system or flow configuration is made that would change the response time, a new test is required prior to further use.

3.2 Calibration Gases. The monitoring instrument is calibrated in terms of parts per million by volume (ppmv) of the reference compound specified in the applicable regulation. The calibration gases required for monitoring and instrument performance evaluation are a zero gas (air, less than 10 ppmv VOC) and a calibration gas in air mixture approximately equal to the leak definition specified in the regulation. If cylinder calibration as mixture are used, they must be analyzed and certified by the manufacturer to be within ±2 percent

accuracy, and a shelf life must be specified. Cylinder standards must be either reanalyzed or replaced at the end of the specified shelf life. Alternately, calibration gases may be prepared by the user according to any accepted gaseous standards preparation procedure that will yield a mixture accurate to within ±2 percent. Prepared standards must be replaced each day of use unless it can be demonstrated that degradation does not occur during storage.

Calibrations may be performed using a compound other than the reference compound if a conversion factor is determined for that alternative compound so that the resulting meter readings during source surveys can be converted to reference compound results.

4. Procedures.

4.1 Pretest Preparations. Perform the instrument evaluation procedures given in Section 4.4 if the evaluation requirements of Section 3.1.3 have not been met.

4.2 Calibration Procedures. Assemble and start up the VOC analyzer according to the manufacturer's instructions. After the appropriate warmup period and zero internal calibration procedure, introduce the calibration gas into the instrument sample probe. Adjust the instrument meter readout to correspond to the calibration gas value.

Note.—If the meter readout cannot be adjusted to the proper value, a malfunction of the analyzer is indicated and corrective actions are necessary before use.

4.3 Individual Source Surveys.

4.3.1 Type I—Leak Definition Based on Concentration. Place the probe inlet at the surface of the component interface where leakage could occur. Move the probe along the interface periphery while observing the instrument readout. If an increased meter reading is observed, slowly sample the interface where leakage is indicated until the maximum meter reading is obtained. Leave the probe inlet at this maximum reading location for approximately two times the instrument response time. If the maximum observed meter reading is greater than the leak definition in the applicable regulation, record and report the results as specified in the regulation reporting requirements. Examples of the application of this general technique to specific equipment types are:

a. Valves—The most common source of leaks from valves is at the seal between the stem and housing. Place the probe at the interface where the stem exists the packing gland and sample the stem circumference. Also, place the probe at the interface of the packing gland take-up flange seat and sample the periphery. In addition, survey valve housings of multipart assembly at the surface of all interfaces where leak could occur.

b. Flanges and Other Connections—For welded flanges, place the probe at the outer edge of the flange-gasket interface and sample the circumference of the flange. Sample other types of nonpermanent joints (such as threaded connections) with a similar traverse.

c. Pumps and Compressors—Conduct a circumferential traverse at the outer surface of the pump or compressor shaft and seal interface. If the source is a rotating shaft, position the probe inlet within 1 cm of the shaft-seal interface for the survey. If the housing configuration prevents a complete traverse of the shaft periphery, sample all accessible portions. Sample all other joints on the pump or compressor housing where leakage could occur.

d. Pressure Relief Devices—The configuration of most pressure relief devices prevents sampling at the sealing seat interface. For those devices equipped with an enclosed extension, or horn, place the probe inlet at approximately the center of the exhaust area to the atmosphere.

e. Process Drains—For open drains, place the probe inlet at approximately the center of the area open to the atmosphere. For covered drains, place the probe at the surface of the cover interface and conduct a peripheral traverse.

f. Open-Ended Lines or Valves—Place the probe inlet at approximately the center of the opening to the atmosphere.

g. Seal System Degassing Vents and Accumulator Vents—Place the probe inlet at approximately the center of the opening to the atmosphere.

h. Access Door Seals—Place the probe inlet at the surface of the door seal interface and conduct a peripheral traverse.

4.3.2 Type II—"No Detectable Emission". Determine the local ambient concentration around the source by moving the probe inlet randomly upwind and downwind at a distance of one to two meters from the source. If an interference exists with this determination due to a nearby emission or leak, the local ambient concentration may be determined at distances closer to the source, but in no case shall the distance be less than 25 centimeters. Then move the probe inlet to the surface of the source and determine the concentration described in 4.3.1. The difference between these concentrations determines whether there are no detectable emissions. Record and report the results as specified by the regulation.

For those cases where the regulation requires a specific device installation, or that specified vents be ducted or piped to a control device, the existence of these conditions shall be visually confirmed. When the regulation also requires that no detectable emissions exist, visual observations and sampling surveys are required. Examples of this technique are:

(a) Pump or Compressor Seals—If applicable, determine the type of shaft seal. Preform a survey of the local area ambient VOC concentration and determine if detectable emissions exist as described above.

(b) Seal System Degassing Vents, Accumulator Vessel Vents, Pressure Relief Devices—If applicable, observe whether or not the applicable ducting or piping exists. Also, determine if any sources exist in the ducting or piping where emissions could occur prior to the control device. If the required ducting or piping exists and there are no sources where the emissions could be vented to the atmosphere prior to the control device, then it is presumed that no detectable emissions are present. If there are sources in the ducting or piping where emissions could be vented or sources where leaks could occur, the sampling surveys described in this paragraph shall be used to determine if detectable emissions exist.

4.3.3 Alternative Screening Procedure. A screening procedure based on the formation of bubbles in a soap solution that is sprayed on a potential leak source may be used for those sources that do not have continuously moving parts, that do not have surface temperatures greater than the boiling point or less than the freezing point of the soap solution, that do not have open areas to the atmosphere that the soap solution cannot bridge, or that do not exhibit evidence of liquid leakage. Sources that have these conditions present must be surveyed using the instrument techniques of 4.3.1 or 4.3.2.

Spray a soap solution over all potential leak sources. The soap solution may be a commercially available leak detection solution or may be prepared using concentrated detergent and water. A pressure sprayer or a squeeze bottle may be used to dispense the solution. Observe the potential leak sites to determine if any bubbles are formed. If no bubbles are observed, the source is presumed to have no detectable emissions or leaks as applicable. If any bubbles are observed, the instrument techniques of 4.3.1 or 4.3.2 shall be used to determine if a leak exists, or if the source has detectable emissions, as applicable.

4.4 Instrument Evaluation Procedures. At the beginning of the instrument performance evaluation test, assemble and start up the instrument according to the manufacturer's instructions for recommended warmup period and preliminary adjustments.

4.4.1 Response Factor. Calibrate the instrument with the reference compound as specified in the applicable regulation. For each organic species that is to be measured during individual source surveys, obtain or prepare a known standard in air at a concentration of approximately 80 percent of the applicable leak definition unless limited by volatility or explosivity. In these cases, prepare a standard at 90 percent of the saturation concentration, or 70 percent of the lower explosive limit, respectively. Introduce this mixture to the analyzer and record the observed meter reading. Introduce zero air until a stable reading is obtained. Make a total of three measurements by alternating between the known mixture and zero air. Calculate the response factor for each repetition and the average response factor.

Alternatively, if response factors have been published for the compounds of interest for the instrument or detector type, the response factor determination is not required, and existing results may be referenced. Examples of published response factors for flame ionization and catalytic oxidation detectors are included in Section 5.

4.4.2 Calibration Precision. Make a total of three measurements by alternately using zero gas and the specified calibration gas. Record the meter readings. Calculate the average algebraic difference between the meter readings and the known value. Divide this average difference by the known calibration value and mutiply by 100 to express the resulting calibration precision as a percentage.

4.4.3 Response Time. Introduce zero gas into the instrument sample probe. When the meter reading has stabilized, switch quickly to the specified calibration gas. Measure the time from switching to when 90 percent of the final stable reading is attained. Perform this test sequence three times and record the results. Calculate the average response time.

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5.3 DuBose, D.A., et al. Response of Portable VOC Analyzers to Chemical Mixtures. U.S. Environmental Protection Agency, Research Triangle Park, N.C. Publication No. EPA 600/2–81–110. September 1981.

[FR Doc. 83–22409 Filed 8–17–83; 8:45 am]

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Reader Aids

Federal Register

Vol. 48, No. 161

Thursday, August 18, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419
	523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Presidential Determinations:

No. 83-8 of July 19, 1983.....35587

No. 83-9 of August 5, 1983.....36561

Executive Orders:

12217 (Revoked by EO 12437).....36801

12435.....34723

12436.....34931

12437.....36801

Proclamations:

5078.....34929

5079.....35873

5080.....36091

5081.....36241

5082.....36797

5083.....36799

5 CFR

550.....36803

551.....36803

950.....34910

Proposed Rules:

1255.....35652

7 CFR

2.....37359

28.....37001

226.....35589

707.....35598

720.....35599

726.....36563

796.....35599

908.....35345, 36439, 37360

910.....35600, 36563

915.....35345

916.....35345

917.....35345

921.....35345

922.....35345

924.....35345

926.....35345

930.....35345

945.....35345

946.....35345

947.....35345

948.....35345

953.....35345

958.....35345

967.....35345

982.....35345

985.....35345

989.....35347

993.....35345

1124.....36439

1427.....35348

1430.....34725, 34933

3015.....35875

Proposed Rules:

68.....35411

75.....35411

101.....37417

201.....35417

240.....35108

278.....35868

279.....35868

404.....35418

408.....35423

413.....35427

416.....37420

417.....35431

421.....35435

423.....35439

425.....35443

432.....35447

437.....35112

442.....35451

983.....36272

989.....35454

1004.....36113

1030.....36464

1076.....36467

1079.....37424

1139.....35652

1290.....35116

8 CFR

100.....37201

103.....36441, 36564

212.....35349, 36564

231.....36093, 37003

235.....35349

9 CFR

78.....34943

92.....37202

97.....37361

Proposed Rules:

3.....35654

317.....35654

319.....35654

325.....35884

381.....35654, 35884

10 CFR

25.....35069

40.....35350

71.....35600

795.....36432

1016.....36432

Proposed Rules:

Ch. I.....34966

Ch. II.....37226

430.....34858

625.....35119

710.....35342

761.....36792

1017.....36825

12 CFR

207 35070
220 34944
221 ..... 35074, 37361
225 37003
303 ..... 34945, 36565
329 ..... 35627, 35629

Proposed Rules:

226 35659
705 37042

13 CFR

Proposed Rules:

120 37044
121 34966
122 36825

14 CFR

39 ..... 34731, 35355-35364, 36806, 37361-37364
71 ..... 35364-35366, 36442, 37365
73 36806
75 35366
91 36442
95 36445
97 35876
212 36445
252 36093
261 35080
263 35081
289 35081
398 36094

Proposed Rules:

Ch. I 36826
39 ..... 36468, 37425-37427
71 ..... 35456-35458, 35887, 36827, 37428, 37429
152 36828
159 37430
241 ..... 36598, 36601
252 36273
298 36601
377 35459
385 36601
399 35119

15 CFR

Proposed Rules:

921 35120
971 35888

16 CFR

13 ..... 35367, 37202, 37203
305 35385
455 36096
1013 36566

Proposed Rules:

13 ..... 34764, 35132-35135, 35888
451 36273
460 35661

17 CFR

1 35248
3 ..... 34732, 35248, 35305, 37203
4 35248
10 35248
15 35248
17 35248
18 35248
21 35248
33 35248
140 34945
145 35248
147 35248
155 35248
166 35248
170 35248
210 36566
239 36566
240 35082
270 ..... 36097, 36243

Proposed Rules:

145 34971
146 34971
147 34971
240 37430
249 36115
270 35459

18 CFR

2 ..... 35631, 35633
154 35633
157 ..... 34872, 34875, 35635
270 35633
271 35633-35636
284 ..... 34875, 35635
300 37006
410 ..... 34946, 36469

Proposed Rules:

271 35663-35666

19 CFR

12 34734
127 34734
177 35878
210 35386

Proposed Rules:

101 35666
171 37227
175 36625

20 CFR

404 37015

Proposed Rules:

299 35460
404 ..... 35135, 36831
410 35135
416 ..... 35135, 36831, 37228
422 ..... 35135, 36831
652 ..... 34866, 34974
653 34866
655 35667

21 CFR

5 36571
74 ..... 34946, 37020
109 37020
177 36099
193 ..... 36246, 36448, 37203
436 34947
452 36571
522 ..... 34947, 36100, 36571
558 ..... 34948, 34949, 35637, 36100, 36101
561 ..... 36448, 37203
610 37022
870 36101
1316 35087

Proposed Rules:

133 ..... 36132, 36625
184 34974
291 35668
353 36133

23 CFR

Ch. I 35388

Proposed Rules:

652 36470
771 33894

24 CFR

202a 36247
203 ..... 34949, 35088, 35638, 36247
205 35389
207 35389
209 36247
211 36247
213 ..... 35389, 35638, 36247
220 ..... 35393, 36247
221 ..... 35389, 36247
222 36247
226 36247
228 36247
232 35389
234 ..... 35638, 36247
235 ..... 34949, 36247
237 36247
244 35389
300 ..... 36572, 36573
500 36574
868 37023
886 36101

Proposed Rules:

115 36133
200 ..... 35668-35671, 35890
203 35140
234 35140
235 35140
241 35891
3280 37135

25 CFR

Proposed Rules:

11 37046

26 CFR

1 36448
31 ..... 35089, 36807
35 ..... 35090, 36448, 36807
51 35092
150 35092
301 36449

Proposed Rules:

1 ..... 36137, 36474
5c 36137
20 35143
31 36474

27 CFR

9 ..... 35395, 37365-37374
178 35398

Proposed Rules:

5 35460
9 35462

28 CFR

0 35087
9 35087
60 37376

Proposed Rules:

0 35892
16 35892

29 CFR

500 ..... 36576, 36736
1910 36576
1952 ..... 34950, 34951, 37024
1956 37025
2610 37027
2619 36816
2622 37027

Proposed Rules:

1550 37047
1697 34766
1926 35774
2615 37230

30 CFR

Ch. II 35639
221 36582
226 36582
231 36588
641 37377
642 37377
800 36418
806 36418
872 35399
880 37377
881 37377
926 37382

Proposed Rules:

55 36789
56 36789
57 36789
913 36625
915 35903
935 ..... 35146, 36274, 36627

31 CFR

Proposed Rules:

1 35904

32 CFR

70 35644
219 35400
253 35644
263 34952
373 36247
706 ..... 37029, 37030
819a 35878
865 37384

Proposed Rules:

65 34974

33 CFR

1 35402
8 36449
25 36450
53 36449
100 ..... 36450, 36451, 37396, 37397
110 36452
117 ..... 35409, 36452
154 34740
160 35402
161 35402
165 ..... 35402, 36453
167 36453

Proposed Rules:

100 ..... 36474, 37433
110 34767
115 35464
117 ..... 36475, 36477
161 37433
165 37438

34 CFR

200 34953
205 35879
263 35330

35 CFR

Proposed Rules:

111 35905

36 CFR

223 34740

Proposed Rules:

228 35580
251 ..... 35465, 35580
261 35465

37 CFR

202 37204

Proposed Rules:

1 ..... 34836, 36478
2 36478
202 37232

38 CFR

3 37031
17 37398
21 ..... 35879, 36577
36 35879
40 36103

Proposed Rules:

21 ..... 34975, 35146

39 CFR

10 35409
111 35645

Proposed Rules:

111 37439
3001 35914

40 CFR

52 ..... 36250, 36818, 36819, 37401–37403
60 ..... 36579, 37578, 37598
61 36579
81 37404
162 35095
180 ..... 35095, 36251, 37210–37214
264 36582
270 36582
271 ..... 34742, 34954, 35096, 35097, 35647, 36252, 37215
425 35649
468 36942

Proposed Rules:

Ch. II 34768
52 ..... 34976, 35312–35328, 35672, 35918, 36139, 37232
60 ..... 35338, 37338
62 34978
81 ..... 35919, 35920, 36275
180 36486
228 ..... 35147, 35673
271 ..... 36277, 36628
302 34979
414 35674
416 35674
1502 36486
1508 36486

41 CFR

Ch. 1 37031
Ch. 101 35098
5–53 37405
101–41 35649

Proposed Rules:

3–1 37223
3–3 37223

42 CFR

405 37408

Proposed Rules:

71 36143
100 36390
122 36402
123 36402
125 36390
405 34979
421 34979
431 36151
460 36970
462 36970

43 CFR

2 37411
1820 36103

Public Land Orders:

3160 36582
3180 36582
3570 36588
6380 (corrected by PLO 6451) 35099
6388 (corrected by PLO 6450) 35098
6448 34743
6449 34743
6450 35098
6451 35099
8360 36382

44 CFR

64 ..... 34744, 34957, 36590, 36592
67 36104
71 37036

Proposed Rules:

61 35468
62 35468
67 ..... 36159–36167, 36629

45 CFR

1 35099
10 35099
67 35099
99 35099
1607 36820

Proposed Rules:

5b 37440
302 35468
304 35468
306 35468
1606 36845
1625 36845

46 CFR

31 36457
32 36457
35 36457
221 35881
503 36253
536 ..... 35099, 36254

Proposed Rules:

10 35920
35 35920
50 37441
52 37441
53 37441
54 37441
63 37441
157 35920
162 37441
175 35920
185 35920
186 35920
187 35920
295 37449
298 37453
540 35675

47 CFR

0 37413
1 ..... 36104, 36459
2 ..... 34746, 37216
15 ..... 34748, 37217
18 37217
21 ..... 34746, 37216
73 ..... 34753–34757, 34959, 36106–36112, 36254, 36459, 37216, 37220–37224, 37414–37416
74 ..... 34746, 37216
83 34961
90 ..... 34961, 36104
95 ..... 35234, 36104
97 ..... 34746, 37224

Proposed Rules:

Ch. I 36167, 37464
Ch. II 37235
2 37475
18 37235
68 34985
73 ..... 34772–34779, 35964, 36168–36173, 36278, 37239–37269, 37475–37492
76 34986
90 ..... 34782, 34987, 35149

48 CFR

Proposed Rules:

Ch. I 35675

49 CFR

213 35882
1170 35409
1175 36594
1300 36822
1307 36822

Proposed Rules:

171 ..... 35471, 35965
172 ..... 35471, 35965, 35970
173 ..... 35471, 35965, 35970
175 35471
179 35970
210 36487
218 36492
571 ..... 34783, 34784, 36493, 36849
572 37493
622 34894
1105 36284
1152 36284
1160 36285
1165 36290
1180 36284

50 CFR

10 37040
17 ..... 34757, 34961, 36256, 36594
20 35100
32 36112
285 ..... 35107, 36597, 36823
611 ..... 34762, 34962, 35107
649 36266
650 34762
651 34762
652 34762
654 34762
655 34762
661 36823
662 34963
663 ..... 34762, 34763
671 34762
672 ..... 34762, 35107, 37040
674 ..... 34762, 34965, 37224
675 ..... 34762, 35107

Proposed Rules:

17 ..... 35475, 35973
20 ..... 35152, 35153, 36853
23 37494
32 34987
424 36062
681 35475

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
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Note: On August 9, 1983, the Office of the Federal Register announced termination of the formal program of agency publication on assigned days of the week, effective August 22, 1983. See 48 FR 36197.

List of Public Laws

Last Listing August 17, 1983

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. 2355/Pub. L. 98–77 Emergency Veterans' Job Training Act of 1983. (Aug. 15, 1983; 97 Stat. 443) Price: $2.00.

H.R. 3329/Pub. L. 98–78 Department of Transportation and Related Agencies Appropriations Act, 1984. (Aug. 15, 1983; 97 Stat. 453) Price: $2.75.

H.R. 3394/Pub. L. 98–79 Student Loan Consolidation and Technical Amendments Act of 1983. (Aug. 15, 1983; 97 Stat. 476) Price: $2.00.